

**NOMINATIONS TO THE NATIONAL
TRANSPORTATION SAFETY BOARD AND THE
SURFACE TRANSPORTATION BOARD**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

NOVEMBER 6, 2025

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

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NOMINATIONS TO THE NATIONAL TRANSPORTATION SAFETY BOARD AND THE SURFACE TRANSPORTATION BOARD

THURSDAY, NOVEMBER 6, 2025

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 10:04 a.m., in room SR-253, Russell Senate Office Building, Hon. Ted Cruz, Chairman of the Committee, presiding.

Present: Senators Cruz [presiding], Moreno, Sheehy, Baldwin, Luján, and Fetterman.

OPENING STATEMENT OF HON. TED CRUZ, U.S. SENATOR FROM TEXAS

The CHAIRMAN. Good morning. The Senate Committee on Commerce, Science, and Transportation will come to order.

Today we will hear from three nominees: John DeLeeuw, nominee to serve as a Board Member of the National Transportation Safety Board; Richard Kloster, nominee to serve as a Member of the Surface Transportation Board; and Michelle Schultz, nominee to continue to serve as a Member of the Surface Transportation Board. Congratulations to each of you.

Before I introduce the nominees, I want to spend a moment reflecting on the unprecedented impacts the continued government shutdown is having on Americans lives. Almost a month ago, CNN quoted a senior Democratic aide as saying that Senate Democrats would not reopen the Government short of quote, “Planes falling out of the sky”. Given the tragic accident we saw this week, sadly, Senate Democrats seem to want to put that theory to test.

Yesterday, Transportation Secretary Sean Duffy, and FAA Administrator, Bryan Bedford, announced that beginning tomorrow morning, there will be a 10 percent mandatory reduction in flights at 40 airports across the Nation. The safety data that the FAA relies on to keep the system safe was blinking red. There are too many key staffers calling out because they are not getting paid and having to save every penny and find ways to make ends meet.

Tens of thousands of Americans will have their flights canceled every single day due entirely to Senate Democrats with a few notable exceptions, virtually all of whom have voted now 14 times to keep the Government shutdown, and they have taken the Government and the Air Traffic Control system hostage.

Air traffic controllers are unpaid, they are frustrated, and they are fatigued. A plane crashed in Louisville this week, and the NTSB investigators on scene are not getting paid. The impacts of this shutdown are real and becoming dangerous. And understand the reason there is a 10 percent reduction in flights is the FAA said they could not maintain the airspace safely at full load. That is the consequence of this shutdown, and the Schumer shutdown needs to end.

It is the longest shutdown in the history of the United States of America. And enough is enough. Now is a time for responsible leadership.

Now, I will turn to today's nominees. Let us begin with John DeLeeuw, a proud Texan of nearly 40 years. Mr. DeLeeuw is an accomplished safety professional and airline captain who began his aviation career in the Air Force flying C-130 Hercules planes supporting combat missions in Desert Storm. After his military service, Mr. DeLeeuw joined American Airlines as a line captain and first officer in 1991. After 20-plus years of flying for American, he then led the airline safety initiatives for more than a decade. He also served as Chairman of the American Pilots Association's National Safety Committee, and he teaches aviation safety courses at the University of Southern California.

As I have seen from the investigation into the flight—of the crash of the Flight 5342 near DCA, the NTSB needs knowledgeable and experienced members to keep our transportation system safe. Mr. DeLeeuw will draw on his extensive aviation safety background to investigate accidents and propose recommendations to prevent future harm. He is, without a doubt, one of the most decorated and qualified individuals to come before us. His resume is a perfect match for the NTSB.

We are also joined today by NTSB Chairwoman Jennifer Homendy who is such a regular in this Committee that we may have to find her a seat on the dais. I appreciate her being here.

As she said about Mr. DeLeeuw's nomination back in September: John has an extensive background in aviation safety and has worked alongside the NTSB for decades. He often uses lessons learned to improve safety throughout transportation, including oil, and pipelines, and maritime. John will be an excellent addition to the Board, if confirmed.

Next, we have Richard Kloster to serve on the STB. Mr. Kloster is a seasoned railroad and transportation logistics professional with over four decades of private sector experience. He has worked for several railroads including the Chicago and Northwestern Transportation Company and the Indiana Railroad Company. Mr. Kloster also founded his own transportation consulting firm and served as a board member of the Railway Supply Institute. If confirmed, Mr. Kloster will use his extensive knowledge of the rail industry, as well as his experience working for railroads, suppliers, and shippers to advance the STB's economic oversight of freight railroads.

Last, President Trump has renominated Michelle Schultz to continue to serve on the STB. Ms. Schultz decades of legal and transportation experience have served her well on the STB. Prior to joining STB in January 2021, she spent 14 years leading legislative af-

fairs and legal strategy at the Southeastern Pennsylvania Transportation Authority, the Nation's sixth largest public transportation system. As Vice Chairman of the STB, Ms. Schultz has prioritized engaging with stakeholders to improve freight rail service quality and efficiency at the agency. If confirmed, she will continue to be a diligent, thoughtful member of the STB, working to advance essential oversight of the railroads.

But my Democrat colleagues have sought to delay and derail this hearing based on the President's exercise of his Article II power. The focus of today should be plain and simple, supporting transportation safety and rail competition. The three individuals before us have a breadth of knowledge in transportation safety and railroad operations and are well equipped to serve on the NTSB and the STB. I am eager to hear how each of you will approach your roles in ensuring the overall strength and safety of our country's transportation system.

I now turn to Senator Luján who is sitting in for Ranking Member Cantwell.

**STATEMENT OF HON. BEN RAY LUJÁN,
U.S. SENATOR FROM NEW MEXICO**

Senator LUJÁN. Thank you, Mr. Chairman. Mr. Chairman, as we get started today, I appreciate your remarks and opening. Just for anyone that is not aware across America, the majority of the House of Representatives is Republicans. Speaker of the House of Representatives is a Republican. The majority of the U.S. Senate is Republican. The majority leader of the U.S. Senate is a Republican. The President of the United States is a Republican. Republicans have the majority. They are in charge. With majorities and with the gavels comes responsibility. The good Senator from Texas is the Chair of this Committee because Republicans are in the majority.

We had a Governor from the State of New Mexico, a cattle rancher, his name is Bruce King. And Bruce used to tell us when folks could not find some solution, he says, "you know, you have got to lock people up in a barn, not let him out until they can come up with a solution to the problem".

My friend from Texas understands that. They have got good cattle ranches down there. They have got good barns down there. The President of the United States just finished jet setting around the world and he decided to come back and celebrate with a roaring 1920s party in Florida. Roaring 1920s. That was a difficult time in our Nation's history because those parties were about celebrating folks being broke, people not having food. And they had that party, and on, I do not know Tuesday, Wednesday—Wednesday I guess it was, the President had a breakfast at the White House, which is good, he should have more breakfasts, but he only invited Senate Republicans. And in that meeting what was reported is he told them shutdown is not good on Republicans. He knows they are in charge.

I certainly hope the President will stick to his words when he said, "it is incumbent upon the President of the United States to prevent shutdowns, to solve shutdowns". And I certainly hope that even where there are differences that people come into a room and do the right thing because everyone wants this shutdown to end.

I do not believe my Republican colleagues want to see insurance premiums across America double either. I really do not. They care about their constituents the way that I care about my constituents. And I am certainly hopeful that we will see some leadership now, bring some people together, get some breakfast. If they need some New Mexico chili to make it better, I will bring it. But we have got to make sure that people come together.

So with that, Mr. Chairman, with my opening here, Captain DeLeeuw, Mr. Kloster, and Ms. Schultz, congratulations on your nominations and for taking time to be here today.

And before I get to my questioning, I have to say I am deeply disturbed and frankly alarmed that the Committee is rushing ahead with this nomination to replace NTSB Vice Chair, Alvin Brown, who President Trump illegally removed earlier this year.

Anyone that looks at the law, looks at the rules surrounding this, it is plain and simple. The facts are straightforward. The Senate unanimously confirmed Chair—Vice Chair Brown last year, and his term does not expire until the end of next year and the President removed him without complying with the law that Congress passed. Plain and simple.

And now, folks are choosing to look the other way and advanced his replacement even though there is not a clear vacancy to fill under the law. As the Chair knows, last week my Democratic colleagues and I, we sent a letter conveying our strong opposition to proceeding with this hearing on Vice Chair Brown's replacement. Several colleagues on this Committee co-signed this.

As we wrote in that letter, I believe rushing this process forward, particularly while there is active litigation over this very issue only emboldens the White House to ignore the law. And by withholding this hearing Republicans—or sorry—by holding this hearing, Republicans are just rubberstamping this behavior.

So I will again urge my colleagues not to proceed with this NTSB nomination until the ongoing litigation is conclusively resolved on its merits.

Some might say this is all inside baseball, too far removed from the day-to-day lives of Americans, but these are not just academic musings. The NTSB, like many other independent agencies, works every day to help Americans stay safe by seeking to unravel its independent status, inject uncertainty, and politicize the Board.

The administration is undermining the NTSB's ability to formulate independent safety recommendations that save people's lives.

So Captain DeLeeuw, I wish your nomination came under different circumstances because I acknowledge your significant experience. I imagine under any other time if there was an opening, you would probably get unanimous vote out of here, and off the floor, and everywhere else. Your credentials are clear. Your qualifications are absolutely clear. This is not about you at all, sir. At all. I applaud your service, and I applaud what you have done, what you have achieved.

Now, that said, given your current employment with American Airlines, as you know, you will need to recuse yourself from working on the NTSB's pending investigation into the January 29th DCA midair collision. Captain DeLeeuw, I hope you will make clear

today that you understand the vital importance of an independent NTSB.

And out of respect for that independence and the rule of law, I hope you will firmly commit to stepping aside if the court declares Mr. Brown's removal to be unlawful.

In addition to the NTSB, we also have two nominees for Surface Transportation Board, Ms. Kloster, you will be joining the Board after a long career in the rail industry.

And Ms. Schultz, you will be renominated a second term on the Board, the STB is another independent agency which plays a critical role in protecting business and consumers from unfair business practices that harm competition in the rail industry. If confirmed, you will be responsible for reviewing the largest rail merger in history between Union Pacific and Norfolk Southern.

I would also point out that early this year, President Trump unlawfully removed STSB member Robert Primus without cause, in violation of the law. Mr. Primus is also actively challenging his removal in court.

For the record, however, I will note that neither of today's STSB nominees would replace Mr. Primus, if confirmed. Nevertheless, the President's actions against Mr. Primus only underscores why we need to have your firm commitment that you will carry out your duties independent of improper political influence if confirmed.

Thank you, Mr. Chair.

The CHAIRMAN. Thank you, Senator Luján. You know, I would note that witnesses in court are asked at the beginning of their testimony to swear to tell the truth, the whole truth, and nothing but the truth. And one of the most important elements of that is the second element, the whole truth.

What Senator Luján said is correct. It is true that Republicans have a majority in the House, a majority in the Senate, and a majority in the White House. Because the American people voted for Republicans in 2024, they voted for President Trump. They voted for a Republican majority in the Senate. They voted for a Republican majority in the House. The whole truth that Senator Luján knows well, but that he omitted is under the Senate rules, funding for the Government cannot proceed in the Senate without 60 votes. Senator Luján is very well aware of that.

There are only 53 Republicans in the Senate. That means in order to fund the Government, at least seven Democrats have to vote to fund the Government. So the phrase, which is facile used, of well, Republicans control everything, you guys should fund it is said, deliberately playing on the fact that many people do not know you need 60 votes to proceed to fund the Government.

And I would note Senator Luján knows that in part because when Joe Biden was President—this is not a new situation—when Joe Biden was President 13 times, Senate Republicans joined with Democrats to pass a clean Continuing Resolution. We could have done the same thing. When Joe Biden was President, the Democrats did not have 60 votes. What differed is when Joe Biden was President, Republicans demonstrated responsibility. We did not shut the Government down.

Every Democrat in this body, you can play video after video of them going on TV intoning, a government shutdown is irrespon-

sible. It is reckless. It hurts Americans. They all know that. They have all said that repeatedly. By the way, we had this situation happen earlier this year. In March, Government funding expired. And what happened in March, a handful of Senate Democrats did the responsible thing and they joined with Republicans in keeping the Government open.

But then a political problem developed which is Chuck Schumer, the Democrat leader in the Senate, almost lost his job. The extreme leftwing of the Democrat party got very, very angry that the Democrats allowed the Government to open. And Schumer is very afraid of being primaried from the left. The election results on Tuesday underscore the grave political peril Schumer sees from the extreme left in the party.

So why are we in the longest shutdown in history? For one reason, for Senator Schumer and Senate Democrats to demonstrate to the extreme leftwing of their party that they really, really, really hate Donald Trump.

Well, we got that point. Every Federal employee who has not gotten a paycheck got that point. We understand. Nobody will be confused that my Democrat colleagues are sleeping at night with a Donald Trump nightlight on the wall. We know their view. Senator Luján said: We just need to find a path forward. We know the path forward. It is the exact same path forward that we took 13 times when Biden was President. The path forward is voting to fund the Government and passing a clean Continuing Resolution.

The path forward is literally the turn of a wrist. When we vote on a Continuing Resolution, instead of doing this, rotate your wrist 180 degrees. That is how we open the Government. We have had three Senate Democrats show the courage to vote to keep the Government open. Senator Fetterman, a member of this Committee, has said quite candidly: This is a Democrat shutdown.

For the sake of the TSA agents, for the sake of the air traffic controllers, for the sake of the flying public, let us not test that idiot Democrat staffer who told *Politico*, "We will keep the shutdown going until planes start falling from the sky." That is not funny. And I do believe my colleagues on the Democrat side, they do not want to see that happen. But every day that they starve the system of the resources it needs, they increase the chances of a tragedy like that occurring.

Mr. DeLeeuw, you are recognized for your opening statement.

**STATEMENT OF JOHN F. DELEEUEW, NOMINEE TO BE A
MEMBER, NATIONAL TRANSPORTATION SAFETY BOARD**

Mr. DELEEUEW. Thank you, Chairman Cruz, Ranking Member Cantwell, Senator Luján, and members of the Committee, it is an honor to appear before you today as you consider my nomination to be a Member of the National Transportation Safety Board. I am immensely grateful to President Trump for nominating me as this is a lifelong dream.

As a safety professional who has worked alongside the NTSB for nearly two decades, I cannot think of a greater privilege than to serve the public at the world's preeminent safety investigation agency, whose sole mission is to save lives.

Before I begin, I would like to recognize some of my family and friends. Though they are not able to be with me today in person, my wife Kim is watching this hearing online with my mom, Ruby, in Tucson, Arizona. My son Peter and his wife Meredith have blessed Kim and me with two grandchildren, Mason and Mabel. My daughter Julia and her husband Peter recently welcomed into the world our grandson, Liam. My sister Jane and my brother Howard also deserve recognition for letting me be their big brother.

I would also like to especially recognize my colleagues in the Safety Department at American Airlines who are also watching online and have provided me with incredible support and encouragement. It is a privilege to work with amazing safety professionals at American and throughout the industry.

Special thanks to Cedric Wilson, David Seymour, and the entire American Airline's senior leadership team for their assistance and backing.

There are three things I would like for you to know as you consider my nomination for the Board. First, I am passionate about safety. I was fortunate to serve our country as a pilot in the United States Air Force for seven and a half years. In that time, several of my fellow crew members were killed in the line of duty flying military aircraft. Many of these accidents could have been avoided and I was determined to learn from each of them. In some cases that meant changing a procedure. Other times it meant improving education and training, but the goal was always the same, to prevent a similar accident from happening.

After serving in Desert Storm, I was hired as a pilot for American Airlines and I am currently a captain on the Boeing 787 Dreamliner with over 19,000 flight hours. Today, I also serve as the American Airlines Managing Director of Safety and Efficiency. Seeking to fully immerse myself in safety, I volunteered my time and efforts with the Allied Pilots Association, which represents the pilots of American Airlines.

Mr. Chairman, I ask that letter supporting my nomination from the Allied Pilots Association, the Southwest Airlines Pilots Association, and many others, be included in the hearing record.

Second, the NTSB saves lives. As I mentioned, I worked closely with the NTSB for more than 15 years, and I have enormous respect for the Board members and staff. As the American Airlines party coordinator on NTSB investigations, I know firsthand the efforts and time the NTSB commits to accident investigations, family assistance, and safety recommendations. If confirmed, I will be a strong advocate for implementation of those recommendations.

As Chairwoman Homendy often says, "The investigation is only the first step. Real safety change occurs after recommendations are implemented and improvements are made".

Third, I believe there are opportunities to facilitate safety information sharing across the various modes of transportation and bring the different modes together to share lessons learned. A cross-model approach will further the NTSB's mission of preventing accidents and saving lives.

One of the reasons I am here today is the tragic midair collision involving a U.S. Army helicopter and Flight 5342 earlier this year. The accident site not far from where we are sitting today. It has

been one of the most difficult situations I have faced in my entire career. I was in the Family Assistance Center within days of the accident. I saw firsthand the devastation, the tremendous loss, and the work that the NTSB did to bring every resource available to grieving families.

I am confident the NTSB is doing the same thing right now in Louisville, Kentucky, as they investigate Tuesday's tragedy. I offer my sincere condolences to the victims and families of those impacted by this devastating event. It is our duty collectively to learn from each tragedy to draw knowledge to improve the safety of us all.

If confirmed, I would consider it a great honor and privilege to serve my country once again. And I commit to working with this Committee to improve safety across all modes of transportation.

Thank you again for this opportunity and I look forward to answering your questions.

[The prepared statement and biographical information of Mr. DeLeeuw follow:]

PREPARED STATEMENT OF JOHN F. DELEEUEW, NOMINEE TO BE A MEMBER,
NATIONAL TRANSPORTATION SAFETY BOARD

Thank you, Chairman Cruz, Ranking Member Cantwell, and Members of the Committee. It's an honor to appear before you today as you consider my nomination to be a Member of the National Transportation Safety Board (NTSB). I am immensely grateful to President Trump for nominating me as this is a lifelong dream. As a safety professional who has worked alongside the NTSB for nearly two decades, I cannot think of a greater privilege than to serve the public at the world's pre-eminent safety investigation agency whose sole mission is to save lives.

Before I begin, I would like to recognize some of my family and friends. Though they aren't able to be with me today in person, my wife, Kim, is watching this hearing online with my mom, Ruby, in Tucson, Arizona. My son, Peter, and his wife, Meredith, have blessed Kim and me with two grandchildren—Mason and Mabel. My daughter, Julia, and her husband, Peter, recently welcomed into the world our grandson, Liam. My sister, Jane, and my brother, Howard, deserve recognition for letting me be their big brother.

I would also like to recognize my colleagues in the Safety department at American Airlines who are also watching online and have provided me with incredible support and encouragement. It is a privilege to work with amazing safety professionals at American and throughout the transportation industry. Special thanks to Cedric Wilson, David Seymour, and the entire American Airlines leadership team, for their support.

There are three things I would like for you to know as you consider my nomination for the Board.

I am passionate about safety. I was fortunate to serve our country as a pilot in the United States Air Force for seven and a half years. In that time, several of my fellow crew members were killed in the line of duty flying military aircraft. Many of these accidents could have been avoided, and I was determined to learn from each of them. In some cases, that meant changing a procedure. Other times, it meant improving education and training, but the goal was always the same: To prevent a similar accident from happening—to protect my fellow pilots and the public.

After serving in Desert Storm, I was hired as a pilot for American Airlines, and am currently a Captain on the Boeing 787 Dreamliner, with over 19,000 flight hours. Working with my fellow team members to safely fly people and goods around the world has been rewarding and fulfilling. The connections we enable and the commerce we ensure are powerful reminders of the criticality of the aviation system. For me, however, my sole focus is *safely* flying the passengers who put their trust in me to get them to their destination.

Seeking to fully immerse myself in safety issues, I volunteered my time and efforts years ago with the Allied Pilots Association, which represents the pilots of American Airlines. I was eventually offered the opportunity to serve as a manager in the American Airlines Corporate Safety department where I am currently the

Managing Director of Safety and Efficiency. The teams I lead and support are fully engaged with our robust and industry-leading safety management system.

Second, the NTSB saves lives. As I mentioned, I have worked closely with the NTSB for more than 15 years and have enormous respect for the NTSB Board Members and staff. As the American Airlines Party Coordinator on NTSB investigations, I know firsthand the efforts and time the NTSB commits to accident investigations, family assistance and safety recommendations. As a result of the Board's investigations and safety studies, since 1967, it has issued 15,686 safety recommendations to more than 2,500 recipients, focused on preventing accidents from reoccurring. Eighty-three percent of all recommendations are "closed-acceptable," but many others remain open. If confirmed, I will be a strong advocate for implementation of those recommendations. As Chairwoman Homendy often says, the investigation is only the first step. Real safety change occurs after recommendations are implemented—after improvements are made.

Third, I believe we can continue to improve and enhance safety through partnerships and sharing of best practices across the differing modes of transportation. Airline operators often say that we are fierce competitors, but we do not compete on safety. I believe that approach can be industry and modal agnostic. There are opportunities to facilitate safety information sharing across the various modes of transportation and bring the different modes together to share lessons learned. A cross-modal approach will further the NTSB's mission of preventing accidents and saving lives.

Lastly, I have observed Members of Congress spend their time meeting with families struck by tragedy and moving legislation that makes significant strides in safety, often closing longstanding NTSB recommendations that were issued in response to these and other accidents. Thank you for your safety leadership and thank you to the NTSB Board Members and staff for your expertise and steadfast commitment to safety, and for your advocacy and guidance over the years.

One of the reasons I am here today is the tragic mid-air collision involving a U.S. Army helicopter and Flight 5342 earlier this year—the accident site not far from where we sit. It's been one of the most difficult situations I have faced in my entire career. I was in the family assistance center within days of the accident. I saw firsthand the devastation, the tremendous loss, and the work that the NTSB did to bring every resource available to grieving families. I want to acknowledge the Transportation Disaster Assistance team and the families and loved ones of the 67 people lost on January 29th and all families who have lost loved ones in other transportation accidents—it is our duty, collectively, to learn from each tragedy, to draw knowledge to improve the safety of us all.

If confirmed, I would consider it a great honor and privilege to serve my country once again and commit to working with this Committee to improve safety across all modes of transportation.

Thank you again for this opportunity, and I look forward to answering your questions.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): John Ferdinand DeLeeuw.

2. Position to which nominated: Member, National Transportation Safety Board.

3. Date of Nomination: September 10, 2025.

4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.

Office: Information not provided.

5. Date and Place of Birth: Information not provided.

6. Provide the name, position, and place of employment for your spouse (if married) or domestic partner, and the names and ages of your children (including step-children and children by a previous marriage).

Kim Elise DeLeeuw, retired (spouse); Peter Michael DeLeeuw, age 35; Julia DeLeeuw Thayer, age 32.

7. List all college and graduate schools attended, whether or not you were granted a degree by the institution. Provide the name of the institution, the dates attended, the degree received, and the date of the degree.

University of Arizona, 1979–1983

Bachelor of Science, Business Administration, June 1983

University of Arkansas, 1987–1989
Masters in Business Administration, June 1989

8. List all post-undergraduate employment, including the job title, name of employer, and inclusive dates of employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

United States Air Force, Pilot, 1984–1985
United States Air Force, C–130E and C–130 H Evaluator and Instructor Pilot, 1985–1991
American Airlines, Line Captain and First Officer, 1991 to present
American Airlines, Senior Manager of Flight Safety, 2010–2015
American Airlines, Managing Director, Safety and Efficiency, 2022 to present
University of Southern California, Instructor, Aviation Safety & Security Program, 2013 to present

9. Attach a copy of your résumé.

Attached

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above after 18 years of age.

United States Air Force, Pilot, 1984–1985
United States Air Force, C–130E and C–130 H Evaluator and Instructor Pilot, 1985–1991

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution.

Allied Pilots Association, Chair, National Safety Committee, 2018–2022
Board Member, American Airlines Federal Credit Union, 2011 to present
Vice President of Safety, OPES Solutions Group, 2017 to present
Partner, Flight Data Monitoring at JH Consulting, 2021 to present

12. List all memberships you have had after 18 years of age or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religiously affiliated organization, private club, or other membership organization (You do not have to list your religious affiliation or membership in a religious house of worship or institution). Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or disability.

Member, Allied Pilots Association, 1991–2022 (see #11)
Member, Lions Club, 2008–2012
Member, Parent Teachers Association, Grapevine Middle School, 2003–2006

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt. No.

14. List all memberships and offices held with and services rendered to, whether compensated or not, any political party or election committee within the past ten years. If you have held a paid position or served in a formal or official advisory position (whether compensated or not) in a political campaign within the past ten years, identify the particulars of the campaign, including the candidate, year of the campaign, and your title and responsibilities. None.

15. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$200 or more for the past ten years.

American Airlines PAC, \$2000
Allied Pilots Association PAC, \$500

16. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

University of Southern California, Certificate, Aviation Safety, 2012
Chairman's Safety Award, American Airlines, 2015

Chairman's Safety Award, American Airlines 2017

17. List all books, articles, columns, letters to the editor, Internet blog postings, or other publications you have authored, individually or with others. Include a link to each publication when possible. If a link is not available, provide a digital copy of the publication when available.

Article, American Airlines' *Safety Pre-Flight*, 2014 (link unavailable; subject was on the importance of following standard operating procedures)

18. List all speeches, panel discussions, and presentations (*e.g.*, PowerPoint) that you have given on topics relevant to the position for which you have been nominated. Include a link to each publication when possible. If a link is not available, provide a digital copy of the speech or presentation when available. None.

19. List all public statements you have made during the past ten years, including statements in news articles and radio and podcasts and television appearances, which are on topics relevant to the position for which you have been nominated, including dates. Include a link to each statement when possible. If a link is not available, provide a digital copy of the statement when available.

Pipeliners Podcast, Episode 226, What Pipeliners Can Learn From Aviation Safety, April 5, 2022

<https://share.google/puHP7Swc2JIrqHeEy>

ASAP TechOps/ASAP Podcast, Episode 4, Collaboration of the Association and the APA with Captain John DeLeeuw, November 2020

<https://share.google/FavPUBle9fKjTkeEZ>

20. List all digital platforms (including social media and other digital content sites) on which you currently or have formerly operated an account, regardless of whether or not the account was held in your name or an alias. Include the full name of an "alias" or "handle", including the complete URL and username with hyperlinks, you have used on each of the named platforms. Indicate whether the account is active, deleted, or dormant. Include a link to each account if possible. None.

21. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date, committee, and subject matter of each testimony. None.

22. Given the current mission, major programs, and major operational objectives of the department/agency/commission/corporation to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I have dedicated my entire career to safety, first serving in the United States Air Force as a pilot, instructor, and evaluator on the C-130. I then served as a Senior Manager for Flight Safety for American Airlines, as well as Chief Accident Investigator. Today, I serve as American Airlines' Managing Director for Safety and Efficiency. In these roles, I have been responsible for safety data systems such as Flight Operations Quality Assurance (FOQA), Aviation Safety Action Program (ASAP), and Line Operations Safety Audit (LOSA) as integral elements within American Airlines' Safety Management System. I also act as AA's liaison with the NTSB, FAA, and DOW (Department of War) and serve as AA's Party Coordinator for NTSB accident investigations. Additionally, I teach aviation safety at the University of Southern California.

Throughout my time at American Airlines, I have developed a close and collaborative working relationship with NTSB Board Members and staff. The NTSB has a critical safety mission. It would be a tremendous honor and privilege to serve as a Board Member and work with my colleagues on the Board to improve safety in all modes of transportation.

23. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency/commission/corporation has proper management and accounting controls, and what experience do you have in managing a large organization?

If confirmed, my responsibilities, would be to serve as Board Member of the NTSB. Its mission is to investigate accident and incidents in all modes of transportation; issue safety recommendations and advocate for implementation of those recommendations; conduct safety studies to address a myriad of transportation safety issues; provide assistance to families and victims of transportation accidents; and review appeals of enforcement actions and certificate denials of the Federal Aviation Administration and United States Coast Guard.

If confirmed, I will abide by the legislative mandate of the NTSB and exercise proper management and accounting controls, in coordination with the Chairwoman and Board Members, to regularly evaluate and ensure the effectiveness and account-

ability of the agency. This includes overseeing development and implementation of the budget, expenditure of appropriations provided by Congress, and meeting all requests and deadlines set by Congress and Committees of jurisdiction.

24. What do you believe to be the top three challenges facing the department/agency/commission/corporation, and why?

1. *Implementation of safety recommendations.* As of October 1, 2025, the NTSB has investigated over 153,000 aviation accidents and incidents in the U.S., supported over 8,500 foreign investigations, and investigated thousands of surface transportation accidents and events. As a result of these investigations and safety studies, the NTSB has issued 15,686 safety recommendations to over 2,500 recipients, focused on preventing accidents from reoccurring; 83 percent of all recommendations are "closed-acceptable," but many others remain open. Board Members have a responsibility to advocate for implementation of those recommendations after issuance of the final investigation report. The investigation is only the first step; real safety change occurs after recommendations are implemented.
2. *Hiring and training of personnel.* About 25 percent of NTSB's staff is retirement eligible. Staffing is down to 415 from a high of 445 which has an impact on the timeliness of investigations. I will work with the Chairwoman and other Board Members and staff to increase staff resources, provide critical training, and improve the timeliness of accident investigations.
3. *Improve safety through partnerships.* I believe there are opportunities to facilitate safety information sharing across the various modes of transportation and bring the different modes together to share lessons to be learned, as well as best practices in safety, with the goal of preventing accidents and save lives.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts, such as a 401(k) or pension plan.

I do not have any financial arrangements, deferred compensation agreement, and other continuing dealings with business associates, clients, or customers. Because I will have a defined benefit pension plan and 401(k) with American Airlines, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the ability or willingness of American Airlines to make this payment to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. section 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. section 208(b)(2).

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association, or other organization during your appointment? If so, please explain. No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. Explain how you will resolve each potential conflict of interest.

In connection with my nomination process, I have consulted with the Office of Government Ethics and the NTSB's DAEO to identify potential conflicts of interest. These commitments constitute my ethics agreement as identified in the ethics regulations. I am not aware of any other potential conflicts of interest.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated. Explain how you will resolve each potential conflict of interest.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the NTSB's DAEO to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the NTSB's DAEO and that has been provided to this Committee.

5. Identify any other potential conflicts of interest and explain how you will resolve each potential conflict of interest.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the NTSB's DAEO to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the NTSB's DAEO and that has been provided to this Committee.

6. Describe any activity during the past ten years, including the names of clients represented, in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. None.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics, professional misconduct, or retaliation by, or been the subject of a complaint to, any court, administrative agency, the Office of Special Counsel, an Inspector General, professional association, disciplinary committee, or other professional group? If yes:

- a. Provide the name of the court, agency, association, committee, or group;
- b. Provide the date the citation, disciplinary action, complaint, or personnel action was issued or initiated;
- c. Describe the citation, disciplinary action, complaint, or personnel action;
- d. Provide the results of the citation, disciplinary action, complaint, or personnel action.

No

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, municipal, or foreign government entity, other than for a minor traffic offense? If so, please explain. No.

3. Have you or any business or nonprofit of which you are or were an officer ever been involved as a party in an administrative agency proceeding, criminal proceeding, or civil litigation? If so, please explain. No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain. No.

5. Have you ever been accused, formally or informally, of sexual assault, sexual harassment, or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain. No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination. No.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency/commission/corporation complies with deadlines for information set by congressional committees, and that your department/agency/commission/corporation endeavors to timely comply with requests for information from individual Members of Congress, including requests from members in the minority? Yes.

2. Will you ensure that your department/agency/commission/corporation does whatever it can to protect congressional witnesses and whistleblowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes

Captain John DeLeeuw

- Hired on 30 August 1991 at American Airlines (AA) with over 40 years of flight experience.
- Amassed 19,000+ accident and incident free flight hours.

- American Airlines: Managing Director Safety and Efficiency 2022-present
Responsible for the Flight Operations Quality Assurance (FOQA), Aviation Safety Action Programs (ASAP), and Line Operations Safety Audit (LOSA) safety programs, as well as the Efficiency program. This includes responsibility for all safety and efficiency investigations. Is the liaison with the National Transportation Safety Board (NTSB), Federal Aviation Administration (FAA) and Department of Defense (DOD) and is the Party Coordinator for NTSB accident investigations.

- American Airlines: Line Captain and First Officer 1991-present
Responsibilities include the safe, smooth, and efficient operation of American Airlines aircraft in line operations worldwide. Currently Captain on the Boeing 787. Previous experience on the MD80 and 727.

- Allied Pilots Association: Chair National Safety Committee 2018-2022
Responsible for managing a team of 60+ people. Represents the pilots at American Airlines and has implemented numerous safety initiatives benefitting the 15,000+ American Airlines pilots, and secured assistance during incidents and accidents for AA crew members throughout the world. Serves as the Party Coordinator for NTSB investigations. Participates in the ASIAS Executive Board and the Commercial Aviation Safety Team (CAST).

- American Airlines: Senior Manager Flight Safety/Chief Accident Investigator 2010-2015
Addressed safety data systems such as Flight Operations Quality Assurance (FOQA), Aviation Safety Action Program (ASAP), and Line Operations Safety Audit (LOSA) as integral elements within the AA Safety Management system. Responsible for the Flight, Cabin, Maintenance, and Dispatch ASAP, as well as the FOQA program at American Airlines. Started the continuous LOSA program. Instrumental in sharing de-identified aggregate safety data with other airlines and the Air Traffic Safety Action Program (ATSAP). Planned and managed the AA Corporate Safety Department's efforts to support American Airlines' commitment to be the world leader in airline safety. While working most closely with the AA Flight department, interfaced with all AA departments to proactively identify and develop strategies and practices to prevent accidents and incidents. Acted as the American Airlines' liaison with the NTSB, FAA, and DOD, and also served as the Party Coordinator in several NTSB accident investigations.

- University of Southern California School of Engineering: Instructor 2010-present
Instructs the application and implementation of Safety Management Systems (SMS) in the aviation industry, emphasizing safety assurance, incident investigation/analysis, and safety performance indicators.

- United States Air Force: C-130E and C-130H Evaluator and Instructor Pilot 1985-1991
Participated in Desert Storm and numerous classified Special Operations throughout the world. Worked directly with US Army Special Forces and Navy SEALs flying HALO airdrops and flying insertions/extractions in combat and covert operations. Accumulated 2500+ hours in the C-130 Hercules.

Education

- Bachelor of Science in Business Administration, University of Arizona, 1983 (cum laude)
- Masters in Operations Management, University of Arkansas, 1991 (summa cum laude)
- Aviation Safety and Security Graduate, University of Southern California, School of Engineering, 2010

Extracurricular Activities

- Member of the Board of Directors for the American Airlines Credit Union. 2011-present
- Vice President of Safety at OPES Solutions Group 2017-present

ADDENDUM TO THE QUESTIONNAIRE SUBMITTED TO THE SENATE COMMITTEE ON
COMMERCE, SCIENCE, AND TRANSPORTATION, 119TH CONGRESS BY JOHN DELEEUEW.

Upon further review, I have identified additional items that are responsive to questions A.8, A.15, A.18, A.19, E.1, and E.2 on the Committee's questionnaire. They are:

- A.8
 - The dates listed on questionnaire are in error for employment at the University of Southern California. The corrected response is:
 - University of Southern California, Instructor, Aviation Safety & Security Program, 2010-present
- A.15
 - The response as submitted was incorrect. The corrected response is:
 - 2019, Allied Pilots Association Political Action Committee, \$112
 - 2023, American Airlines Inc. Political Action Committee, \$1,000
- A.18
 - The following panel should be added:
 - Panel, 3/4/2020, *NTSB Most Wanted Roundtable, Pipeline Safety Management Systems* (the panel was cancelled; however, the agenda is still viewable on NTSB's website).
- A.19
 - The following items should be added:
 - 9/30/2019, Article, *Southwest pilots see February or March return of Boeing Max*, AP
 - 9/30/2019, Article, *Southwest Airline pilots' union says Boeing 737 Max jets may not return to the skies until 'February or March' after the airline grounded its fleet of planes earlier this year when it crashes killed 346 people*, Daily Mail UK
 - 10/1/2019, Article, *American Airlines to fly 2 737 Max planes to Oklahoma this week*, Dallas Business Journal
 - 10/8/2019, Article, *Checklists come into focus as pace-setter for 737 Max return*, The Air Current
 - 11/21/2019, Article, *Boeing's fix tames the 'tiger' in the 737 MAX flight controls, says experts and critics*, Seattle Times
 - 11/24/2020, Podcast, *S3E10—Tell Me Why: "We made improvements not just for American, but for the industry as a whole."*
 - 12/3/2020, Article, *Allied Pilots Association: 'Line Pilot Input' Was Key in Returning Boeing 737 MAX to Service*, Targeted News Service (on file with Comm.)
 - 12/5/2020, Article, *Post-crash recovery: How one airline plans to restore confidence in the Boeing 737 MAX*, CNN
 - 12/7/2020, Article, *Flying the Boeing 737 MAX Again*, Aviation Week
 - 4/16/2024, Article, *American Airlines Extends Use of CEFA Aviation's EFB Flight Replay to More than 15,000 Pilots*, CEF

Senator SHEEHY [presiding]. Thank you. Mr. Kloster, you are recognized for your opening statement.

**STATEMENT OF RICHARD J. KLOSTER, NOMINEE TO BE A
MEMBER, SURFACE TRANSPORTATION BOARD**

Mr. KLOSTER. Thank you, Senator. I would like to begin with saying thank you to Chairman Cruz, Ranking Member Cantwell, and all the distinguished members of the Senate Commerce, Science, and Transportation Committee.

I am honored to appear before you today as you consider my nomination to be a member of the Surface Transportation Board. I am also grateful to President Trump for his nomination.

I spent my whole career working in the rail industry. It began at a Wisconsin rail yard during the third week of October in 1980. For those of you who do not remember, that was the same week that the Staggers Rail Act was signed into law. I was a young—I was young, just out of college, did not know, really know what a railroad was all about.

I remember telling my dad I was going to work for the railroad. He was a soft-spoken World War II veteran farmer from South Dakota, but he was so proud and would not stop talking about all the family members who had worked for the railroads. There were a lot of stories I had no idea. But to me, it was still just a job, something I needed since I was soon getting married to the love of my life.

As for the new job, the scale, the grandeur, and the importance of the railroad to the country had not yet been impressed on me. That would come later. The rail industry, for its part, had lost its way and was in disarray. It was the Staggers Act that provided a lifeline for what people at the time were calling a dying industry. It would take some time, but a rail renaissance would emerge, as would my love for the industry.

My time with the first Class I railroad would lead to working for a regional railroad and then a short line railroad, both of which were Class I spin-offs that were made possible by the Staggers Act. During this time, my knowledge and experience of railroad commercial, operational, and strategic matters would grow immensely.

After some time off from graduate school, I moved over to the rail industry supply chain working for the largest rail car lessor in the industry. This is where my understanding of all the different facets of equipment supply to the industry would emerge, covering the complete ecosystem, from builders, to lessors, to shops, to component suppliers, and others.

Then finally, about 17 years ago I started a successful strategic consulting firm specializing in the railroad and rail equipment sectors. These last 17 years have allowed me to expand and round out my knowledge even more, adding M&A, financial, regulatory, technical, and other expertise.

So when I look back on these 45 years, I see both me and the rail industry starting a new life together, beginning a new journey, one that I had no idea at the time I would embark on, but I am so glad I did.

When I look back over this time and I see the incredible changes and growth that have transpired in both me and the rail industry, and I would not change a thing, which brings me back to the last thing.

Why am I here today? I am here today to serve my country and the broader industry that has given me so much. The shippers, the railroads, and the supply chain. So I hope you will have me and allow me to serve and dedicate myself to advancing the mission of the Surface Transportation Board.

Thank you for your time and consideration. And I look forward to answering any questions you may have.

[The prepared statement and biographical information of Mr. Kloster follow:]

PREPARED STATEMENT OF RICHARD J. KLOSTER, NOMINEE TO BE A MEMBER,
SURFACE TRANSPORTATION BOARD

I would like to begin with saying thank you to Chairman Cruz, Ranking Member Cantwell, and all the distinguished Members of the Commerce, Science, and Transportation Committee. I am honored to appear before you today as you consider my nomination to be a Member of the Surface Transportation Board ("Board"). I am also grateful to President Trump for his nomination.

I've spent my whole career working in the rail industry. It began at a Wisconsin rail yard during the third week of October of 1980. For those who don't remember, that was the same week the Staggers Rail Act was signed into law.

I was young, just out of college, and didn't really know what a railroad was all about. I remember telling my dad that I was going to work for the railroad. He was a softspoken WW2 veteran farmer from South Dakota, but he was so proud and wouldn't stop talking about all the family members that had worked for the railroad. There were a lot of stories. I had no idea.

But to me, it still was just a job. Something I needed since I was soon getting married to the love of my life. As for my new job, the scale, the grandeur, and the importance of the railroad hadn't yet been impressed on me. That would come later.

The rail industry, for its part, had lost its way and was in disarray. It was The Staggers Act that provided a lifeline for what people at the time were calling a dying industry. It would take some time, but a rail renaissance *would* emerge. As would my love for the industry.

My time with that first Class I railroad would lead to working for a regional railroad, and then a shortline railroad. Both of which were Class I spinoffs that were made possible by The Staggers Act. During this time my knowledge and experience of railroad commercial, operational and strategic matters would grow immensely.

After some time off for graduate school, I moved over to the rail supply chain, working for the largest railcar lessor in the industry. This is where my understanding of all the different facets of equipment supply to the industry would emerge, covering the complete eco-system from builders, to lessors, to shops, component suppliers, and others.

Then finally, about 17 years ago, I started a successful strategic consulting firm specializing in the railroad and rail equipment sectors. These last 17 years have allowed me to expand and round out my knowledge even more, adding M&A, financial, regulatory, technical, and other expertise.

So, when I look back 45 years ago, I see both me and the rail industry starting a new life together. Beginning a new journey. One I had no idea at the time I would embark on but glad I did. And I look back over this time, I see all the incredible changes and growth that have transpired in both me and the rail industry. I wouldn't change a thing.

Which brings me back to one last thing, why am I here today? I am here today to serve my country and the broader industry that has given me so much. . . the shippers, the railroads, and the supply chain. So, I hope you will have me and allow me to serve and dedicate myself to advancing the mission of the Surface Transportation Board.

Thank you for your time and consideration, and I look forward to answering any questions that you may have.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):

Richard James Kloster (Dick).

2. Position to which nominated: Board Member.

3. Date of Nomination: September 10, 2025.

4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.

Office: Information not provided.

5. Date and Place of Birth: Information not provided.

6. Provide the name, position, and place of employment for your spouse (if married) or domestic partner, and the names and ages of your children (including step-children and children by a previous marriage).

Wife—Constance Doone Kloster, not employed

Son—Andrew R. Kloster, age 41; Daughter—Allyson R. Kloster, age 38; Daugh-

ter—Madelyn D. Kloster, age 34

7. List all college and graduate schools attended, whether or not you were granted a degree by the institution. Provide the name of the institution, the dates attended, the degree received, and the date of the degree.

1. William Rainey Harper College, Palatine, IL, September 1976–May 1977, no degree/transferred
2. Northern Illinois University, DeKalb, IL, August 1977–August 1980, BS Business, December 13, 1980
3. University of Alabama, Tuscaloosa, AL, August 1985–May 1986, MS Marketing, May 17, 1986

8. List all post-undergraduate employment, including the job title, name of employer, and inclusive dates of employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

1. Chicago & Northwestern Transportation Co.—October 1980 to August 1985
 - Damage Prevention Auditor—October 1980 to August 1981
 - Assistant Pricing Manager, Automotive—August 1981 to January 1982
 - Pricing Manager, Paper & Forest Products—January 1982 to April 1982
 - Pricing Manager, Chemicals & Fertilizers—April 1982 to December 1982
 - Market Manager, Industrial Chemicals—December 1982 to August 1985
2. University of Alabama
 - Graduate Research Assistant—August 1985 to August 1986
3. Chicago Central & Pacific Railroad Company
 - Asst. Vice President, Marketing & Sales—August 1986 to June 1987
4. Indiana Rail Road Company
 - VP Marketing, Sales, Corporate Development—July 1987 to April 1989
5. Chicago & Northwestern Transportation Co.
 - Director, Food Products Business Unit—April 1989 to February 1991
6. General Electric, GE Capital Railcar Services—February 1991 to July 2007
 - Senior Portfolio Manager—February 1991 to January 2001
 - Vice President, Market Segment Leader, Railroads—January 2001 to March 2003
 - Vice President, Business and Market Intelligence—March 2003 to July 2007
7. Advanced Equipment Rail Solutions, Inc.
 - President and Founder—July 2007 to October 2012
8. FTR Intel/FTR Consulting Group (Freight Transportation Research Associates)
 - Principle & Senior Consultant (Rail)—January 2008 to November 2019
9. AllTranstek, LLC
 - Senior Vice President and Chief Commercial Officer—October 2012 to November 2019
10. Integrity Rail Partners, Inc.
 - President and Founder—November 2019 to Present

9. Attach a copy of your resume.

- See Appendix A

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above after 18 years of age. None.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution.

- Advanced Rail Equipment Solutions, Inc.—President and CEO
- Integrity Rail Partners, Inc.—President and CEO

12. List all memberships you have had after 18 years of age or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religiously affiliated organization, private club, or other membership organization (You do not have to list your religious affiliation or membership in a religious house of worship or institution). Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or disability.

- National Industrial Transportation League (NITL)—no membership restrictions

- General Member, 1998–2025
 - Board Member, 2005–2007, 2012–2025
 - Executive Board Member & Treasurer 2021–2025
 - Railway Supply Institute (RSI)—no membership restrictions
 - General Member, 1992–2025
 - Board Member, 2019–2021
 - Schaumburg Athletic Association (SAA)—no membership restrictions
 - Board Member, 2004–2009
13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.
- I have never been a candidate for or held any public office.
14. List all memberships and offices held with and services rendered to, whether compensated or not, any political party or election committee within the past ten years. If you have held a paid position or served in a formal or official advisory position (whether compensated or not) in a political campaign within the past ten years, identify the particulars of the campaign, including the candidate, year of the campaign, and your title and responsibilities.
- None.
15. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$200 or more for the past ten years.
- None.
16. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.
- None.
17. List all books, articles, columns, letters to the editor, Internet blog postings, or other publications you have authored, individually or with others. Include a link to each publication when possible. If a link is not available, provide a digital copy of the publication when available.
- See a list of article links in Appendix B
18. List all speeches, panel discussions, and presentations (*e.g.*, PowerPoint) that you have given on topics relevant to the position for which you have been nominated. Include a link to each publication when possible. If a link is not available, provide a digital copy of the speech or presentation when available.
- See a list of presentations in Appendix C
19. List all public statements you have made during the past ten years, including statements in news articles and radio and podcasts and television appearances, which are on topics relevant to the position for which you have been nominated, including dates. Include a link to each statement when possible. If a link is not available, provide a digital copy of the statement when available.
- See a list of article links in Appendix D
20. List all digital platforms (including social media and other digital content sites) on which you currently or have formerly operated an account, regardless of whether or not the account was held in your name or an alias. Include the full name of an “alias” or “handle”, including the complete URL and username with hyperlinks, you have used on each of the named platforms. Indicate whether the account is active, deleted, or dormant. Include a link to each account if possible.
- LinkedIn—Richard Kloster, active account
 - www.linkedin.com/in/richard-kloster-45b1bb4
21. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date, committee, and subject matter of each testimony.
- I have never testified before Congress.
22. Given the current mission, major programs, and major operational objectives of the department/agency/commission/corporation to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?
- I have spent my whole career working in the rail industry, having started with a railroad the second week of October 1980, the same week the Staggers Rail Act was enacted. Over the past 45 years, I have spent significant time working in, and

with, all three sectors of the industry—the railroads, the supply chain, and the customer base, shippers.

This experience has allowed me to gain a deep understanding of “railroading”, from all stakeholder perspectives, Class 1’s, shortlines, shippers, intermodal, rail suppliers, equipment and repair, financial/investors, and others. Importantly, I offer a neutral, trusted perspective that connects commercial and technical areas. My work has been relied upon across the industry valued by all major stakeholder groups.

I have a passion for the U.S. rail industry and the American economy, and a strong drive to help ensure the industry is robust, and equipped to adapt changing times, so that it can continue to be the backbone of American industry.

23. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency/commission/corporation has proper management and accounting controls, and what experience do you have in managing a large organization?

The agency is tasked with ensuring the U.S. rail industry remains healthy, strong and competitive, to the benefit of the broader ecosystem, encompassing all stakeholders. However, to do this the STB must operate as a cohesive unit, led by its Chairman and supported by the other Board members and the staff. The Board must be able to execute its duties fairly and justly, with wisdom gained through experience. It is my hope and goal to bring my diverse, 45-year experience in the rail industry to help strengthen the Board’s understanding of the industry it serves so as to strengthen its decision-making.

Over my career I have worked for large and small companies, as well as having started two small businesses, where I have always had managerial responsibilities. I pride myself as being a person who seeks out input from everyone in the organization.

I have managed large teams that focused on technical (engineering, inspections) and regulatory compliance (Federal Railroad Administration, Pipeline and Hazardous Materials Safety Administration, Association of American Railroads), as well as operational aspects of rail equipment and rail operations. I have also managed staff responsible for accounting and financial controls at different organizations including portfolio, operational, maintenance, commercial, budget and profit and loss responsibilities.

If confirmed, I am committed to learning about all the elements of compliance with Federal law, including best practices set by the Office of Management and Budget, the Government Accountability Office, and others, at the operational level, and ensuring the STB stays on track.

24. What do you believe to be the top three challenges facing the department/agency/commission/corporation, and why?

The STB handles hundreds of proceedings every year, some routine, but others very significant. However, all are just as important to one petitioner as it is to another. Moving all cases through the process has been a challenge in the past but should be a top goal of the Board, in terms of speed, timeliness and transparency of the process. If confirmed, my goal will be to contribute to the progress made by the new Chairman.

Some cases are very specific, affecting only the participants, while others will have lasting effects for the industry as a whole. In my mind, these decisions with long lasting impacts are the most critical and must be addressed with fairness, accountability, and adherence to law. Doing this requires the utmost due diligence in an open and transparent manner, involving input and debate from a broad set of stakeholders. If confirmed, this would be my approach. I would rely on my deep background and network in the industry to ensure sound and just decisions.

Making good decisions requires good input. The more knowledge and information you acquire, the better positioned you are to make sound decisions, while still balancing preparation with timely action. The STB is strong in this area, but there is always room for improvement. One of my goals would be to draw on my unique experience to enhance the agency’s capabilities and ensure it obtains and understands the information necessary for effective decision-making.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts, such as a 401(k) or pension plan.

I have no existing financial arrangements or deferred compensation agreements. If confirmed, my consulting firm, Integrity Rail Partners, Inc., will become dormant and I will cease to have any future business relations with any business associates, clients, or customers.

I have 401(k) rollover accounts from two former employers, GE Railcar Services (GE) and Rescar Inc. I also have a pension from GE Railcar Services (GE). These are listed in Section E.1.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association, or other organization during your appointment? If so, please explain.

I am the sole owner of my consulting firm, which does business as Integrity Rail Partners, Inc. If confirmed, my consulting firm will cease engaging in any business, including client engagements, consistent with my OGE Ethics Agreement.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. Explain how you will resolve each potential conflict of interest.

If confirmed, Integrity Rail Partners, Inc. will remain dormant and will not advertise, during my appointment to the position of Board Member. I will not perform any services for the firm, except that I will comply with any court orders or subpoenas and any requirements involving legal filings, taxes, and fees that are necessary to maintain the firm while it is in an inactive status. As a Board Member, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of Integrity Rail Partners, Inc. All amounts owed to me by any of my clients will be fixed before I assume the duties of the position of Board Member, and I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the ability or willingness of any of these clients to pay these amounts.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated. Explain how you will resolve each potential conflict of interest.

I am not aware that I hold any financial interest that would raise a possible conflict of interest. However, in my Ethics Agreement, I have pledged that I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the particular matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1). I understand that the interests of the following persons are imputed to me:

- Any spouse or minor child of mine;
- Any general partner of a partnership in which I am a limited or general partner;
- Any organization in which I serve as an officer, director, trustee, general partner, or employee, even if uncompensated; and
- Any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Additionally, I have been advised that the duties of the position of Board Member may involve particular matters affecting the financial interests of Commtrex. The agency has determined that it is not necessary at this time for me to divest my interest in this entity because the likelihood that my duties will involve any such matter is remote. Accordingly, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of Commtrex, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1).

5. Identify any other potential conflicts of interest and explain how you will resolve each potential conflict of interest. None.

6. Describe any activity during the past ten years, including the names of clients represented, in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. None.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics, professional misconduct, or retaliation by, or been the subject of a complaint to, any court, administrative agency, the Office of Special Counsel, an Inspector General, professional association, disciplinary committee, or other professional group? If yes:

- a. Provide the name of the court, agency, association, committee, or group;

- b. Provide the date the citation, disciplinary action, complaint, or personnel action was issued or initiated;
 - c. Describe the citation, disciplinary action, complaint, or personnel action;
 - d. Provide the results of the citation, disciplinary action, complaint, or personnel action.
- No.
- 2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, municipal, or foreign government entity, other than for a minor traffic offense? If so, please explain. No.
 - 3. Have you or any business or nonprofit of which you are or were an officer ever been involved as a party in an administrative agency proceeding, criminal proceeding, or civil litigation? If so, please explain. No.
 - 4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain. No.
 - 5. Have you ever been accused, formally or informally, of sexual assault, sexual harassment, or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain. No.
 - 6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination.
- I have nothing relevant to disclose.

D. RELATIONSHIP WITH COMMITTEE

- 1. Will you ensure that your department/agency/commission/corporation complies with deadlines for information set by congressional committees, and that your department/agency/commission/corporation endeavors to timely comply with requests for information from individual Members of Congress, including requests from members in the minority? Yes.
- 2. Will you ensure that your department/agency/commission/corporation does whatever it can to protect congressional witnesses and whistleblowers from reprisal for their testimony and disclosures? Yes.
- 3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.
- 4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

Appendix A – Resume

Richard J. Kloster

Strategic Leader – Striving for Excellence

Collaborative Leader Developing High Performing Teams to Drive Growth and Transformation

Forward-thinking executive leading organizations to achieve strategic and financial goals. Develop talented teams, pursuing excellence in quality, growth, and profitability. Partner with stakeholders by listening carefully to needs, creating innovative solutions, and earning trust and respect.

A passion for learning, seeking diverse ideas, and engaging teams at all levels in organization to drive transformational change. Extensive experience in the rail industry and exposure to most facets of a complex ecosystem.

EXPERIENCE

INTEGRITY RAIL PARTNERS, INC., Charles Town, WV

2019 to Present

A private transportation consulting firm that provides strategic, economic, and forecasting services to the railroad and rail transportation equipment industry.

President

Founded a leading economic and forecasting consulting firm specializing in providing strategic guidance to companies operating in the rail equipment supply markets. Client base covers all sectors of the supply chain, including railroads, shippers, manufacturers, leasing companies, service providers, financial services, private equity firms.

ALLTRANSTEK, LLC, Downers Grove, IL

2012 to 2019

A private transportation consulting company that provides fleet management, technical, operational, and strategic consulting services to the rail equipment industry, managing over 300,000 railcars for more than two hundred clients in North America.

Senior Vice President and Chief Commercial Officer

Responsible for all strategic, regulatory, and commercial activities of the business. Led the industry's largest staff of technical, operational, regulatory, economic, and strategic consultants, focusing on all matters pertaining to the rail equipment supply chain.

- Key advisor on many industry acquisitions, regulatory events, and variety of consulting engagements
- Created strategic plan to expand line of services, grow existing client base, and increase market footprint.
- Successful with revenues doubled, margins and EBITA increased, fleet count increased by 2.5X

FTR INTEL / FTR CONSULTING GROUP, Bloomington, IN 2007 to 2019

Industry leader in freight transportation research, economics, and forecasting.

Principal & Senior Consultant

FTR's rail industry and rail equipment expert, analyst, and author of various reports, including the quarterly Rail Equipment Outlook, the industry's leading rail equipment forecast.

- Responsibly for the growth of the firm's reputation in the industry's leading rail equipment forecaster
- Increased rail segment subscriptions by 10x in first three years

ADVANCED RAIL EQUIPMENT SOLUTIONS, INC., Schaumburg, IL 2007 to 2012

A private transportation consulting company that provides strategic, economic, and forecasting consulting services to the railroad and transportation equipment industry.

President

Founded first consulting firm focusing on economic analysis of the rail equipment industry, serving all sectors of the supply chain, including manufactures, leasing companies, railroads, service providers, financial services, private equity firms, etc., on a wide range of projects and assignments.

GE RAIL SERVICES, CHICAGO, IL 1991 to 2007

A subsidiary of General Electric Company, the largest lessor of railroad freight cars and intermodal equipment in North America, operating a fleet of over 180,000 rail cars.

Vice President Business and Market Intelligence 2004-2007

Managed a large GE corporate Center of Excellence focusing on research and analysis of the rail industry on behalf of all GE businesses with interests in the global rail industry. Supported commercial decision processes, strategic growth initiatives, analyzed economic conditions, business trends, performed industry segment, fleet and competitor analysis, and addressed potential markets.

Vice President, Market Segment Leader 2001-2004

Led business development efforts focused on Class 1, regional and shortline railroad customers to identify, develop, and implement new service platforms. Accomplished through new product development, new market entry, acquisitions, and technology development efforts and initiatives.

Senior Portfolio Manager 1991-2001

Led multifaceted team with profit & loss responsibility in the strategic and operating management of GE Rail's freight car fleet, totaling over 55,000 railcars.

- Acquisition and capex spending of over \$1 billion on new and existing railcars, conversion, and rehab programs
- Portfolio, commercial, operational, and financial decision responsibilities

PRIOR WORK EXPERIENCE 1980-1991**CHICAGO & NORTHWESTERN TRANSPORTATION COMPANY, Chicago, IL Various**

A Class 1 railroad operating in the Midwest.

- Director, Food Products Business Unit
- Market Manager, Industrial Chemicals

- Pricing Manager, Chemicals & Fertilizers
- Pricing Manager, Paper & Forest Products

INDIANA RAIL ROAD COMPANY, Indianapolis, IN **VP Marketing, Sales, Corporate Development**

A start-up shortline railroad operating in Indiana and Illinois.

CHICAGO CENTRAL & PACIFIC RAILROAD CO. Waterloo, IA **Asst. Vice President, Marketing & Sales**

A start-up regional railroad operating in Illinois and Iowa.

EDUCATION

University of Alabama, Tuscaloosa, AL

Master of Arts, Marketing

Northern Illinois University, DeKalb, IL

Bachelor of Science, Business & Economics

LEADERSHIP POSITIONS and OTHER PROFESSIONAL EXPERIENCE

Railway Supply Institute

Board of Directors, Member

2019-2022

Committee on Tank Cars, Member

2019-2022

GPAC Committee, Member

2016-present

National Industrial Transportation League

Board of Directors, Executive Committee

2018-current

Board of Directors, Member

2004-2007, 2013-2017

Progressive Railroading Magazine, Featured Columnist

2014-present

Association of American Railroads, Joint Industry Boxcar Task Force, Member

1994-1999

Holder of three patents for rail car innovations

1999-2001

Frequent presenter to industry organizations, meetings, and conferences

1996-current

APPENDIX B—PROGRESSIVE RAILROADING MAGAZINE ARTICLES

- 2025 July—"The future of the rail-car supply chain? It's all about the freight"
<https://www.progressiverailroading.com/mechanical/article/The-future-of-the-rail-car-supply-chain-Its-all-about-the-freight-mdash-by-Richard-Kloster>—74860
- 2025 February—"On the eve of a new renaissance?—commentary by Richard Kloster"
https://www.progressiverailroading.com/federal_legislation_regulation/news/On-the-eve-of-a-new-renaissance-mdash-commentary-by-Richard-Kloster—73848
- 2024 December—"Rail-Car Outlook '25: Definitely not 'Back to the Future' anytime soon—forecast by Richard Kloster"
https://www.progressiverailroading.com/rail_industry_trends/news/Rail-Car-Outlook-25-Definitely-not-Back-to-the-Future-anytime-soon-mdash-forecast-by-Richard-Kloster—73444
- 2024 July—"If I were King of the Rail-car Fleet—commentary by Richard Kloster"
 • No link available, see the article at the end of this report
- 2024 February—"Actions and Words: How will car supply affect the 'Pivot to Growth'?—commentary by Richard Kloster"
 • No link available, see the article at the end of this report
- 2023 December—"Rail-car outlook '24: Dick Kloster's annual forecast"
<https://www.progressiverailroading.com/mechanical/article/Rail-car-outlook-24-Dick-Klosters-annual-forecast>—70825
- 2023 July—"Death and Taxes: How regulations and inflation are impacting tank car maintenance"
 • No link available, see the article at the end of this report
- 2023 February—"The Paradigm Shift: How rail-car supply and ownership has changed over time—commentary by Richard Kloster"
 • No link available, see the article below
- 2022 December—"Rail-car outlook: Richard Kloster's 2023 delivery projection"
<https://www.progressiverailroading.com/mechanical/article/Rail-car-outlook-Richard-Klosters-2023-delivery-projection>—68134
- 2022 July—"A funny thing happened on the way to the scrap yard—commentary by Richard Kloster"
 • No link available, see the article below
- 2022 February—"The Tails That Wag the Dog: The three fleets that have been depressing fleet utilization—commentary by Richard Kloster"
 • No link available, see the article below
- 2021 December—"What will the rail equipment market look like in 2022?"
<https://www.progressiverailroading.com/mechanical/article/What-will-the-rail-equipment-market-look-like-in-2022>—65378
- 2021 August—"Rail-car market update: What about Bob (I mean rail cars)?"
<https://www.progressiverailroading.com/mechanical/article/Rail-car-market-update-What-about-Bob-I-mean-rail-cars>—64248
- 2020 December—"What will the rail-car equipment market look like in 2021? (commentary by Richard Kloster)"
<https://www.progressiverailroading.com/mechanical/article/What-will-the-rail-car-equipment-market-look-like-in-2021-commentary-by-Richard-Kloster>—62197
- 2020 February—"A case for the 'hope for the best' contingent: rail equipment market commentary by Richard Kloster"
<https://www.progressiverailroading.com/mechanical/article/A-case-for-the-hope-for-the-best-contingent-rail-equipment-market-commentary-by-Richard-Kloster>—59677
- 2019 December—"Rail-car Outlook 2020—analysis by Richard Kloster"
<https://www.progressiverailroading.com/mechanical/article/Rail-car-Outlook-2020-analysis-by-Richard-Kloster>—59245
- 2019 August—"The plight of box cars—analysis by Richard Kloster"
<https://www.progressiverailroading.com/mechanical/article/The-plight-of-box-cars-analysis-by-Richard-Kloster>—58261
- 2019 February—"PSR and the rail car: Commentary by Richard Kloster"
<https://www.progressiverailroading.com/mechanical/article/PSR-and-the-rail-car-Commentary-by-Richard-Kloster>—56697

- 2018 December—"Outlook 2019: Rail-car forecast by Richard Kloster"
<https://www.progressiverailroading.com/mechanical/article.aspx?id=56257>
- 2018 July—"What if they never discovered oil in North Dakota?—by Richard Kloster"
<https://www.progressiverailroading.com/mechanical/article/What-if-they-never-discovered-oil-in-North-Dakota-by-Richard-Kloster—55040>
- 2018 February—"Commentary: Rail-car lessees need to know the new lease accounting standards"
<https://www.progressiverailroading.com/mechanical/article/Commentary-Rail-car-lessees-need-to-know-the-new-lease-accounting-standards—53872>
- 2017 December—"Outlook 2018: Rail-car forecast by Richard Kloster"
https://www.progressiverailroading.com/rail_industry_trends/article/Outlook-2018-Rail-car-forecast-by-Richard-Kloster—53418
- 2017 August—"Rail-car outlook: Where did the momentum go?—analysis by Richard Kloster"
<https://www.progressiverailroading.com/mechanical/article/Rail-car-outlook-Where-did-the-momentum-go-mdash-analysis-by-Richard-Kloster—52368>
- 2017 February—"Commentary: If things are so bad in the rail-car leasing industry, why are so many jumping in?"
<https://www.progressiverailroading.com/mechanical/article/Commentary-If-things-are-so-bad-in-the-rail-car-leasing-industry-why-are-so-many-jumping-in—50788>
- 2016 December—"Outlook 2017: Rail-car forecast by Richard Kloster"
<https://www.progressiverailroading.com/mechanical/article/Outlook-2017-Rail-car-forecast-by-Richard-Kloster—50304>
- 2016 July—"Rule change could help ease box-car supply problem—commentary by Richard Kloster"
<https://www.progressiverailroading.com/mechanical/article/Rule-change-could-help-ease-box-car-supply-problem-commentary-by-Richard-Kloster—48746>
- 2016 April—"Tank cars: The year of the shipper—commentary by Richard Kloster"
<https://www.progressiverailroading.com/mechanical/article/fank-cars-The-year-of-the-shipper-commentary-by-Richard-Kloster—47892>
- 2016 March—"AllTranstek tackles imploding tank car legend on MythBusters TV show"
<https://www.progressiverailroading.com/mechanical/article/AllTranstek-tackles-imploding-tank-car-legend-on-MythBusters-TV-show—47621>
- 2015 December—"Outlook 2016: Rail-car forecast by Richard Kloster"
https://www.progressiverailroading.com/rail_industry_trends/article/Outlook-2016-Rail-car-forecast-by-Richard-Kloster—46701

2024 July—"If I were King of the Rail-car Fleet"

If I were King of the Railcar Fleet

The problem with Per Diem Leasing

By Richard Kloster

Per diem leasing has outlived its usefulness. By about 20 years. There, can't believe I said it.

I spent ten years managing a huge boxcar fleet, so I learned a thing or two about per diem leasing, and I never thought I'd say this, but if I were King of the Railcar Fleet my first act would be to outlaw per diem leasing.

Per diem leasing used to be an extremely useful tool for railroads to secure equipment. It was created in the 1970s by Itel Corporation to provide leased equipment to cash-strapped shortline railroads. This was during a time of extreme equipment shortages, and the inability or unwillingness of Class 1 railroads to invest in additional equipment. Consequently, tens of thousands of desperately needed cars were built, many of them boxcars.

Fast forward to the 1990s when the industry adopted a new car hire compensation scheme. Deprescription, as it was called, is a market-based system that set railroad car hire rates based on supply and demand, replacing the "prescribed" system. This new system was laudable—who would object to a market-based system, as long as certain "guardrails" were implemented to protect against abusive tactics.

However, like every new set of rules, there are those that will try to find a loophole to use for their own benefit. In this case the loophole is the default rate. More specifically, how the default rate is set for cars built after 1992. The default rate is the key part in depreservation since it sets the rate that is charged in the absence of a negotiated rate. Sounds fine, right? But how is the default rate set?

It is the “lowest positive negotiated rate from the prior quarter”. The issue here is, all it takes to tip the scales in a car hire rate negotiation is for ONE “car user” and ONE “car owner”, both of which are railroads, to negotiate an extremely low rate for ONE car.

The result is that *one single car* governs the rate for all the ensuing car builds of a specific car type. This has applied to tens of thousands of new cars built over the last 32 years, with some of the rates as low as \$0.17 per hour, far from economically viable for a car owner, even at a car cost of 20 years ago.

This is a major reason why leasing companies today avoid investing in new boxcars.

So why outlaw per diem leasing? I think per diem is a crutch that has lost its relevance. It didn’t use to be this way but now it is.

Boxcars shippers rely almost exclusively on the railroads for car supply and have been spoiled over the years because of the huge fleet they drew from. That is not the case today. However, unlike other industries that use covered hoppers and tank cars, most boxcar users never had to figure out how to include ownership or fixed rate leasing into their rail transportation business models. Covered hopper users have a robust car supply of owned, fixed leased, and railroad supplied at their disposal that is not facing the retirement cliff that boxcar users are facing now.

Pooling is always cited as the reason shipper ownership or fixed rate leasing doesn’t work for boxcars, that the railroads need to control the cars to raise overall utilization. However, grain covered hopper pools have been in place since the 1990s with shipper owned and leased cars placed into railroad managed pools. Why hasn’t this been done in the boxcar market? My belief is it’s the lack of a historic shipper boxcar fleet, which goes back to the overreliance of per diem leasing and railroad supply. Boxcar shippers have never been pushed to develop their own ownership/fixed leasing strategies.

Yes, there are always exceptions, but I’m talking about the overall fleet and its decline over the last twenty years. There just haven’t been enough “exceptions” to make the rule and overcome the lack of investment.

The point is that unless boxcar users reevaluate their aversion to fixed rate leasing or ownership, they will be left with only two paths forward. A declining fleet and/or a one-supplier market for car supply, TTX.

Providing car supply to shippers, the true customers, is the reason railcars exist. The manner in which they are financed, owned and supplied is a detail, an economically important one, but subservient to providing basic car supply. Unless boxcar shippers want to lose this rail transportation option, they will have to develop new car supply funding strategies.

Times have changed. New strategies are needed. So, if I were the King of the Railcar Fleet, I would take the away the crutch that per diem leasing has become, to force parties to face up to the realities of the present, and put all players—railroads, shippers and lessors—on equal footing. Off with Per Diem’s head!

Note: The Railway Supply Institute has petitioned the Surface Transportation Board to review the current rules for setting compensation to boxcar owners. More on the petition can be found here: <https://www.rsiweb.org/addressing-the-boxcar-cliff-an-inflection-point-we-cant-afford-to-miss/>

2024 February—“Actions and Words: How will car supply affect the ‘Pivot to Growth?’”

February 2024 Fleet & Leasing Issue

Actions and Words

How will car supply affect the ‘Pivot to Growth?’

By Richard Kloster

I’ve told this story a million times. I joined the industry straight out of college and got a job with the CNW working in a yard in Wisconsin. I lasted one Wisconsin winter and was about to quit. I had another job lined up but with a pay cut—that’s how much I didn’t like being cold.

Anyway, when I told my boss I was resigning, she asked me what I was going to do. So, I told her. Her response? “If you can find a [expletive deleted] job like

that today, you can find a [expletive deleted] job like that in three months. Give me three months.” A month later, I had a marketing and pricing job in Chicago.

This was in the early days of deregulation. Short lines were being created left and right. The Class Is were starting to merge and consolidate, but competition was still alive and well. Every piece of business was important—unless it didn’t contribute economically. There were trains to fill and cars to load. The shackles of regulation were off. The time to grow was here.

Today, we hear Class Is talk about the “Pivot to Growth.” It sounds great and I hope it works, but it’s too early to see any real measurable, systemic results. After all, it took the railroads almost 15 years after deregulation to rationalize and become “profitable.”

But why is a rail-car guy going down railroad memory lane?

Because I’ve seen both sides of the coin. And I see some similarities, and contrasts, between the post-deregulation period and the current environment we’re in, as it relates to rail cars. Back then, car supply wasn’t a problem. We had too many of most car types—even though a lot were old and busted, we still had enough.

Today, in many fleets, we don’t have enough. Reinvestment in new cars over time has not been sufficient, and has resulted in a lot of smaller, declining fleets of poor-quality cars. This indifference or reluctance to invest in rail cars is often claimed to be due to declining freight, meaning, “If I don’t have the load, I don’t need the car.”

But what about the reverse? “If I don’t have the car, I’m not going to get the load.” People always assume it’s a one-directional paradigm. Lower freight volume causes the fleet to decline. But it’s not always true, not by a long shot. It’s often a two-way street.

While some rail fleets have declined due to freight issues, others have not. The box-car fleet is the perfect example.

Much of the box-car freight that was diverted to intermodal or truck was done so over 20 years ago. This is why the fleet fell from 550,000 cars in 1980 (deregulation) to today’s 115,000 cars. Since then, the freight that remains in box cars wants to move in box cars. Sure, there are exceptions, but most of the lost box-car freight has been due to the declining supply of box cars, which has been caused by the lack of reinvestment. Or a lack of service. Either way, not because the shipper wanted to. Because they had to. Ask any shipper.

There are many other examples of this supply-driven freight decline. I point this out because if the railroads want to pivot to growth and generate more freight, they’re going to need to address car supply, and in many fleets, upgrade and add more cars. Which means they’re going to have to reconsider their attitudes and strategies toward car supply.

Some say rail shipments are a leading indicator of the economy. I think that’s true. But I also think that new car builds, fleet sizes and the quality of the fleets are leading indicators of the commitment that railroads have to their long-term growth prospects. Rail cars have long lives, and you’ll need them for a long time.

So, if you’re going to buy a new one, you had better have confidence in your business plans. If you don’t, then you probably maintain the status quo. Either way, your actions will speak louder than your words.

2023 July—“Death and Taxes: How regulations and inflation are impacting tank car maintenance”

Death and Taxes

How regulations and inflation are impacting tank car maintenance

By Richard Kloster

Death and taxes. You can’t avoid them. For the tank car fleet, it’s regulations and inflation that have been pushing the cost of owning and maintaining a tank car to new levels.

Regulations are like a Roach Motel or Hotel California. They check in but they never check out. And they always increase the operating costs of owning a tank car. The same is true for freight cars. However, the regulatory burden is much lower for freight cars, and the pace of change is slower.

The regulatory burden for tank cars is continuously in flux but change comes in bunches, sometime triggered by events, sometimes due to industry efforts to improve the quality and safety of tank cars, most of which are used to haul hazardous materials. The industry is currently dealing with the potential for new or revised regulations in the aftermath of the Palestine, OH derailment, which comes ten years

after the Lac-Mégantic derailment, and the resulting regulatory changes included in the 2015 Fast Act.

However, probably the most significant regulatory change affecting tank cars came with the introduction of HM-201, and the expanded HM-216B, requiring tank car owners to Qualify, or Requalify, their tank car every ten years or less.

The impact on maintenance costs and practices has been significant. Prior to HM-201 it was every 20 years, and the requirements were much less robust and costly. Most tank car went to shop when they need to—for repairs, change of service, lease return, reassignment, etc. These were mostly one-off, single car shopping events, with specific scopes of work. Preventative maintenance was done on some cars but was generally an exception.

Today, much of the tank car's general maintenance is performed when the car is at the shop for a qualification event. This benefits the car owner economically by reducing overall fleet transportation expenses, allows owners to "bundle" volume and manage the shopping as a project verses a series of one-offs, and also perform more "true" preventative maintenance.

However, the overall cost burden is higher due to the additional regulatory compliance requirements. Depending on how a car owner manages fleet maintenance over time determines whether they experience a net benefit from a cost perspective, or not.

The other factor driving rising maintenance costs is inflation, however, there are several types of inflation that are at play. The first is the effect that the general rate of inflation in the economy is having on the cost components of maintenance. This includes labor, components, and materials.

Private repair shops set their own labor rates, but they move in concert with the published AAR Labor Rate, which lags the economy some but has risen shapely over the past two years. The second is interest rates, which at some point will abate but not in the near term.

The other two are industry and market based, namely concentration and demand. The shops that perform tank car maintenance are concentrated among a few large operators. Several are affiliated with large leasing companies and builders with their own fleets to maintain. Two companies operate large shop networks. The remaining tank car certified shops are independent companies with one or two locations. However, they tend to operate regionally. In the end, a fleet owner can find themselves with fewer options than they thought.

Compounding this is the demand for tank car repair, and this relates back to Qualifications, which are now driving the market. The industry is currently in the largest qualification cycle ever and will not peak until 2024 and 2025. With tank car ownership concentrated with a small number of very large fleets—five lessors own 65 percent of the total fleet—shop space is at a premium. Owners are booking shop space into late 2024 to secure capacity.

The combined effect of shop concentration, high demand, and lower industry capacity—several shops have been shut down in the last couple of years—has tightened tank car maintenance supply.

The net result of regulatory changes and inflationary forces both increase tank car maintenance costs. Combined with limitations on the supply of maintenance services and the current shopping practices of tank car owners, these forces have created a market environment that has shifted the balance of power toward the shop operators, resulting in higher costs going forward for the foreseeable future.

Death and Truces. While we can't avoid death, we can mitigate taxes, or in the world of tank cars, rising maintenance costs. However, doing this requires a sound understanding of the current and future environment, as well as implementing strategies to lessen the future cost burden of owning a tank car.

2023 February—"The Paradigm Shift: How rail-car supply and ownership has changed over time—commentary by Richard Kloster"

The Paradigm Shift

How rail-car supply and ownership has changed over time

By Richard Kloster

Rail-car supply has been around for as long as we've had railroads. There's a reason we call rail shipments *carloads*. Because if you don't have the car, you won't get the load.

In the beginning, all cars were owned and supplied by the railroads and even built. Leasing companies emerged before the turn of the last century, primarily for tank cars. However, in 1980, the year the railroad industry was deregulated, around

80 percent of the 2 million rail cars were owned by the railroads. Today, the railroad ownership share is down to 17 percent, while the leasing company share is up to 55 percent. TIX and the shippers own the remaining 10 percent and 18 percent, respectively.

The reason for this huge ownership shift is fairly simple. The railroad industry is the most capex-intensive industry there is, and the financial community, operating lessors and banks have developed a huge appetite for hard, long-lived assets—which the railroads have been more than happy to hand off this capex category to.

However, what's important to understand is how this paradigm shift happened from a historical and strategic context—and most important, what the implications are for the future.

To better understand the evolution of rail-car reinvest, break the last 42-year timeline into quarters:

1st quarter: Post-deregulation. Very few new cars were built. Everyone was rightsizing their fleets, not growing them. This was a period of heavy consolidation among the lessors and builders.

2nd Quarter: Remerged build cycle. In the mid-1990s, when new car demand returned, builders were builders and lessors were lessors. The lessors competed to secure a new car lease order from a lessee. The winning lessor then released an RFP to the builders and selected one. Burgeoning new car demand attracted many new leasing companies. While two builders had effective leasing businesses, the others did not, which limited their market to selling cars instead of leasing them. This was the same model that existed for decades prior to deregulation.

Implication: The builders were at a competitive disadvantage, lessors were playing one builder off another, order books and production schedules were unpredictable, and margins were depressed. Advantage: Lessors.

3rd Quarter: Emergence of the builder that leases. Starting in the early 2000s, builders realized there was power in holding the new car lease order. By securing the new car lease order themselves, they avoided the lessor's RFP process and increased the value of the car by adding new margins to the historical new car build margin, namely a margin for attaching a lease to the new car and a management fee. While all the builders created leasing operations, some were more significant than others. Implication: The balance of power evened out. Some builders created partnerships with large, well-funded investors; began building a leased fleet portfolio's; increased their customer bases; and expanded their design portfolio. Advantage: Even.

4th Quarter: Emergence of the builder-lessor. By the 2010s, the builders were fully competitive with the lessors. Attractive new car leases rates helped builders secure an increasing market share. The builders and their partners began increasing their participation in the secondary market. Implication: Many lessors dropped out of the new car market and refocused their growth plans to the secondary market, leaving more available orders to the builders and larger lessors, who had large enough volumes to aggregate and secure favorable terms for new cars. Advantage: Builder-lessors.

The future: Going forward, the balance of power is likely to oscillate between these two groups. This evolution of the builders and the reordering of how typical lessors grow their fleet has redefined the two groups' roles, but most of the implications are positive for the supply chain. While market demand will still set the prices for new cars of all types, the builders are now more effectively able to manage their production schedules and control their costs, which improves margins. The secondary market has grown and now includes much more attractive and younger equipment, which allows lessors not originating their own new car leases to still add new(er) cars into their fleet growth plans.

On the downside, while component prices, steel costs and interest rates have increased, builder consolidation that has concentrated capacity has also contributed to a higher lease rate environment. Which, depending on your perspective, is either a positive or a negative.

Overall, the paradigm shift is largely complete—and like all things, subject to change.

2022 July—“A funny thing happened on the way to the scrap yard—commentary by Richard Kloster”

A funny thing happened on the way to the scrap yard

August 2022

By Richard Kloster

Understanding the retirement market shouldn't be that difficult. Railcars are built new. They spend their long lives moving freight. They get broken and then fixed. At some point a car gets too old, or the repair cost gets too high, and the decision is made to retire and scrap the car. Hopefully after a long and profitable life for the car owner.

Back in the day when the railroads owned most of the railcars, circa the 1980s post-Staggers era, surplus cars were parked in a south-40s yard and forgotten. At least until someone decided to clean out the yard once or twice a decade. The cost of storing surplus cars was minimal and likely not even measured.

Not so today. The fleet used to be 80 percent owned by the railroads—back in the day. Today the fleet is 55 percent owned by the private leasing companies, 65 percent if you include TIX. Shippers own another 18 percent. That's 73 percent (TTX excluded) of the fleet owned by companies that don't have a south-40s yard to shove their surplus cars into. These car owners have to pay to store their cars, and that isn't cheap.

Since the 2nd half of 2019, scrap steel prices have almost quadrupled, and with this, an increase the retirement pace of old railcars, some of which are not even that old. Again, back in the day, a scrap railcar was worth \$3,000 to \$5,000 per car. Today, scrap values are 3–4 times that.

Another back in the day comparison is the age profile of the fleet. Back then the fleet had gone through some heavy build cycles in the 1970s which resulted in a relatively young fleet. Today's fleet has a significant number of fleet segments that are very large and challenged and steering retirement right in the face. To name a few, 4750 cu grain CH, 70-ton boxcars, aggregate cars, mill gondolas, several GP tank car segments, bulkhead flatcars—and the list goes on.

The rule-of-thumb long-term retirement rate most often quoted is 40,000 car per year. This is as a good a planning assumption to use as any. However, it's still an average. Sometimes we have more, sometime less, but to maintain the average, low periods must be offset by high periods.

From 2000–2007, retirements averaged 42,000 per year. During 2008–2010, the Great Recession years, retirements jumped to a 79,000 average, before falling to 36,000 per year from 2011–2019. However, over the last two years, the “Covid” years, retirements have average 53,000.

Which brings us to 2022. This year's retirement rate started at a strong pace, a continuation of 2020–2021, but in March, railcar scrap rates fell dramatically with scrap yards struggling to find cars to cut.

Why? Freight volumes are still soft. Storage costs are high. Steel prices are high. Scrap cars should be flying to the scrap yards. But they're not. Again, why? Because railcar demand has improved considerably.

But not because carload volumes have improved, they haven't. Instead, rail network fluidity has worsened, and fleet productivity has suffered. This has forced more cars onto the network to relieve the pressure. A year ago, cars were leaving the storage yards for the scrap yard. Today they're leaving the storage yard to go back into service.

So, what's the outlook for fleet retirements? Last decade was below the long-term retirement average and the old fleets will run out life. Next decade retirements will play catch up and are projected to exceed last decade by 20–25 percent.

But current lull in scrapping will not last. At some point this year or next, the rail fluidity problems will correct themselves. When they do these older, less desirable cars—and some younger ones—will again find themselves surplus, and the march to the scrap yard will begin again. Father Time waits for no man, or rail car.

2022 February—“*The Tails That Wag the Dog: The three fleets that have been depressing fleet utilization*—commentary by Richard Kloster”

The Tails That Wag the Dog

The three fleets that have been depressing fleet utilization

By Richard Kloster

While rail freight volumes fell sharply in early 2020 with the breakout of the pandemic, they had already been trending downward for much of 2019. Consequently, the number of stored cars exploded to levels last seen during the Great Recession. Most people, when asked about their thoughts on what it will take to bring down the high storage volume and improve fleet utilization will say, “Traffic volumes needs to improve”, and they would be right, for the most part. This is a normal demand-side response. *Freight cures a lot of Fleet sins.*

However, in today’s market there are three supply-side actors that have had an over-weighted negative effect on the storage numbers, and market, as well as on fleet utilization. Those three actors are small cube covered hoppers, coal gondolas & hoppers, and large general-purpose DOT 111 tank cars. If you strip these three fleets out of the storage numbers, the overall fleet utilization and storage statistics look much more respectable, with many in normalized market ranges.

So, what’s in store for these three bad actors? And how long before they these three get corrected? Let’s start with the coal cars. The coal car fleet was built up over several decades for all the right reasons, but cheap gas prices have fundamentally changed the market for these cars forever. The freight declines severally outpaced the fleet and suddenly surplus cars were shoved into storage. This started ten years ago but it’s only been in the last five years that car owners have made a serious supply-side attempt to bring balance to the coal car fleets scrapping over 45,000 cars and shrinking the fleet by almost 25 percent. Today, while availability is still plentiful, lease rates have finned up and returns are not negative. Another three years and this fleet could start looking attractive again. Maybe even to invest in? We will see.

Small cube gravity covered hoppers used to be called *cement* cars, but now we call them *sand* cars. This fleet was stable until the industry seriously overbuilt the fleet to meet frac sand car demand. However, then oil drillers figured out how to use cheaper and closer brown sand. What started out as right reasons to build new cars, turned into wrong reasons, which then resulted in a lot of red ink and huge stored surpluses, some even in grass fields, “up on blocks” . . . literally. Almost immediately car owners began looking for alternative uses, and several years later, the fleet metrics have begun to improve. The surplus is still large but is coming down. Availability is high but homes are being found and cars are coming out of storage. Some cars are going back into frac sand service as is, others are having their gates changed out for cement, and many are being rebodied and converted into other types of hoppers, both covered and open top cars for a variety of other commodity services.

The large general purpose tank car fleet has a similar history as the small cube CH fleet. A stable fleet segment that was overbuilt to support a new market, and to make matters worse, had new regulatory demands enacted that obsoleted a whole class of younger tank cars. Again, car owners immediately began looking for alternative uses and have found quite a few . . . retrofits conversions, other commodity uses, Mexico placements, etc. However, one additional element, unique to tank cars, has helped tighten this fleet faster than the other two fleets . . . tank car requalification. Total requalification costs typically range from \$12–15,000 and must be done within ten-year intervals. While there is still a large surplus of these cars, with a lot of remaining life, that could go back into service, car owners are reluctant to invest in requalifying a car that still has an unknown future only to put on a shorter-term lease. This has created a disconnect between real availability vs. perceived supply.

While finding alternative uses for these surplus fleets helps stabilize the market and generate revenue for the car owners, much of the heavy lifting in balancing out these fleets will fall on simply retiring and scrapping cars there are just too many cars of for today’s, and tomorrow’s, demand. Supply side discipline. The fleet needs to stop being wagged by it tails, and instead, go in for a good grooming. Which I think we’re in the middle of.

APPENDIX C—PUBLIC PRESENTATIONS, SPEECHES AND PANELS

2025

1. 20250519 National Coal Transportation Association (NCTA), San Antonio, TX—“Railcar 101: Understanding the North American Fleet”

2024

2. 240430 National Association of Rail Shippers (NARS), Chicago, IL—“Railcar Market Outlook”
3. 240521 National Coal Transportation Association (NCTA), Chattanooga, TN—“Railcar Market Update”
4. 240606 Progressive Railroading Magazine, webinar—“Rail Car Counts Mid-Year Update Webcast”
5. 240821 Metal Service Center Institute (MSCI) webinar—“Freight Rail Car Outlook: New rail car deliveries, retirements, and fleet projections”

2023

6. 230502 Railway Supply Institute (RSI) Webinar—“RSI ARCI Webinar: Railcar Market Update”
7. 230911 Metal Service Center Institute Economic Summit (MSCI), Schaumburg, IL—“Freight Rail Car Outlook: New rail car deliveries, retirements, and fleet projections”
8. 231115 RailTrends, New York, NY—“Railcar Market Outlook”

2022

9. 221114 RailTrends, New York, NY—“RailcarMarket Outlook”

2021

10. 210414 Commtrex Webinar—“Railcar Market Update”
11. 210415 SEARS Spring Meeting—“Railcar Market Update”
12. 210607 ASLRRRA, Kansas City, MO—“Railcar Market Update”
13. 210622 ASLRRRA, Louisville, KY—“Railcar Market Update”

2020

14. 201119 RailTrends, Webinar—“Railcar Market Outlook”

2019

15. 03–12–19, American Railcar Institute (ARCI), Chicago, IL—Presentation no longer available
16. 07–21–19, Minnesota Regional RR Assoc, Brainerd, MN—Presentation no longer available
17. 09–10–19, FTR, Indianapolis, IN—Moderated multiple panels discussing rail freight and rail equipment markets and outlooks; No presentations
18. 11–08–19, Stephens Investor Conference, Nashville, TN—Participated in a three person panel (no presentation required) discussing current trends in the rail freight and rail equipment markets
19. 11–20–19, RailTrends, New York, NY—“Railcar Market Outlook”

2018

20. 02–26–18, Frac Sand, Houston, TX—Presentation no longer available
21. 09–11–18, FTR, Indianapolis, IN—Moderated multiple panels discussing rail freight and rail equipment markets and outlooks, No presentations
22. 10–02–18, SWARS, Dallas, TX—“MythBusters Tank Car Implosion”—Presentation no longer available; Video: <https://www.youtube.com/watch?v=yBq5uapC-e0>
23. 11–11–18, Stephens Investor Conference, New York, NY—Participated in a three person panel (no presentation required) discussing current trends in the rail freight and rail equipment markets; No presentations
24. 11–28–18, RailTrends, New York, NY—“Railcar Market Outlook” Presentation no longer available

2017

25. 02–10–2017 Railway Supply Group, Chicago, IL—Presentation no longer available
26. 02–22–07, Argus Asphalt Summit, Miami, FL—Presentation no longer available
27. 02–26–17 EFLA, Houston, TX—Presentation no longer available
28. 04–11–17, Infonex Hydrocarbon Transport, Calgary, AB—Presentation no longer available
29. 05–16–17, PFITC, Rosemont, IL—Presentation no longer available

30. 05–23–17, National Association of Rail Shippers, San Francisco, CA—Presentation no longer available

31. 08–02–17, RSTAC, Washington, DC—Presentation no longer available

32. 09–13–17, FTR, Indianapolis, IN—Moderated multiple panels discussing rail freight and rail equipment markets and outlooks; No presentations

33. 11–11–17, Stephens Investor Conference, New York, NY—Participated in a three person panel (no presentation required) discussing current trends in the rail freight and rail equipment markets; No presentations

34. 11–30–17, RailTrends, New York, NY—“Railcar Market Outlook” Presentation no longer available

2016

35. 01–14–16, MARS, Oakbrook, IL—Presentation no longer available

36. 02–11–16, ExpoRail, Acapulco, MX—Presentation no longer available

37. 02–23–16 EFLA, Scottsdale, AZ—Presentation no longer available

38. 03–02–16, Argus Americas Asphalt Summit, Miami, FL—Presentation no longer available

39. 04–12–16, Infonex Hydrocarbon by Rail, Calgary, AB—Presentation no longer available

40. 05–09–16, PFITC & P66, Atlanta, GA—Presentation no longer available

41. 07–13–16, National Transportation Safety Board (NTSB), Washington, DC—I participated in a roundtable discussion of the new regulations for the rail shipment of flammable liquids in tank car (no presentations but the session was video recorded)

• <https://safetycompass.wordpress.com/2016/08/01/roundtable-review-part-1-the-latest-on-rail-tank-car-safety/>

42. 09–14–16, FTR, Indianapolis, IN—Moderated multiple panels discussing rail freight and rail equipment markets and outlooks; No presentations

43. 11–07–16, Stephens Investor Conference, New York, NY—Participated in a three person panel (no presentation required) discussing current trends in the rail freight and rail equipment markets; No presentations

44. 11–16–16, RailTrends, New York, NY—“Railcar Market Outlook” Presentation no longer available

2015

45. 04–14–15, InfoNex CBR, Calgary, AB—Presentation no longer available

46. 06–01–15, Argus Petro Transp Summit, Houston, TX—Presentation no longer available

47. 06–03–15, PFITC, Lake Forest, IL—Presentation no longer available

48. 09–15–15, FTR, Indianapolis, IN—Moderated multiple panels discussing rail freight and rail equipment markets and outlooks; No presentations

49. 10–07–15, SWARS, Dallas, TX—Presentation no longer available

50. 11–10–15, Stephens Investor Conference, New York, NY—Participated in a three person panel (no presentation required) discussing current trends in the rail freight and rail equipment markets; No presentations

51. 11–18–15, RailTrends, New York, NY—“Railcar Market Outlook” Presentation no longer available

2014

52. 04–07–14 InfoNex CBR, Calgary, AB—Presentation no longer available

53. 06–24–14 Petrochem Tank Car, Houston, TX—Presentation no longer available

54. 06–24–14 Shale Rail, Houston, TX—Presentation no longer available

55. 09–09–14 FTR, Indianapolis, IN—Moderated multiple panels discussing rail freight and rail equipment markets and outlooks; No presentations

56. 09–16–14 Infonex CBR, Denver, CO—Presentation no longer available

57. 11–20–14 RailTrends, New York, NY—“Railcar Market Outlook” Presentation no longer available

58. 12–04–14 Infocast, Los Angeles, CA—Presentation no longer available

2013

59. 03–06–2013 Argus Americas Asphalt Summit, Houston, TX—Presentation no longer available

60. 06–05–13 Argus N. Amer Crude Transportation Summit, Houston, TX—Presentation no longer available

61. 09–24–13 FTR, Indianapolis, IN—Moderated multiple panels discussing rail freight and rail equipment markets and outlooks; No presentations

62. 10–24–2013 Michigan State University, Chicago, IL—Presentation no longer available

2012

- 63. 02–12–12 Michigan State University, Chicago, IL—Presentation no longer available
- 64. 03–04–12 REF, La Quinta, CA—Presentation no longer available
- 65. 07–24–12 Proppants Summit, Denver, CO—Presentation no longer available
- 66. 09–18–12 FTR, Indianapolis, IN—Moderated multiple panels discussing rail freight and rail equipment markets and outlooks, no presentations
- 67. 10–04–12 SWARS, The Woodlands, TX—Presentation no longer available

2011

- 68. 03–06–11, REF, La Qunita, CA—Presentation no longer available
- 69. 03–29–11, SEARS, Savannah, GA—Presentation no longer available
- 70. 06–08–11, ASLRRRA, Milwaukee, WI—Presentation no longer available
- 71. 09–13–11, FTR, Indianapolis, IN—Moderated multiple panels discussing rail freight and rail equipment markets and outlooks; No presentations

2010

- 72. 01–26–10, Northwestern University, Transportation Center, Sandhouse Gang, Evanston, IL—Presentation no longer available
- 73. 03–07–10, Rail Equipment Finance Conference, La Qunita, CA—Presentation no longer available
- 74. 05–24–10, DTE, Denver, CO—Presentation no longer available
- 75. 05–26–10, Paper & Forest Products Transportation Committee (PFPTC)/National Association of Rail Shippers (NARS), Washington, DC—Presentation no longer available
- 76. 09–14–10, FTR, Indianapolis, IN—Moderated multiple panels discussing rail freight and rail equipment markets and outlooks; No presentations

2009

- 77. 03–01–09, REF, La Qunita, CA—“The Market Outlook for Covered Hoppers”, Presentation no longer available
- 78. 05–26–09, National Association of Rail Shippers, Chicago, IL, “Rail Equipment Market Outlook”, Presentation no longer available
- 79. 08–25–09, FTR, Indianapolis, IN—“The Outlook for Rail Freight and Equipment”, Presentation no longer available

2007

- 80. 08–27–07, FTR, Indianapolis, IN—“The Outlook for Rail Freight and Equipment”, Presentation no longer available

2006

- 81. 04–06–2006, North American Rail Mechanical Operations Seminar, “A Cooperative Approach to Change”
- 82. 05–06–2006, North America Rail Shippers Association Annual Meeting, “Shaping Our Destiny Through Collaboration”
- 83. 07–27–2006, Informa Economics—Transportation and Logistics Roundtable, “Railcar Availability and Leasing Developments”

2005

- 84. 05–25–2005, Paper and Forest Industry Transportation Committee Meeting, “Rail Industry and Equipment Outlook for the Forest Products Industry”
- 85. 08–22–05, 2005, AAR Damage Prevention & Freight Claim Conference, “Observations about Today’s Boxcar Fleet”
- 86. 09–07–2005, FTR Associates’ 2005 Freight Transportation Conference, “America’s Freight Transportation through 2009”
- 87. 11–10–2005, Association of Car Accounting and Car Service Officers’ Annual Meeting, “Today’s North American Rail Car Fleet What is it Today? Some Implications and Consequences for the Future”

2004

- 88. 04–16–2004, Paper and Forest Industry Transportation Committee, “Outlook for the Boxcar Fleet”

2003

- 89. 03–02–2003, TAPP! Paper Workshop, “GE Rail’s Paper Quality Boxcar Survey”

2002

- 90. 08–26–2002, American Shortline & Regional Railroad Association, Central/Pacific Region, “The GE Boxcar Fleet and Deprescription”

91. 09–30–2002, American Shortline & Regional Railroad Association, Southern Region, “The GE Boxcar Fleet and Deprescription”
92. 10–14–2002, American Shortline & Regional Railroad Association, Eastern Region, “The GE Boxcar Fleet and Deprescription”
- 1996
93. February 1996, Wisconsin Pulp & Paper Manufacturers Association—“An Overview of the Boxcar Fleet and Railcar Leasing”, Presentation no longer available

APPENDIX D—ARTICLES WHERE INTERVIEWED/QUOTED

2025

1. <https://www.railwayage.com/news/a-wolfe-at-stbs-door-will-he-make-entry/> (July 30, 2025—not directly quoted)
2. <https://www.railwayage.com/news/kloster-schultz-chosen-for-stb-by-potus-47/> (September 11, 2025—not interviewed for this article but includes a quote from him from July, citing the “A Wolfe. . .” article—quote is not in that prior article)

2024

3. <https://www.progressiverailroading.com/rai1Prime/details/Survey-says-Caveats-abound-but-rail-finance-and-leasing-execs-expect-a-slightly-better-year-71195> (early 2024)
4. <https://www.railwayage.com/financeleasing/there-will-be-hell-to-pay/?Rachanel=home> (June 25, 2024—not quoted but providing data from Integrity Rail Partners)

2023 (none found)

2022 (none found)

2021 (none found)

2020

5. <https://www.trains.com/trn/news-reviews/news-wire/76560-2/> (June 26, 2020—not direct quote)

2019 (none found)

2018

6. <https://tlimagazine.com/news/alltranstek-llc/> (June 25, 2018)

2017

7. <https://www.bizjournals.com/stlouis/news/2017/10/31/american-railcar-industries-hit-by-lower-demand-as.html> (October 31, 2017—not directly quoted)

2016

8. <https://www.lohud.com/story/news/2016/07/13/oil-trains-using-fewer-older-tank-cars-official-says/87052990/> (July 13, 2016—Article about NTSB roundtable mentioned below near end of this document)
9. <https://www.progressiverailroading.com/mechanical/article/AllTranstek-tackles-imploding-tank-car-legend-on-MythBusters-TV-show-4762l> (March 2016)

2015

10. <https://www.marketwatch.com/story/shortage-of-railroad-boxcars-has-shippers-fuming-2015-06-21> (June 21, 2015)

Earlier than 2015

11. <https://www.ttnews.com/articles/icahn-tank-car-maker-joins-industry-defying-oils-decline> (November 6, 2014)
12. <https://www.logisticsmgmt.com/article/cn-announces-plan-to-acquire-new-freight-cars-and-containers> (September 13, 2012)

COMMERCE, SCIENCE, AND TRANSPORTATION, 119TH CONGRESS BY RICHARD JAMES KLOSTER

I would like to submit clarifications for the following three questions identified by the Committee. They are:

- A.4—Please clarify if the address listed is Mr. Kloster’s residence or place of employment, or both. Provide a supplement as appropriate.

- A.11—Mr. Kloster’s OGE 278e and Ethic Agreement indicates that he consults with Gerson Lehrman Group, Inc., AlphaSights Ltd., Capvision Pro Corporation, and Guidepoint Global LLC. These are also listed under E.2 of the questionnaire. Please clarify this and provide a supplement as necessary.

Yes, I am supplementing my response to A.11 with these four companies for whom I was a consultant.

- A.18—We received the presentation slides that Mr. Kloster provided, but please provide a link to each presentation where available as well. Please provide a supplement as necessary.

All of these events have been double checked and on-line links to the presentations are NOT available for any of them.

The undersigned certifies that the information contained in the public addendum is true and correct.

/s/ RICHARD J. KLOSTER Date: October 27, 2025

Mr. SHEEHY. Thank you, Mr. Kloster.

Ms. Schultz, you are recognized for your opening statement.

STATEMENT OF MICHELLE A. SCHULTZ, NOMINEE TO CONTINUE AS A MEMBER, SURFACE TRANSPORTATION BOARD

Ms. SCHULTZ. Thank you, Senator Cruz, Ranking Member Cantwell, Senator Luján, and distinguished Members of the Commerce, Science, and Transportation Committee, I am honored to appear before you today as you consider my nomination for a second term as a Member of the Surface Transportation Board. I am also grateful to President Trump for his continued confidence in me through this renomination.

I wish to begin by expressing my sincere gratitude to the people who have supported me throughout my professional life. First and foremost, I thank my late parents, Ron and Bonnie Albright, whose example instilled in me the belief that hard work and integrity are the true measure of success. That principle guides me in everything I do. I would also like to acknowledge my brother, Dave; my sister-in-law, Heather, and my nephews Carson and Zach. Though they are not here today, their love and support are profoundly meaningful to me.

Joining me today are my two daughters, Sophia and Ella Schultz, who are my greatest inspiration. Having them here today means the world to me. Last, I would like to thank my fellow Board Members, Chairman Fuchs, and Member Hedlund, for joining me today, and for their continued collegiality and dedication to our shared mission.

For nearly five years, I have had the honor and privilege of serving on the Surface Transportation Board. From the beginning, I recognized the Board’s critical role as the economic regulator of the freight rail industry and its responsibility for resolving service issues involving freight rail carriers and interstate passenger rail entities along with certain limited jurisdictional matters. While that remains true today, my time on the Board has deepened my appreciation for the complexity and significance of its work.

By listening to stakeholders, reviewing the evidentiary record, and applying the law, I have gained a fuller understanding of how the Board’s decisions affect American consumers, the supply chain, and ultimately the Nation’s economy.

During this time, I have worked closely with my colleagues and dedicated staff of the Board to ensure that the Nation’s rail net-

work operates efficiently and reliably. As a member, I have had the opportunity to navigate a wide range of complex and consequential challenges that reflect the evolving demands on our freight and passenger rail systems. These include: mergers, abandonments, service reliability issues, rail line construction applications, restoration of rail service, data modernization, on-time performance oversight, and rate review processes.

In every matter that comes before the Board, I am guided by several core principles, the evidentiary record, the governing law, and the policy objectives set forth by Congress in the rail transportation policy. I am deeply aware of the impact that Board decisions have on the parties who appear before us and on the broader public.

I take seriously the trust placed in me by Congress and the President. And I approach each case with fairness, impartiality, and a steadfast commitment to applying the law on its merits, always mindful of what best serves the long-term health and vitality of the National Rail Network.

If confirmed, I will continue this approach and remain committed to advancing the Board's mission. I look forward to continuing to work collaboratively with industry stakeholders, my fellow members, and this Committee to address the important issues that come before the Board.

Thank you for your time and consideration, and I look forward to answering any questions you may have.

[The prepared statement and biographical information of Ms. Schultz follow:]

PREPARED STATEMENT OF MICHELLE A. SCHULTZ, NOMINEE TO CONTINUE AS A
MEMBER, SURFACE TRANSPORTATION BOARD

Thank you, Chairman Cruz, Ranking Member Cantwell, and distinguished Members of the Commerce, Science, and Transportation Committee. I am honored to appear before you today as you consider my nomination for a second term as a Member of the Surface Transportation Board ("Board"). I am also grateful to President Trump for his continued confidence in me through this renomination.

I wish to begin by expressing my sincere gratitude to the people who have supported me throughout my professional life. First and foremost, I thank my late parents, Ron and Bonnie Albright, whose example instilled in me the belief that hard work and integrity are the true measure of success. That principle guides me in everything I do. I would also like to acknowledge my brother Dave Albright, my sister-in-law Heather, and my nephews, Carson and Zach. Though they are not here today, their love and support are profoundly meaningful. Joining me today are my two daughters, Sophia and Ella Schultz, who are my greatest inspiration. Having them here today means the world to me. Lastly, I would like to thank my fellow Board Members, Chairman Fuchs and Member Hedlund, for joining me today and for their continued collegiality and dedication to our shared mission.

For nearly five years, I have had the honor and privilege of serving on the Surface Transportation Board. From the beginning, I recognized the Board's critical role as the economic regulator of the freight rail industry and its responsibility for resolving service issues involving freight rail carriers and interstate passenger rail entities, along with certain limited jurisdictional matters. While that remains true today, my time on the Board has deepened my appreciation for the complexity and significance of its work. By listening to stakeholders, reviewing the evidentiary record, and applying the law, I have gained a fuller understanding of how the Board's decisions affect American consumers, the supply chain and ultimately, the Nation's economy.

During this time, I have worked closely with my colleagues and the dedicated staff of the Board to ensure that our Nation's freight rail network operates efficiently and reliably. As a Member, I have had the opportunity to navigate a wide range of complex and consequential challenges that reflect the evolving demands on our freight and passenger rail systems. These include mergers, abandonments, serv-

ice reliability issues, rail line construction applications, restoration of rail service, data modernization, on-time performance oversight, and rate review processes.

In every matter that comes before the Board, I am guided by several core principles: the evidentiary record, the governing law, and the policy objectives set forth by Congress in the Rail Transportation Policy. I am deeply aware of the impact that Board decisions have on the parties who appear before us and on the broader public. I take seriously the trust placed in me by Congress and the President, and I approach each case with fairness, impartiality, and a steadfast commitment to applying the law on its merits—always mindful of what best serves the long-term health and vitality of the national rail network.

If confirmed, I will continue this approach and remain committed to advancing the Board's mission. I look forward to continuing to work collaboratively with industry stakeholders, my fellow Members, and this Committee to address the important issues that come before the Board.

Thank you for your time and consideration. I look forward to answering any questions you may have.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):

Michelle Albright Schultz (2003 to present)
Michelle Mummert Albright

2. Position to which nominated: Member—Surface Transportation Board.

3. Date of Nomination: September 10, 2025.

4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.
Office: Information not provided.

5. Date and Place of Birth: Information not provided.

6. Provide the name, position, and place of employment for your spouse (if married) or domestic partner, and the names and ages of your children (including step-children and children by a previous marriage).

James D. Schultz (Separated, July 2021. Divorced, September 2025)
Executive Vice President, Global Legal and Public Policy
Scientific Games

7. List all college and graduate schools attended, whether or not you were granted a degree by the institution. Provide the name of the institution, the dates attended, the degree received, and the date of the degree.

Pennsylvania State University, BA English—1990–1994
University of Manchester, Spring 1994 (Study abroad)
Widener University School of Law, JD—1995–1998
University of Pennsylvania, MGA—2006–2008

8. List all post-undergraduate employment, including the job title, name of employer, and inclusive dates of employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Hanover Concrete Company, Treasurer (8/98–12/99)
Superior Court of Pennsylvania-Law Clerk (1/00–6/00)
United States Bankruptcy Court-Law Clerk (7/00–1/02)
White and Williams LLP—Associate (1/02–8/06)
Southeastern Pennsylvania Transportation Authority (8/06–1/21)
 Manager, Legislative Affairs
 Director, Legislative Affairs
 Deputy General Counsel
Surface Transportation Board (1/21 to Present)
Management positions include serving as the Treasurer of Hanover Concrete Co. 1/96–12/99; Director of Legislative Affairs (10/10–12/13); Deputy General Counsel (1/14 to 1/21); and Vice Chairman of the Surface Transportation Board (2/21–2/22, 1/25 to present).

9. Attach a copy of your résumé.
Please see attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above after 18 years of age.

Not applicable.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution.

Passive Member—Tamarack Four LLC

I did not hold any other positions.

12. List all memberships you have had after 18 years of age or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religiously affiliated organization, private club, or other membership organization (You do not have to list your religious affiliation or membership in a religious house of worship or institution). Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or disability.

The Union League of Philadelphia. The club does not restrict membership on the basis of sex, race, color, religion, national origin, age, or handicap.

March 2015–July 2021.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt. No.

14. List all memberships and offices held with and services rendered to, whether compensated or not, any political party or election committee within the past ten years. If you have held a paid position or served in a formal or official advisory position (whether compensated or not) in a political campaign within the past ten years, identify the particulars of the campaign, including the candidate, year of the campaign, and your title and responsibilities.

Not applicable.

15. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$200 or more for the past ten years.

2015

Pennsylvania Future Fund \$1000.00 (February)
Williams for Mayor \$1000.00 (March)
Keystone Alliance \$1000.00 (April)
Kevin Dougherty for Pennsylvania \$1000.00 (May)
Chris Christie for President \$2700.00 (December)
Friends of Pat Toomey \$1000.00 (January)
Friends of Bill Shuster \$1000.00 (April)
Keystone Alliance \$1000.00 (April)
Friends of Pat Toomey \$1000.00 (May)
Friends of Alex Charlton \$1000.00 (October)
Friends of Alex Charlton \$1000.00 (November)

2017

Not applicable.

2018

Cozen O'Connor Pac \$3100.00 (Various dates-January through June)
Friends of Ken Lawrence \$500.00 (May)
Republican Party of Pennsylvania \$2810.05 (August)
McGarrigle for Senate \$500.00 (August)
Cozen O'Connor PAC \$3100.00 (October)

2019

Cozen O'Connor PAC \$400.00 (January)
Brian Fitzpatrick for Congress \$1000.00 (February)

2020–2025

Not applicable.

16. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Not applicable.

17. List all books, articles, columns, letters to the editor, Internet blog postings, or other publications you have authored, individually or with others. Include a link to each publication when possible. If a link is not available, provide a digital copy of the publication when available.

Not applicable.

18. List all speeches, panel discussions, and presentations (*e.g.*, PowerPoint) that you have given on topics relevant to the position for which you have been nominated. Include a link to each publication when possible. If a link is not available, provide a digital copy of the speech or presentation when available.

Southwest Association of Rail Shippers (SWARS)

September 30, 2021—Fort Worth, TX (Attached)

Association of Transportation Law Professionals Transportation Forum (ATLP)

November 8, 2021—Virtual (Panel Discussion—Not applicable)

Transportation Elevator & Grain Merchants Association 2022 Annual Meeting (TEGMA)

January 27, 2022—Phoenix, AZ (Panel Discussion—Not applicable)

Northeast Association of Rail Shippers (NEARS)

April 7, 2022—Baltimore, MD (Attached)

Association of Transportation Law Professionals—Transportation Forum (ATLP)

November 2, 2022—Washington, D.C. (Panel Discussion—Not applicable)

National Grain & Feed Association Annual Convention (NGFA)

March 21, 2023—Palm Springs, CA (Attached)

Institute of Scrap Recycling Industries

April 19, 2023—Nashville, TN (Q&A—Not applicable)

Wolfe Research—Global Transportation Conference

May 24, 2023—New York, New York (Attached)

Association of Transportation Law Professionals Annual Conference (ATLP)

June 27, 2023—Toronto, Canada (Q&A—Not applicable)

The Fertilizer Institute Conference—(TFI)

November 14, 2023—New Orleans, LA (Panel Discussion—Not applicable)

Soybean & Grain Transportation Conference (SSGA)

March 14, 2024—Toledo, OH (Attached)

American Petroleum Institute (API)

June 4, 2024—Washington, DC (Q&A—Not applicable)

Association of Transportation Law Professionals Annual Conference (ATLP)

June 24, 2024—Denver, CO (Panel Discussion—Not applicable)

MEGA Supply Chain Societies of Delaware Valley Meeting

October 10, 2024—Gwynedd Valley, PA (Attached)

Private Railcar Food and Beverage Association (PRFBA)

October 23, 2024—Virtual (Attached)

RailTrends

November 14, 2023—New York, New York (Attached)

Association of Transportation Law Professionals Transportation Forum (ATLP)

December 5, 2024—Washington, D.C. (Panel Discussion—Not applicable)

Northeast Association of Rail Shippers (NEARS)

September 19, 2025—Groton, CT (Q&A—Not applicable)

19. List all public statements you have made during the past ten years, including statements in news articles and radio and podcasts and television appearances, which are on topics relevant to the position for which you have been nominated, including dates. Include a link to each statement when possible. If a link is not available, provide a digital copy of the statement when available.

Not applicable.

20. List all digital platforms (including social media and other digital content sites) on which you currently or have formerly operated an account, regardless of whether or not the account was held in your name or an alias. Include the full name of an “alias” or “handle”, including the complete URL and username with hyperlinks, you have used on each of the named platforms. Indicate whether the account is active, deleted, or dormant. Include a link to each account if possible.

LinkedIn: Michelle Schultz
 LinkedIn.com/in/michelle-schultz-47801aa
 Facebook: Michelle Albright Schultz
www.facebook.com / michelle.a.schultz.5
 @michellealbrightschultz
 Instagram: Michelle Albright Schultz
 Michelleschultz7495
 X: @mich_albright
 Tiktok: M S1295
 @user691737152
 Wikipedia: Michelle A. Schultz
https://en.wikipedia.org/wiki/Michelle_A._Schultz

21. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date, committee, and subject matter of each testimony.

I testified before the Committee on Commerce, Science and Transportation of the United States Senate on April 11, 2018, regarding my nomination to the Surface Transportation Board.

I testified before the Committee on Transportation and Infrastructure of the House of Representatives, the Subcommittee on Railroads, Pipelines, and Hazardous Materials on May 12, 2022.

22. Given the current mission, major programs, and major operational objectives of the department/agency/commission/corporation to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

During my service on the Surface Transportation Board ("STB") over the past five years, I have had the privilege of contributing to the Board's critical work overseeing our Nation's freight rail network. In this role, I have participated in decisions and rulemakings addressing service reliability, competition, rate disputes, and regulatory compliance always recognizing the need to balance the needs of shippers, carriers, and the broader public. This work has allowed me to apply my legal training and transportation policy background on a national scale, helping to ensure a fair, transparent, and efficient regulatory environment.

Prior to my appointment, I worked for the Southeastern Pennsylvania Transportation Authority ("SEPTA") for over 12 years. During that time, I became well versed in how railroads operate, how they interact with each other, and the challenges associated with those interactions. At SEPTA, I handled legislative, regulatory and compliance issues at the local, state and Federal levels, including matters related to the construction and reconstruction of commuter rail lines. Earlier in my career, I served as a law clerk for both the Superior Court of Pennsylvania and the United States Bankruptcy Court for the Eastern District of Pennsylvania. Additionally, I was an attorney at a law firm in Philadelphia. My practice focused on creditor's rights and commercial litigation.

I am seeking reappointment to the STB because I remain committed to serving the public through fair and balanced oversight of the Nation's freight rail network and other surface transportation. Our nation's economy and communities depend on a strong, reliable network and I believe the combination of my regulatory experience, legal expertise, and practical transportation knowledge enables me to continue contributing meaningfully to the Board's mission.

23. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency/commission/corporation has proper management and accounting controls, and what experience do you have in managing a large organization?

As a Member of the Surface Transportation Board, it will continue to be incumbent upon me and my colleagues to issue decisions in a timely manner. With regard to the financial business and management of the STB, I believe Members are responsible for ensuring that proper management and accounting controls are in place and functioning effectively by ensuring that agency expenditures comply with appropriations law and are used only for authorized purposes; by following Office of Management and Budget guidance; and by meeting all statutory and congressional reporting requirements.

The STB is annually audited by an independent audit firm, subject to the Department of Transportation's Office of Inspector General's oversight and in accordance with the Generally Accepted Government Auditing Standards. My responsibilities would also include continuing to implement the recommendations made by the independent audit firm.

24. What do you believe to be the top three challenges facing the department/agency/commission/corporation, and why?

I believe the top three challenges facing the agency are as follows:

Continued Reform of Agency Process

As part of Chairman Fuchs' broader initiative to enhance agency efficiency, transparency and accountability, I was asked by him to hold informal listening sessions with the practitioners who routinely appear before the Board. The goal of the sessions was to identify practical ways to streamline the Board's processes and procedures, particularly those impacting litigants and parties in matters before the Board.

Over several days, I met with around 20 practitioners who provided more than 100 specific ideas for process improvements. The insight that was provided was incredibly helpful and a perspective that could only be provided by those who were routinely filing matters before the Board. Following the review and feedback, I submitted five initial recommendations to Chairman Fuchs which focused on actionable steps to streamline procedures such as enhancing case management and reducing administrative burdens.

At this time, proactive steps have been taken to advance all five initiatives. I believe in the coming years, the Board should consider more of the ideas and implement them. While all of the suggestions address process reform, many of the suggestions would require rulemaking proceedings.

Concluding Regulatory and Adjudicatory Proceedings

In the past, the Surface Transportation Board has experienced a backlog on its docket. During the listening sessions I led in May 2025 with legal practitioners who routinely appear before the Board, a reoccurring comment was the impact that these delays have on stakeholders who have pending matters before the Board. Those stakeholders include Class I railroads, shippers, passenger rail operators, local governments, and landowners. These entities can face significant operational, financial and strategic consequences from delays in adjudicatory matters and rulemakings. In the past, some of these proceedings have languished for years due to backlogs. Delays force parties to incur ongoing legal, consulting, and compliance costs without resolution. They can also delay capital investments which stall growth and lead to costlier alternatives like increased reliance on trucking.

In January 2025, Chairman Fuchs began ongoing efforts to address case backlogs as a priority for the agency to promote transparency and accountability. Under his leadership, Chairman Fuchs has implemented a reorganization of the agency to streamline the internal review process of the Board. This effort, along with process reform, has led to the agency substantially increasing the speed of decisions. I believe it is incumbent upon the Board to continue prioritizing any outstanding matters as well as continuing to issue decisions in a timely manner.

Conducting Thorough Agency Analysis and Oversight

Stakeholders provided positive feedback following the May listening sessions. Many indicated that it was the first time the Board has asked for this kind of insight and constructive criticism. Based upon this feedback, the Board should consider offering bi-annual reviews to create a regular, transparent forum for stakeholders to assess the STB's processes and provide actionable feedback on areas for improvement. This initiative would enhance accountability by systematically evaluating the Board's performance and holding the SIB accountable to its mission of accountability and fair regulation. Regular engagement would also ensure that diverse perspectives from small shippers to Class I railroads are incorporated, building upon the collaborative model of the 2025 listening sessions. Bi-annual reviews would establish a consistent feedback loop and would allow the SIB to adapt to evolving industry needs and regulatory challenges.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts, such as a 401(k) or pension plan.

I have no existing financial arrangements or deferred compensation agreements or dealings with business associates, clients, or customers. I participate in South-eastern Pennsylvania Transportation Authority (SEPTA) Defined Contribution Plan.

While I will continue to participate in this defined contribution plan, SEPTA ceased making contributions upon my separation. I also participate in SEPTA's defined benefit plan, where I will receive a defined pension starting at age 62. These are listed in Section E. 1.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association, or other organization during your appointment? If so, please explain. No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. Explain how you will resolve each potential conflict of interest.

I was employed by the Southeastern Pennsylvania Transportation Authority from 2006 until 2021. Upon confirmation of my first term as a Member of the STB, I entered into an Ethics Agreement and agreed not to participate personally and substantially in any particular matter where SEPTA was a party for a period of one year after my resignation from SEPTA. This time period has now passed, and I do not have any other potential conflicts of interest.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated. Explain how you will resolve each potential conflict of interest.

I am not aware that I hold any financial interest that would raise a possible conflict of interest. However, in my Ethics Agreement, I have pledged that I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the particular matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1). I understand that the interests of the following persons are imputed to me:

- Any spouse or minor child of mine;
- Any general partner of a partnership in which I am a limited or general partner;
- Any organization in which I serve as an officer, director, trustee, general partner, or employee, even if uncompensated; and
- Any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

5. Identify any other potential conflicts of interest and explain how you will resolve each potential conflict of interest.

I do not have any other potential conflicts of interest.

6. Describe any activity during the past ten years, including the names of clients represented, in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

I have not engaged in influencing the passage, defeat or modification of legislation during the past ten years.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics, professional misconduct, or retaliation by, or been the subject of a complaint to, any court, administrative agency, the Office of Special Counsel, an Inspector General, professional association, disciplinary committee, or other professional group? If yes:

- a. Provide the name of the court, agency, association, committee, or group;
- b. Provide the date the citation, disciplinary action, complaint, or personnel action was issued or initiated;
- c. Describe the citation, disciplinary action, complaint, or personnel action;
- d. Provide the results of the citation, disciplinary action, complaint, or personnel action.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, municipal, or foreign government entity, other than for a minor traffic offense? If so, please explain. No.

3. Have you or any business or nonprofit of which you are or were an officer ever been involved as a party in an administrative agency proceeding, criminal proceeding, or civil litigation? If so, please explain. No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain. No.

5. Have you ever been accused, formally or informally, of sexual assault, sexual harassment, or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain. No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination.

It has been an extraordinary honor and privilege to serve on the Surface Transportation Board. I am profoundly grateful to President Trump for his nominations and trust in my ability to serve. I would also like to extend my sincere gratitude to the Senate Commerce Committee for their thoughtful consideration of my nomination. If granted the opportunity to continue, I am fully committed to supporting the stakeholders who depend on our Nation's surface transportation system by delivering diligent and equitable oversight of the transportation network that is vital to our Nation's economy and our communities.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency/commission/corporation complies with deadlines for information set by congressional committees, and that your department/agency/commission/corporation endeavors to timely comply with requests for information from individual Members of Congress, including requests from members in the minority? Yes.

2. Will you ensure that your department/agency/commission/corporation does whatever it can to protect congressional witnesses and whistleblowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

Michelle Albright Schultz



LinkedIn: [linkedin.com/in/michelle-schultz-47801aa](https://www.linkedin.com/in/michelle-schultz-47801aa)

Professional Summary

Experienced legal and regulatory professional with over two decades of expertise in transportation, legislative affairs, and government administration. A results-driven leader with extensive experience in regulatory oversight, legal counsel, and legislative advocacy. Skilled in navigating complex legal frameworks, developing strategic initiatives, and fostering stakeholder collaboration.

Professional Experience

Surface Transportation Board

Member

Washington, DC

January 2021 – Present

- Serve as a member of the independent federal agency overseeing economic regulation of freight railroads, intercity passenger rail service, and other modes of surface transportation.
- Contribute to policy formulation, regulatory decision-making, and industry oversight to ensure fluidity on the freight rail network.
- Collaborate with stakeholders, industry leaders, and federal agencies on transportation-related initiatives.

Southeastern Pennsylvania Transportation Authority (SEPTA)

Deputy General Counsel

Philadelphia, PA

2014 – 2021

Michelle Albright Schultz

- Directed legal strategy and provided counsel on matters including compliance, procurement, contracts, and litigation.
- Negotiated and drafted key agreements to support transportation operations and infrastructure projects.
- Ensured adherence to federal, state, and local regulatory requirements.
- Addressed safety citations issued by the Federal Railroad Administration on behalf of the Authority.
- Managed the expenses for the Office of General Counsel.
- Served on the Office of General Counsel Hiring Panels.
- Represented the Authority in matters before the Pennsylvania Public Utility Commission.
- Drafted requests for proposals for capital construction projects.
- Served as the lead attorney on the Elwyn to WaVva Regional Rail Service Restoration Project, which involved the restoration of 3.5 miles of existing track; replacement of catenary and signals; utility relocations; construction of a new station and a 600-car parking deck.

Director of Legislative Affairs
2010 – 2013

- Led SEPTA's legislative initiatives at the federal and state levels.
- Advocated for funding and policy priorities, securing resources for transportation projects.
- Established and maintained strong relationships with policymakers and industry stakeholders.
- Advocated on behalf of all providers of public transportation within Pennsylvania for various changes to pending legislation.
- Partnered with members of the bus manufacturing industry to develop a strategy for dealing with certain emissions standards established by the State of California and adopted by Pennsylvania.
- Assisted in drafting and provided advice and counsel on capital grant applications.

Manager, Legislative Affairs
2006 – 2010

- Managed day-to-day legislative advocacy efforts, including policy analysis and regulatory updates.
- Supported leadership in legislative strategy development and implementation.
- Monitored legislation, regulations, and provided summaries to the Director of Legislative Affairs.
- Handled state and federal constituent services.
- Trained newly hired constituent services personnel.

White and Williams LLP

Associate
Philadelphia, PA
2002 – 2006

- Specialized in commercial litigation, bankruptcy, and corporate legal matters.
- Litigated motions and adversary complaints for preference and fraudulent conveyance actions.
- Addressed coverage issues for major insurance carriers in bankruptcy cases resulting from mass tort litigation.
- Represented clients in complex legal disputes.

Michelle Albright Schultz

U.S. Bankruptcy Court for the Eastern District of Pennsylvania

Judicial Law Clerk
Philadelphia, PA
2000 – 2002

- Researched and drafted opinions and memoranda for all judges of the Eastern District of Pennsylvania.
- Conducted extensive legal research to assist the bench in making decisions on a variety of bankruptcy issues.

Superior Court of Pennsylvania

Judicial Law Clerk
Bala Cynwyd, PA
2000

- Prepared draft Superior Court opinions and bench memoranda.
- Conducted legal research on a variety of complex civil and criminal issues.

Education

Master of Government Administration
University of Pennsylvania | 2008
• Selected by Faculty to be the Commencement Speaker
• Awarded the Stephen B. Sweeney Award for Public Service

Juris Doctor
Widener University School of Law | 1998
• **Staff Writer**, *The Widener Law Forum*
• **Vice President**, Student Bar Association

Bachelor of Arts
Pennsylvania State University | 1994
• Semester Abroad: *University of Manchester*
• Walt Disney World College Program

Bar Admissions

- Pennsylvania
- New Jersey

3

ADDENDUM TO THE QUESTIONNAIRE SUBMITTED TO THE SENATE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION, 119TH CONGRESS BY MICHELLE ALBRIGHT SCHULTZ.

Upon further review, I have identified 17 additional submissions that are responsive to the Committee's questionnaire. They are as follows:

It is:

A.Q11, In my Senate Questionnaire from my 2019 nomination I included the following:

- a. General Partner—Tamarack Four
- b. Officer (Treasurer)—Gettysburg Concrete Company

A.Q15, please include the following political contribution:

2016: \$1,000, Democratic Party Joshua Shapiro for Attorney General

A.16—In the Senate Questionnaire I submitted for my 2019 nomination, I listed the Stephen B. Sweeney Award from the University of Pennsylvania for commitment to local government and public service. I did not include it in the submission to the 119th Congress because it was issued in 2010 which was outside of the ten year period. Q19, please include the following public statements made within the last ten years:

- a. 6/11/2025, Article, *STB Looks to Streamline Operations*. Railway Age
- b. 6/1/2025, STB Press Release, *STB Gathers More Than 100 Ideas From Legal Practitioners to Streamline Board Processes*
- c. 5/1/2025, STB Press Release, *Vice Chairman Michelle Schultz to Hold Listening Sessions on Legal Processes and Procedures*
- d. 11/18/2024, Article, *Railroads have turned the corner on service and resiliency, analysts say* FreightWaves
- e. 12/3/2024, Article, *STB misses its own deadline for issuing decision on CN's acquisition of Iowa Northern*, TrainsPro
- f. 5/10/2024, STB Press Release, *STB Chairman Martin Oberman Retires*
- g. 3/24/2023, Article, *STB's Michelle Schultz addresses recent rail challenges*. World-Grain
- h. 8/15/2023, Article, *STB decides against BNSF's request to stay coal order*, FreightWaves
- i. 9/14/2023, Article, *Viewpoint: The market, not the regulators, should set freight rail prices*, FreightWaves
- j. 6/26/2023, Article, *STB orders BNSF to send more coal trains to Montana mine*, FreightWaves
- k. 1/22/2021, STB Press Release, *Surface Transportation Board Members Thank Ann Begeman, Congratulate Martin Oberman as Chairmanship Changes Hands*
- l. 7/11/2019, Article *Senate Committee Approves STB Nominee Michelle Schultz*, Transport Topics
- m. 4/11/2018. Article, *Senate Considers Presidential Nominees for Surface Transportation Board*, Transport Topics

Thank you for the introduction. It's so great to be here with all of you this afternoon in New York.

When I look at what we are facing in the rail industry, I am reminded of a quote from Paulo Coelho, the author of the *Alchemist*:

"When we least expect it, life sets us a challenge to test our courage and willingness to change; at such a moment, there is no point in pretending that nothing has happened or in saying that we are not yet ready. The challenge will not wait."

The last few years have brought *unprecedented* challenges to the Nation's economy, our supply chain and the freight rail network. I am certain that everyone in this room has been following these challenges very closely. Supply chain disruptions have increased transportation costs for U.S. rail shippers in virtually every sector and industry. And while I know that unreliable service has cost rail shippers *millions* of dollars in lost profit, perhaps now just might be the time that these challenges are transformed into opportunities for change and for growth in the rail industry. Let me explain.

We all know that at the beginning of last year service was bad and getting worse. Velocity was down. Terminal dwell and dwell at origin was up for some railroads by double digits. And trains holding due to crew issues were also substantially up. We heard from many stakeholders about just how bad the service had gotten. The National Grain and Feed Association recounted how one of its members had to spend \$3 million on secondary freight to keep animals fed, and another had to stop selling feed because a loaded train sat at origin for one week because of a lack of crew. In April, 2022, the Board held a two-day hearing on freight rail service challenges and heard from various industries and public officials including the Secretary of Transportation as well as executives from the Class I carriers. Not only did we hear in great detail about the *extraordinary* service disruptions, but also about the challenges associated with a rail labor shortage, which by the way, were pointed to by labor and the carriers themselves.

Immediately following the hearing, we issued an order requiring the reporting of service metrics and head counts. In the months that followed, we carefully monitored the bi-weekly reports and we started to see improvements across the network. During this time, Members of the Board met with the CEOs of the Class I carriers who shared their plans on service recovery and their plans to attract and retain rail labor during what we know was one of the tightest labor markets we have experienced in decades. Just a few weeks ago, the Board extended its temporary reporting period for all Class 1 carriers through the end of this year. And in that decision, the Board recognized that CSX met most of its service improvement targets and reduced CSX's reporting requirements.

As if the post-pandemic recovery did not present enough of a challenge, six months ago, the rail carriers and the unions were engaged in a labor dispute that posed a threat of bringing our freight rail network to a *grinding* halt. This would have cost our economy upwards of at least \$1 billion per day and could have driven prices even higher for many consumer goods. And while the Board had no role in the negotiations, many of us held our breath along with the rest of the nation, until early December when the President signed a bill that imposed a settlement between labor and the carriers.

During the months leading up to the settlement, we became aware that Union Pacific was planning to reduce the number of cars on their network. Let me take a minute to walk through the issue. In order to reduce the number of cars, UP reached out to the customers that they believed had an excess number of cars on their system. UP then asked those customers to remove a certain number of cars within seven days. If a customer could not achieve UP's goal, a congestion embargo would be put in place unless the customer sought a permit. By the first week of December 2022, UP had put more than 1000 embargos in place for the year, and there were 141 active embargoes, all due to congestion. By way of comparison, in 2017, UP had implemented only 27. So in the second week of December, the Board conducted a two-day hearing with UP regarding the substantial increase in their use of embargoes as a method of reducing rail traffic congestion. As of April, 2023, UP discontinued its Pipeline Inventory Management Program and reduced their use of congestion-related embargos by 50 percent compared to last year. And while I applaud UP in its reduction, in my view, it's not enough because I understand the extreme difficulties that being embargoed places on a shipper. They have to assign manpower to deal with the issue, choose which shipments to reduce or delay, decide which receivers are going to be told that they aren't getting their shipment, and then try to move some traffic by truck, if they can. It just injects so much unnecessary difficulty and uncertainty as well as increased cost. And that's why I hope that UP's goal will be to achieve the industry standard.

At this point many of you may be wondering how do any of these circumstances lead to growth and transformation? Service disruptions? The threat of a national rail shutdown? Embargos? How could any of these circumstances lead to positive changes of any kind on the network?

Last year, I met with each of the Class I CEOs but two conversations in the latter part of the year stood out from all the others. Those were the meetings that I had with CEO Joe Hinrichs of CSX and CEO Alan Shaw of Norfolk Southern. As some of the other CEO's acknowledged, service was improving but was still not where they wanted it to be. But here's how these two meetings differed—both Joe and Alan talked about how they wanted to focus more on resiliency, taking a more customer-centric focus. It was also important to them to capture more freight volumes from truck and to improve their relationship with their employees. But perhaps most surprising to me, they were no longer going to focus exclusively on operating ratio and instead they talked about their goal to pivot toward growth. At the conclusion of both meetings, I found myself surprisingly in agreement with their goals and I hoped they would be successful—success in all of these areas would mean that these carriers would greatly improve in their ability to deliver predictable, reliable service to their customers and afford their customers the ability to ship more volume by rail instead of truck.

But at the same time, I also had to wonder, was this just a message that was being delivered behind closed doors to a regulator that they knew had been receiving a high number of complaints about rail service? Haven't the Carriers made promises of improved service in the past while at the same time promising their investors that they would reach an even lower operating ratio by reducing expenses—which often means cutting headcounts? How was this time any different?

Here, they were saying the opposite. They would not be identifying an OR goal and would be focusing on "resiliency" by actually *increasing* headcounts and improving retention. I would also say that what made this message different is that it was not just delivered to me but was also delivered publicly and directly to their inves-

tors. And what everyone knows is that resiliency is not just good for shippers, it's also good for the carriers as we watched this play out during the pandemic. There's a saying that comes to mind—luck is what happens when preparation meets opportunity. In order to take advantage of the surge in demand, grow their volumes, and provide predictable service, carriers needed to be prepared for it, and they were not.

And while no one could have predicted the pandemic or the national labor shortage that followed, what this experience has now shown is resiliency matters.

And the Carriers are making positive changes. Headcounts *are* increasing. According to our Office of Economics, total employment for the carriers is up by over 5 percent from last—with two Carriers—CSX and CPKC, now having reached pre-pandemic headcounts. And in recent weeks, all 6 of the Class I's have reached agreements awarding sick leave to some of their employees. I believe these agreements will further improve the quality of life for employees and most likely lead to a higher rate of retention and better resiliency.

And just to give some more credit where it's due, let me talk for a moment about CN which held its investor day just a little over three weeks ago. Like Norfolk Southern and CSX, CN is focused on growth, customer service and resiliency. CEO Tracy Robinson and COO Ed Harris stated that CN is focused on the "right operating model" and that "the Plan is Sacred." CN is committed to starting their trains on time, improving velocity and retaining its work force. CN went so far as to say "that they are done cutting heads and that the way railroads make money is to keep things moving." Although CN was questioned extensively about its plans to increase capital expenditures, it is my hope that CN will be successful in its new operating model. If they are—they might better match the needs of shippers who routinely tell me that they want to ship more volume by rail.

One of the other reasons I am optimistic about the near future in the rail industry is the promise of what improved technology could do to benefit railroad-shipper relationships as well. When I first joined the Board two years ago, I was talking to a fellow Board Member and I was absolutely blown away to learn that you cannot track railcars as well as you can track an Amazon package. And today, I am still not sure about what is holding the industry back. But I do believe technology that would provide transparency might resolve a lot of the issues that rail customers are complaining about.

In my meetings with shippers, there are three main complaints that I hear about. First, they would like to ship more volume by rail. Second, they would like to have better communication with their Carriers about delayed shipments and the location of their rail cars. And third, and by far the most frequent complaint I hear about is the lack of predictable service. I think improved technology and better transparency on the network could give shippers at least *part* of what they are asking for—more knowledge about where their shipments are and when they will arrive.

Now I would like to spend a minute talking about the important and often difficult issue of regulation. The Surface Transportation Board is directed by Congress to follow the principles set forth in the Rail Transportation Policy enacted by Congress. While some of these principles are often viewed as competing, one such principle to quote "is to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required." End quote. I call attention to this policy in particular because the plain words of the statute require the Board to implement regulations "when they are required." I believe when "regulations are required" is a viewpoint that differs greatly. To *me*, the role of the Board is to determine two things: whether there are issues that rise to the level of the need for regulatory action *and* whether the issue can be solved by regulation. In order to make that determination, the Board must consider both the principles of the Rail Transportation Policy as well as carefully consider any potential unintended consequences of the proposed regulatory solution. After input and comment from the industry, the Board must then consider whether the benefits of the proposed regulatory solution will outweigh any unintended harm.

If CSX, Norfolk Southern, and CN are successful in achieving their goals, they could accomplish more to improve service than any regulation that is implemented by the Board. At the end of the day, what shippers deserve is dependable service that is delivered with a customer-centric focus. And while opinions may differ, my own view is that the Carriers themselves will do a much better job of *voluntarily* achieving this goal across their networks than perhaps any changes that can be put into place through regulation. This is not to say that there are not circumstances that warrant regulation. It is just to say that in my view, the Carriers are in the best position to make operational decisions on how to meet the needs of their customers. And while regulations may correct certain issues, at the end of the day, only

the Carriers themselves can deliver a good service product that meets the needs of their customers.

And so, again, it is my sincere hope that CSX, Norfolk Southern, and CN can successfully achieve the goals they've outlined not just for the sake of their customers but for the industry as a whole. If they are successful, this could result in higher headcounts, the ability to meet more of their customers' needs as well as better fluidity on the network. And most importantly, if CSX, Norfolk Southern, and CN are successful, perhaps this would inspire some other Carriers to pivot toward growth as well. Improving the freight rail network and shipping more volume of freight by rail will not only better meet the needs of the carrier's customers, it will improve the Nation's economy and reduce costs for every U.S. consumer.

I believe these remain challenging times on the freight rail network but I can't help but be optimistic about the future. There are a lot of opportunities for rail service to improve. Rail carriers, at least some of them, are showing that they have the courage and willingness to change their operating models with a goal to improve service, become more reliable, and grow volumes. The winds, I think, are shifting, and so I think we might see in these difficult times the beginnings of a great and much needed transformation in the rail industry.

I look forward to our continued conversation and thank all of you for your continued interest in the state of the freight rail network.

Introduction

First, I want to thank the sponsors of the Mega Meeting for having me speak tonight: the Institute for Supply Management, the Southeastern Pennsylvania Alliance Chapter of ASCM, the Council of Supply Chain Management Professionals, the Traffic Clubs of Philadelphia and the Lehigh Valley, and the Warehousing Education and Research Council. Also, in particular, I want to thank Paul Delp of Lansdale Warehouse Company for reaching out to me and asking me to speak. Paul served on the STB's Railroad Shipper Transportation Advisory Council for 6 years. Paul—thank you for your service and for your willingness to share your insight with the Members of the Board.

Before I begin, I want to get a couple of preliminary items out of the way: First, nothing that I say tonight represents the views of the Surface Transportation Board or any of the other members. And second, I am unfortunately prohibited from discussing any pending proceedings before the Board or matters that are currently in litigation or on appeal.

With that out of the way, can I just say, what a time to be giving this speech. I feel like the supply chain is often an afterthought—something that just works, and when it's working, people don't think about how the journey their new car, or stove, or whatever else is that they purchased, got to them. Which port did it come in through? Was it put on a truck, or shipped by rail? Who made those decisions? That is, of course, until the something goes wrong. And it is never good when the supply chain is in the news, is it? When it is, it's never because of how smoothly things are moving.

And speaking of times when the supply chain is in the news—as you all know, earlier this month we had a brief longshoreman strike on the East and Gulf Coasts. That certainly affected traffic flows here, but it also affected traffic flows on the West Coast. Union Pacific said that its container volumes were up 40 percent year over year in September as shippers diverted traffic in anticipation of the strike. BNSF also noted increase in volumes and both railroads had contingency plans in place to deal with the increase in traffic. I am extremely grateful that the strike has ended and the ports are back on line—with regard to this region, in August, I had the opportunity to tour the Port of Philadelphia and was hosted by Dominic O'Brien. During the tour, I was able to hear and experience first hand how vital the Port is to this region and its economic growth. It affects which companies locate here and who does business here. For example, Ikea, after encountering delays at the Port of New York and New Jersey, decided to run everything through Philadelphia. To turn this back to rail, good rail service at the Port means that containers can move efficiently and reliably which gives the Port the ability to move more goods. Growth in rail capacity enables growth at the Port and ultimately leads to economic growth for the Greater Philadelphia region.

And so now, I would take a moment to talk about the role of the Surface Transportation Board in the economy, including a little bit of background on the Board for anyone who isn't familiar with us. I'd also like to highlight a few recent issues that the Board has dealt with, including the hearing on growth in the freight rail industry we held just last month. And I'd like to talk about what I see as the current outlook for the Board, as well as for rail service generally. In a room full of supply chain professionals, I know that all of you know even better than I do how

interconnected the supply chain is. As I said before, I do not speak for the Board, and I don't speak for my colleagues on the Board. But I hope that you'll gain insight from hearing at least one Member's thoughts on the role of the Board in the supply chain and how the growth of freight rail is a rising tide that lifts all boats.

II. The Role of the Board

And so what is the role of the Board? The Surface Transportation Board was created in 1996 to take over many of the functions of the Interstate Commerce Commission. It is an independent agency, and although we have several areas of responsibility, our primary role involves economic regulation of the freight rail industry. We hear cases brought by shippers challenging rates, and we have jurisdiction over railroad practices and service. We also review rail mergers, rail construction, and abandonment of railroads. In some regards the rail industry has been deregulated, but there is still a place and a need for regulation since many shippers do not have options when it comes to which railroad they use or whether they can use another mode of transportation at all. I am a big believer in competition, and so I want competition and the market to drive railroads' business decisions, not government regulations. But where there is a market failure or there is insufficient competition, that is the core area of where the Board should regulate.

In a sense, our role is often as a backstop. When the rail network is not working, there can be significant consequences, both for the network as a whole and for an individual shipper. In either situation, the effects can reverberate from the shipper to the receiver, and to other consumers. And so while it is always my hope that railroads run their networks efficiently and provide good service to shippers, there are times when challenges occur and the Board is called upon to intervene.

III. Recent Board Issues

And now I would like to turn to some recent Board issues. The STB is a small agency, but a busy one. And while I have not agreed with all of the Board's actions over the last few years, I think that overall we have had a positive impact on our small part of the supply chain. First, in 2022, rail service had reached a crisis point. The Board held a hearing and imposed new temporary reporting requirements related to service and employment levels. They say sunshine is the best disinfectant, and I think that requiring the Big Four railroads—Union Pacific, BNSF, CSX, and Norfolk Southern—to identify service and employment targets and regularly report metrics played a small part in helping to end that crisis. Today, while there are still pockets of difficulties, as there always are, the rail network is running fluidly. As noted by one of the panelists at the recent growth hearing, not only are volumes up this year, but train speeds are up, and dwell is down. In short, more freight is moving while service continues to improve.

CPKC MERGER:

One of the most significant transactions that has ever been handled by the Board took place just last year when the Board approved the largest rail merger between Canadian Pacific and Kansas City Southern to become CPKC. The merger created the first railroad to span the United States, Canada, and Mexico, and the Board found that the merger would enhance competition and support the growth of the freight rail network.

RECIPROCAL SWITCHING:

And earlier this year, the Board created a new rule which had been under consideration for quite some time. This rule was EP 711 and commonly referred to as reciprocal switching. Reciprocal switching gives certain shippers in terminal areas who have access to a single railroad the opportunity to get rail service from an alternate railroad. If the shipper's host railroad falls below certain metrics, the shipper then has the opportunity to come to the Board to seek a reciprocal switch.

IV. The Growth Hearing, the State of the Rail Network, and Importance of Freight Rail

And that brings me to September's hearing on growth in the freight rail industry. Not to put too fine a point on it, but a healthy and growing freight rail industry benefits everyone—even if you ship nothing by rail, and a lot of shippers do have the choice to ship by truck instead. But moving shipments from truck to rail benefits everyone. Rail is cheaper. It is better for the environment. It takes trucks off the road, which decreases wear and tear on public infrastructure and even saves lives.

While several parties at the growth hearing had valid criticisms for past or current practices of the railroads, something that I must underscore is that the United States freight rail network remains the best in the world. It is a phenomenal re-

source, even when it's not running optimally. This benefits the supply chain, which can take advantage of the private investments that railroads have made into the network, and it benefits the economy, as it offers a fuel-efficient, cost-efficient option for shippers to move their goods. But despite the clear benefits of rail, many shippers who could ship by rail choose to ship by truck. The hearing got into several reasons for this preference for truck, but two big issues from shippers was a lack of reliability and communication from the railroads.

Shippers often see rail as less reliable than truck, and it is easier to figure out where a truck is and when it will arrive at its destination than it is with a railcar. Both of these are valid points, and issues that the Class I railroads can and must address. And it really gets to what my chief concern always is in my role—rail service. Poor service impacts shippers and it impacts the national economy. But I have said, and I will say it again, regulations cannot provide good service. Carriers are the only ones with that power. So I want to give railroads room to run and operate the way that they want. They should be able to innovate, shift resources, and do what they think is best for their business. The same is true for shippers. And carriers, like shippers, are in the best position to know what resources they need to compete and perform well.

That being said, we've seen what happens when service suffers, and that is that, understandably, there are calls for increased regulation of the rail industry. And I will be the first to say, increased regulation is not something I want, and it is not something that Congress wanted when it created the Board. The Surface Transportation Board is directed to follow the principles set forth in the Rail Transportation Policy enacted by Congress. While some of these principles are often viewed as competing, one such principle is to quote "minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required." I call attention to this policy in particular because the plain words of the statute require the Board to implement regulations "when they are required." I believe when "regulations are required" is a viewpoint that differs greatly. To me, the role of the Board is to determine two things: whether there are issues that rise to the level of the need for regulatory action *and* whether the issue can be solved by regulation. In order to make that determination, the Board must consider both the principles of the Rail Transportation Policy as well as carefully consider any potential unintended consequences of the proposed regulatory solution. After input and comment from the industry, the Board must then consider whether the benefits of the proposed regulatory solution will outweigh any unintended harm.

At the end of the day, what shippers deserve is dependable service that is delivered with a customer-centric focus. And while opinions may differ, my own view is that the Carriers themselves will do a much better job of *voluntarily* achieving this goal across their networks than perhaps any changes that can be put into place through regulation. This is not to say that there are not circumstances that warrant regulation. It is just to say that in my view, the Carriers are in the best position to make operational decisions on how to meet the needs of their customers. They can make improvements faster and without the negative consequences of increased regulation, and so, ideally, they will continue to improve and make increased regulation by the Board unnecessary.

But I think the freight rail industry is poised to move forward, and the Philadelphia region is already seeing the benefits. The rail industry is starting to turn a little bit and become more customer oriented, seeking to grow its volumes rather than focus on increasing prices or cutting costs. The East Coast's two major railroads, CSX and Norfolk Southern, are two of the railroads that are really leading the charge in terms of changing the way they do business. Both railroads are focusing on resiliency and customer service. I think their quick actions after the Key Bridge collapse in Baltimore are evidence of that. When I asked CSX and NS about their response to the Key Bridge collapse at the recent growth hearing, let me tell you what they said. The CEO of CSX, Joe Heinrichs said that two things really helped—first, operations and sales within CSX worked well together to come up with solutions quickly. But he also said that it was the improved relationship with labor that allowed CSX to go to the union and the next day get approval to transfer employees. Without sufficient employees, and without a strong working relationship between labor and management, these types of quick actions are just not going to happen. And Ed Elkins from NS talked about the importance of fluidity and having capacity for resiliency that you can apply when things go wrong because there's always something that is going to go wrong. Ed also talked about the importance of trust with employees, customers, and even the ship operators. He indicated that things are going to go wrong, and the true test is how well the railroad is able to bounce back to normal operations. As both of these railroads serve Philadelphia, in-

cluding the Port of Philadelphia, the benefits to the region are clear if CSX and NS are able to continue to improve service and their resiliency.

And while there is certainly room for improvement in the rail industry, there is also a lot to be optimistic about. Carriers are creating new partnerships with trucking companies to provide service that is more competitive with truck, such as BNSF's Quantum service in partnership with J.B. Hunt. Norfolk Southern has created a new department seeking to fuel customer growth and make rail easier to use, and it is working more closely with short lines to improve interchange. These are just a couple of examples of how the Class I railroads are changing their operations in order to drive growth. And I would be remiss if I did not mention the railroads efforts over the past couple of years to enter into paid sick leave agreements with their labor unions, which help retain and attract employees, because you can't have growth without employees. I hope to see more of approaches like these in the future, because I think that rail has a bright future, especially if carriers provide the type of reliable service that their customers deserve.

V. Rail Customer and Public Assistance Program

Before I close, I have to plug the Board's Rail Customer and Public Assistance Program. You can find information about the program on the Board's website under the "Resources" tab. If you're a shipper and are having service issues or some other issue that you think the Board can help with, they are a great first call. Agency staff who work in the program are highly knowledgeable, and they can help with anything from giving you some information over the phone to informal mediation. And if you are having an issue and would just like to talk to someone, they will not reveal your identity to the railroad or other party without your consent. Again, it's informal, so they can't give you any binding guidance, but they are able to solve a lot of issues quicker, on an informal basis, before the issue ever gets to the Board itself.

VI. Closing

In closing, I would like to reiterate that the United States has the most extensive freight rail network in the world. The value of that resource cannot be overstated, and freight railroads are vital to shippers and the U.S. economy. 40 percent of long-distance freight in the U.S. moves by rail. At the end of the day, what I care about is service. While the Board should do what it can to ensure the fluidity of the network, the Board cannot provide service through regulation. Only the carriers can do that. So if the network is running smoothly and carriers are meeting the needs of shippers by providing reliable service, that makes my job a whole lot easier, and it avoids the negative consequences of additional regulations, which, while well-intentioned, can instead stifle the same growth in the rail industry that we all want to see.

Thank you all for the opportunity to be here tonight and for the important role that all of you serve in keeping our supply chain and the Nation's economy moving.

Good afternoon, everyone. It's great to be here, and thank you for giving me the opportunity to update you on what's going on at the Board. Before I begin, I'd like to have someone else come up here with me. [Gabe Meyer is here today representing the Board's Rail Customer and Public Assistance Program, and I just want Gabe to introduce himself, so you can put a face to the name, and he'll tell you a little bit about the program and where you can find him if you'd like to discuss anything.]

FIRST YEAR AT THE BOARD.

When I joined the Board, I knew the issues pending before the Board were complex and challenging. What I didn't know was just *how* complex and *how* challenging they are. And so I am grateful to have the opportunity to serve with such a great group of people and to serve at time when it is permissible to speak with a fellow Board Member about pending issues.

But really, I find our conversations to be invaluable—especially when they involve issues where I am not in agreement with a fellow Member. Having the opportunity to speak with another Member provides me with the "why" behind their position and allows me to have a better understanding of their opposing view. In some instances, I have even been enlightened to the point of agreeing with their position, and on limited occasions, I know that sharing my view has been persuasive as well.

I would also be remiss if I did not point out the invaluable role that the Board's career professionals have also had in my transition as well the help they have given to me with my learning curve. My observation is that the Board is very fortunate to have a small but highly talented group of professionals whose dedication to their

work is evident in everything they do. In my short time on the Board, there has not been a question that they have not been able to answer off the top of their heads, and I believe the quality of our decisions speak for themselves. Lastly, I would like to take a moment to recognize the important role that my attorney advisor, Mike Small, has had in my time as a Board member.

IMPORTANCE OF HEARING FROM STAKEHOLDERS.

I've been a member of the STB for a little over a year now, and I've had the opportunity to meet with many different groups, including railroads, shipper groups, and individual shippers. I have made these meetings a priority, because, and let me stress this, these meetings are extremely important to me. It's one thing to read a brief or a comment that sets forth a problem that stakeholders are having, and another thing entirely to hear from you directly and have you explain to me in conversation what you are experiencing in the field. I can't emphasize enough how helpful these meetings are to me—to have the opportunity to ask questions and to hear your perspectives. And so, at least for me, as long as we are not discussing a pending matter, if anyone here today wants to present a challenge, explain it, and describe what you think the solution is, my door is wide open. Even if the Board is hearing completely different proposals from other stakeholders, I still want your suggestions, because you're the industry experts. More input can only make the Board's decisions better.

ROLE AT THE BOARD AND REGULATORY PERSPECTIVE.

Each of us Board Members brings different strengths and backgrounds to the Board, which play a role in how each of us reaches our decisions. In my meetings with stakeholders, I have often been asked about my views, my leanings, or how I make decisions. Just to give you a sense about my perspective: I try to approach issues first from a question of, "What did Congress ask the Board to do?" I look at statutes, and legislative intent, and especially the Rail Transportation Policy set out by Congress. Now, I don't know how many of you have looked at the Rail Transportation Policy, but it sets out fifteen often-competing policy priorities to guide the Board's decisions. The Rail Transportation Policy, or RTP as we call it, directs the Board to minimize the need for Federal regulatory control—but also requires the Board not to minimize it too much, and to still provide some regulatory control. Where there isn't effective competition, the RTP asks us to make sure rates aren't too high—but we should also make sure they aren't too low either. Congress carved a narrow path for the Board to walk, and shippers and railroads are often pitted against each other on either side.

And yet, even though railroads and shippers are often at odds, in the long run, shippers, railroads, and the Board are, I think, in agreement. In one meeting I had with a shipper, they talked at some length about recurring problems with missed switches. But during that same conversation, the shipper emphasized the importance of a strong freight rail network, and how important it was for the shipping community that railroads are healthy. Even though shippers and railroads agree on this in principle, there is strong disagreement on how best to maintain and improve the health and strength of our freight rail network. But when I make decisions, and when I meet with stakeholders, the health and strength of the freight rail network is always my ultimate goal.

IMPORTANCE OF PROCEEDING WITH CAUTION.

I guess if I could sum up my regulatory perspective in a word, it would be "cautious." I've learned a few lessons both during the pandemic and during my time at the Board about how interconnected things are, how supply chain issues affect us all, and how many intersecting problems there are right now in the supply chain. In my meetings with stakeholders, both on the railroad and shipper sides, I've had a lot of productive and enlightening discussions about the issues affecting the rail network, and I cannot thank enough the people and organizations I've met with for lending me their expertise as I try to stay informed about the state of the network. I really see that as one of the most important aspects of my job, because whenever the Board considers regulatory action, I do not take this responsibility lightly, nor do I want us to do so in a vacuum.

Over just the past year, I think one of the words that I heard most was "shortage." Chassis shortage. Rail labor shortage. Driver shortage. Warehouse labor shortage. Container shortage. Lumber shortage. Semiconductor shortage. I think the only thing that was not in shortage was consumer demand, but even that shifted. From

my conversations, it sounds like the port and intermodal issues are likely to be with us for some time.

As I hear about all of these problems, I try to focus on two things. First, what can the Board do to help? I say *can* because at least some of the issues that are affecting the network may originate elsewhere along the supply chain, and therefore it's simply not an area where the Board has any power to regulate. Not only should the Board try to regulate within its area of expertise, but it should also regulate within its statutory mandate.

Second, what *should* the Board do to help? Part of the issue with regulations is that once they are on the books, it is very difficult to remove them. And as the Board looks to solve issues that we see in the network, I want to ensure that the solutions we impose match the problems that we are trying to solve. If a problem is temporary, the solution should be temporary. And if a problem can be resolved by the market, we should first see if the market will provide that solution. However—and I think this is clear from the pending Board proceedings—the Board will take action when it believes it is in the best interest of the rail network as a whole.

On that point, I'd like to express my deep concern regarding issues raised in recent letters to the Board from the National Grain and Feed Association, Senator Shelley Moore Capito of West Virginia, Secretary of Agriculture Tom Vilsack, and SMART-TD. The NGFA letter alleges widespread service issues affecting grain shippers and receivers, including NGFA members unable to purchase grain because they have loaded trains waiting to be moved out by the railroad, mills being shut down due to running out of grain, and livestock producers having difficulty keeping their animals fed. Senator Capito's letter alleges that railcar shortages have resulted in coal shipment cancellations or delays. The Board takes these matters seriously, and we are looking at how to move forward to learn more about the issues shippers are experiencing and what the Board can and should do to address the issues raised. It is my hope that the Board, shippers, and railroads can work together to resolve these service issues.

OVERVIEW OF DOCKET.

It is an incredibly busy time right now at the Board. As you may be aware, there are several high profile matters that are currently pending—all of which I, unfortunately, cannot discuss with you because we are not permitted to discuss pending proceedings. But I can give you a broad overview of what the Board is working on.

MERGERS.

First, of course, the Board has two large mergers pending before it, one of which is a major merger of two Class I railroads. It is the first time in 20 years that the Board has reviewed a merger of that size. The first involves CSX's acquisition of Pan Am Railways, which would extend CSX's network in New England. The Board held a two-day hearing in January, and, by statute, our decision on the merger will be issued later this month. The second involves Canadian Pacific's acquisition of Kansas City Southern, which would create a single railroad that extends from Canada, through the U.S., and into Mexico. We are squarely in the middle of the procedural schedule in that proceeding, although the procedural schedule is currently suspended pending the resolution of a data inconsistency, and for more information on that, I would direct you to our March 16th decision.

RULEMAKINGS.

The Board has several rulemaking proceedings before it right now, some initiated by the Board, and some initiated by stakeholders. I'm not going to go through all of them, but to highlight a few:

- We have a rulemaking proceeding in which the Board has proposed new reciprocal switching regulations. The Board held a hearing in the proceeding last month, and we are having meetings with stakeholders for the next two weeks.
- We have a rulemaking proceeding to consider a new procedure for challenging the reasonableness of rates in smaller cases, in which the Board would decide a case by selecting either the shipper's or the railroad's final offer.
- There's another proposal from several Class I railroads to create an arbitration program to resolve small rate disputes. Reply comments regarding the arbitration proposal and the Board's proposed final offer rate review program are due by April 15th.
- The Board has a proposal pending to revoke the class exemptions for certain commodities.

- We have a proceeding in which we invited comments regarding first-mile/last-mile service, and whether there are additional metrics that the Board should be looking at to assess that service.
- Finally, we also have a proposal from several organizations to create regulations authorizing private railcar owners to assess, essentially, demurrage charges when a Class I railroad holds on to a private railcar beyond a reasonable time. Last week, the Board issued a decision asking for comments on the proposal, and for comments on several questions that the Board had. Initial comments on that are due by the end of June.

OTHER CASES.

I'd say that's a pretty full plate, but beyond the mergers and rulemakings, the Board has other cases before it that could have large effects on the industry or the network. For example, we have a proceeding raising questions about the nature of railroads' common carrier obligations. We have another proceeding regarding whether Amtrak can start service between New Orleans and Mobile, and we are smack in the middle of a hearing in that case right now.

PUBLIC COMMENTS ARE CRUCIAL.

Clearly, the issues before the Board are wide-ranging, and in several proceedings, any action that we take could have large effects on the industry or the network. As we consider multiple high-profile and consequential rulemakings, difficulties continue to plague many parts of the supply chain, both here and abroad. I do not want to impose a more-or-less permanent solution to what turns out to be a temporary problem. I wouldn't want to saddle either shippers or railroads with regulations that turn out to be unnecessary.

Because regulations are often in place for many years and come with associated costs, I believe it is incumbent upon the Board to proceed cautiously with any action that could have an effect on the rail network. One way the Board can proceed with caution is to make sure that the Board seeks input from the very people who best know the network—the stakeholders. If there's one thing I've learned in the dozens and dozens of meetings I've had with shippers and railroads and other organizations, it's how much I don't know. I both value and depend upon the insight and experience from people like the ones in this room who are literally on the network on daily basis, to tell me what works and what doesn't and how we could make it better. So, if there is something that the Board is doing that sounds like a good idea or bad idea, I hope you'll tell us what you think.

And with that, I'd be happy to take any questions if you have any.

Thank you for the introduction. It's so great to be here with all of you this afternoon in Palm Springs.

When I look at what we are facing in the rail industry, I am reminded of a quote from Winston Churchill:

"The pessimist sees the difficulty in every opportunity. The optimist sees the opportunity in every difficulty."

The last few years have brought *unprecedented* challenges to the Nation's economy, our supply chain and the freight rail network. I know that almost everyone in this room has first-hand experience with these challenges—in fact, I've had the opportunity to speak with some of you directly. And while I know that unreliable service has cost rail shippers *millions* of dollars in lost profit, perhaps now just might be the time that these challenges are transformed into opportunities for change and for growth in the rail industry. Let me explain.

We all know that at the beginning of last year service was bad and getting worse. Velocity was down. Terminal dwell and dwell at origin was up for some railroads by double digits. And trains holding due to crew issues were also substantially up. We heard from many stakeholders about just how bad the service had gotten. This organization recounted how one member had to spend \$3 million on secondary freight to keep animals fed, and another had to stop selling feed because a loaded train sat at origin for one week because of a lack of crew. Then in April, 2022, the Board held a two-day hearing on freight rail service challenges and heard from various industries and public officials including your President Michael Seyfert, the Secretary of Transportation as well as executives from the Class I carriers. Not only did we hear in great detail about the *extraordinary* service disruptions, but also

about the challenges associated with a rail labor shortage, which by the way, were pointed to by labor and the carriers themselves.

Immediately following the hearing, we issued an order requiring the reporting of service metrics and head counts. In the months that followed, we carefully monitored the bi-weekly reports and I am happy to say that we have started to see improvements across the network. We are also seeing a reduction in service complaints. During this time, Members of the Board met with the CEOs of the Class I carriers who shared their plans on service recovery and their plans to attract and retain rail labor during what we know was one of the tightest labor markets we have experienced in decades.

As if the post-pandemic recovery did not present enough of a challenge, six months ago, the rail carriers and the unions were engaged in a labor dispute that posed a threat of bringing our freight rail network to a *grinding* halt. This would have cost our economy upwards of at least \$1 billion per day and could have driven prices even higher for many consumer goods. And while the Board had no role in the negotiations, many of us held our breath along with the rest of the nation, until early December when the President signed a bill that imposed a settlement between labor and the carriers.

During the months leading up to the settlement, we became aware that Union Pacific was planning to reduce the number of cars on their network. Let me take a minute to walk through the issue. In order to reduce the number of cars, UP reached out to the customers that they believed had an excess number of cars on their system. UP then asked those customers to remove a certain number of cars within seven days. If a customer could not achieve UP's goal, a congestion embargo would be put in place unless the customer sought a permit. By the first week of December 2022, UP had put more than 1000 embargos in place for the year, and there were 141 active embargoes, all due to congestion. By way of comparison, in 2017, UP had implemented only 27. So in the second week of December, the Board conducted a two-day hearing with UP regarding the substantial increase in their use of embargoes as a method of reducing rail traffic congestion. As of now, UP made several changes to their Inventory Management Program and has reduced congestion-related embargos by cutting them in half. Most recently, I've been told that if UP continues at their current pace, they'll be able to reduce their use of embargoes by 70 percent compared to last year. And while I applaud UP in its reduction, in my view, it's not enough because I understand the extreme difficulties that being embargoed places on a shipper. You've got to assign manpower to deal with the issue, choose which shipments to reduce or delay, decide which receivers are going to be told that they aren't getting their shipment, and then try to move some traffic by truck, if you can. It just injects so much unnecessary difficulty and uncertainty as well as increased cost. And that's why I hope that UP's goal will be to achieve the industry standard.

At this point many of you may be wondering how do any of these circumstances lead to growth and transformation? Service disruptions? The threat of a national rail shutdown? Embargos? How could any of these circumstances lead to positive changes of any kind on the network?

Last year, I met with each of the Class I CEOs but two conversations in the latter part of the year stood out from all the others. Those were the meetings that I had with CEO Joe Hinrichs of CSX and CEO Alan Shaw of Norfolk Southern. As some of the other CEO's acknowledged, service was improving but was still not where they wanted it to be. But here's how these two meetings differed—both Joe and Alan talked about how they wanted to focus more on resiliency, taking a more customer-centric focus. It was also important to them capture more freight volumes from truck and to improve their relationship with their employees. But perhaps most surprising to me, they were no longer going to focus exclusively on operating ratio and instead they talked about their goal to pivot toward growth. At the conclusion of both meetings, I found myself surprisingly in agreement with their goals and I hoped they would be successful for reasons I am sure many of you would agree with—success in all of these areas would mean that these carriers would greatly improve in their ability to deliver predictable, reliable service to their customers and afford their customers the ability to ship more volume by rail instead of truck.

But at the same time, I also had to wonder, was this just a message that was being delivered behind closed doors to a regulator that they knew had been receiving a high number of complaints about rail service? Haven't the Carriers made promises of improved service in the past while at the same time promising their investors that they would reach an even lower operating ratio by reducing expenses—which often means cutting headcounts? How was this time any different?

Here, they were saying the opposite. They would not be identifying an OR goal and would be focusing on "resiliency" by actually *increasing* headcounts and improv-

ing retention. I would also say that what made this message different is that it was not just delivered to me but was also delivered publicly and directly to their investors. For CSX, it was presented during their Quarterly Earnings call in mid-January while Norfolk Southern's took place during its investor day in early December. And what everyone in this room knows is that resiliency is not just good for shippers, it's also good for the carriers as we watched this play out during the pandemic. There's a saying that comes to mind—luck is what happens when preparation meets opportunity. In order to take advantage of the surge in demand, grow their volumes, and provide predictable service, carriers needed to be prepared for it, and they were not.

And while no one could have predicted the pandemic or the national labor shortage that followed, what this experience has now shown is resiliency matters. And the Carriers are making positive changes. Headcounts **are** increasing. According to our Office of Economics, total employment for the carriers is up by over 5 percent from last year. And in recent weeks, 5 of the 7 Class I's have reached agreements awarding sick leave, that I believe will further improve the quality of life for employees and most likely lead to a higher rate of employee retention and better resiliency.

And just to give some more credit where it's due, let me again talk for a moment about UP. They have not been doing great over the past year, but I do think they are coming to the realization that *something* must change. Just last week, I learned that they recently finished up a pilot program for employee scheduling, with the goal of providing employees with certainty on when they would be working, and when they would have days off. Something which I believe everyone can see the value in. Being able to schedule time off in advance is something that rail labor has been asking for. And I don't know if UP will expand the program or try it elsewhere, but I have to give them credit for trying. For recognizing that their employees are dissatisfied and for trying something new to improve their quality of life. By the way, this will also have the likely benefit of improving service for shippers. During the pilot program, UP said there were fewer, unscheduled employee call outs.

In terms of challenges to the rail industry, there is none more widely known than the unfortunate derailment in East Palestine, Ohio. As a result of the derailment, the Department of Transportation has reintroduced proposed rail safety regulations; Members of Congress introduced the Railway Safety Act of 2023; NS announced a six-point plan to immediately improve safety; and the Association of American Railroads reported on immediate steps the Class I railroads are taking to prevent similar accidents in the future.

It goes without saying that no one wants derailments to happen. The FRA is the primary agency responsible for safety regulation in the rail industry, but while the Board doesn't regulate safety per se, we certainly consider safety when we act, and it is something that all of us—regulators, carriers, and shippers should be concerned about. And it is my hope that once the NTSB issues its final report, we can see what lessons can be learned and what can be done in the future to try to prevent an accident like this one from *ever* happening again.

Let me now turn back to an area that *is* under the Board's purview—service. One of the other reasons I am optimistic about the near future in the rail industry is the promise of what improved technology could do to benefit railroad-shipper relationships as well. When I first joined the Board two years ago, I was talking to a fellow Board Member and I was absolutely blown away to learn that you cannot track railcars as well as you can track an Amazon package. And today, I am still not sure about what is holding the industry back. But I do believe technology that would provide transparency might resolve a lot of the issues that rail customers are complaining about.

In my meetings with shippers, there are three main complaints that I hear about. First, they would like to ship more volume by rail. Second, they would like to have better communication with their Carriers about delayed shipments and the location of their rail cars. And third, and by far the most frequent complaint I hear about is the lack of predictable service. I think improved technology and better transparency on the network could give shippers at least *part* of what they are asking for—more knowledge about where their shipments are and when they will arrive.

Now I would like to spend a minute talking about the important and often difficult issue of regulation. The Surface Transportation Board is directed by Congress to follow the principles set forth in the Rail Transportation Policy enacted by Congress. While some of these principles are often viewed as competing, one such principle to quote “is to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required.” End quote. I call attention to this policy in particular because the plain words of the statute require the Board to implement regulations

“when they are required.” I believe when “regulations are required” is a viewpoint that differs greatly. To *me*, the role of the Board is to determine two things: whether there are issues that rise to the level of the need for regulatory action *and* whether the issue can be solved by regulation. In order to make that determination, the Board must consider both the principles of the Rail Transportation Policy as well as carefully consider any potential unintended consequences of the proposed regulatory solution. After input and comment from the industry, the Board must then consider whether the benefits of the proposed regulatory solution will outweigh any unintended harm.

If CSX and Norfolk Southern are successful in achieving their goals, they could accomplish more to improve service than any regulation that is implemented by the Board. At the end of the day, what shippers deserve is dependable service that is delivered with a customer-centric focus. And while opinions may differ, my own view is that the Carriers themselves will do a much better job of *voluntarily* achieving this goal across their networks than perhaps any changes that can be put into place through regulation. This is not to say that there are not circumstances that warrant regulation. It is just to say that in my view, the Carriers are in the best position to make operational decisions on how to meet the needs of their customers. And while regulations may correct certain issues, at the end of the day, only the Carriers themselves can deliver a good service product that meets the needs of their customers.

And so, again, it is my sincere hope that CSX and Norfolk Southern can successfully achieve the goals they’ve outlined not just for the sake of their customers but for the industry as a whole. Carriers seem to be under intense pressure from short term investors to focus on cost cutting and to reduce their operating ratios. A pivot to growth would most likely result in the loss of some short-term investors in exchange for higher profitability in the long term. If they are successful, this could result in higher headcounts, the ability to meet more of their customers’ needs as well as better fluidity on the network. And most importantly, if CSX and Norfolk Southern are successful, perhaps this would inspire some other Carriers to pivot toward growth as well. In the meantime, I would still like to hear from you and get your perspective on how things are going on the network. I know that you are the industry experts and I very much value your perspective and I know my colleagues do as well.

These are difficult times, yet like Winston Churchill, I too see opportunity in every difficulty and can’t help but be optimistic about the future. There are a lot of opportunities for rail service to improve. Rail carriers, at least some of them, see opportunities to improve service, become more reliable, and grow volumes. The winds, I think, are shifting, and so I think we might see in these difficult times the beginnings of a great and much needed transformation in the rail industry.

I look forward to our continued conversation and thank all of you for the contributions you make to continuing to improve the freight rail network. And with that I welcome any questions you might have for me this afternoon.

I. Introduction

Good afternoon, and thank you for inviting me to speak today.

A couple of preliminary items to get out of the way: Nothing that I say tonight represents the views of the Surface Transportation Board or any of the other members. And I am somewhat constrained in what I can say about matters pending either before the Board or in litigation on appeal.

With that out of the way, can I just say, what a time to be giving this speech. I feel like the supply chain is often an afterthought—something that just works, and when it’s working, people don’t think about how the journey their new car, or stove, or whatever else got to them. Which port did it come in through? Was it put on a truck, or shipped by rail and put back on a truck again? Who made those decisions? That is, of course, until the something goes wrong. And it is never good when the supply chain is in the news, is it? Not much reporting going on about how the freight network is moving fluidly.

As you all know, earlier this month we had a longshoreman strike on the East and Gulf Coasts. That certainly affected traffic flows on the East Coast, but it also affected traffic flows on the West Coast. Union Pacific said that its container volumes were up 40 percent year over year in September as shippers diverted traffic in anticipation of the strike. BNSF also noted the increase in volumes in anticipation of the strike, and both railroads had contingency plans in place to deal with the increase in traffic. I am extremely grateful that the strike has ended and the ports are back on line, but it was just another reminder of how interconnected the freight network is.

Ann helpfully provided me with a few of the issues that you all are interested in, and while there are some that I either can't or shouldn't talk about, I'll address what I can.

II. Background

But first, a little bit about my background for those of you who don't know me. Prior to working at the Board, I worked for 14 years with the Southeastern Pennsylvania Transportation Authority, the commuter railroad that serves the Philadelphia area. My most recent role with SEPTA was deputy general counsel, and in that role I represented the agency before the FRA and the Pennsylvania Public Utility Commission; served as lead counsel on a major railroad reconstruction project; and served as lead counsel on real estate transactions and contract negotiations. Prior to that role, I served as the Director of Legislative Affairs for SEPTA, leading a team to advocate for SEPTA at the local, state, and Federal level, and reviewing legislation and regulations at all levels to determine their impact on SEPTA.

Earlier in my career, I was in private practice with a focus on bankruptcy law and commercial litigation, and I served as a law clerk for the U.S. Bankruptcy Court for the Eastern District of Pennsylvania and a law clerk for the late Vincent A. Cirillo, President Judge Emeritus of the Superior Court of Pennsylvania.

III. Issues of Interest

So that's a little bit about me and my background, which in case it is not clear, did not include freight rail. That is just one of the many reasons I appreciate PRFBA and its members for being such vocal participants in Board proceedings—most recently with Dave Burchett's testimony at last month's growth hearing—and for always being available to meet with the Board. Your input is vital, and I always appreciate hearing from you about issues on the network and what you see as possible solutions. Even when there is disagreement, you help us to see every side of the issue, and I think that makes our decisions better.

A. Two-Two Split and Priorities as a Republican Member

I was asked about my thoughts on operating under a 2-2 split Board, which we have been since May, and about my priorities and objectives as a Republican Board Member. First things first, even though there is a 2-2 split, I feel very comfortable saying that I and all of my colleagues, regardless of affiliation, are always concerned about service. We have an election coming up, and, eventually, I would expect that 2-2 split to resolve one way or another, and whoever is Chairman under the next president will at some point have a majority. But the four of us will remain on the Board for some time, so regardless of the election, I do not expect our focus on service to change.

As for my priorities, I would say the timeliness of Board decisions is a priority. And please know, this is not a criticism of Board staff, or Board leadership. Since I joined the Board, it seems like we have not had a second to breathe, bouncing between crises, big cases, and complex rulemakings. We had the service crisis, the CSX-Pan Am merger, days-long hearing in the Amtrak Gulf Coast matter, Canadian Pacific's merger with Kansas City Southern, and major rulemakings including arbitration, final offer rate review, emergency service regulations, and reciprocal switching.

I think now is the right time to deal with the many issues that are already on the Board's plate. We have several petitions for rulemaking pending and a number of cases awaiting decision. And I think it is incumbent on the Board to decide those cases in a timely fashion. The Board is a small agency with a limited bandwidth, and I think there needs to be a recognition, both from the me and my colleagues as well as outside stakeholders, that there are tradeoffs.

When we focus on one thing, that often means taking our focus off something else. Couple that with decisions where Congress has mandated that we issue a decision within a certain number of days, and I think it is clear that the Board must be judicious in its use of resources.

B. Expectations for Reciprocal Switching; applying it to contract and exempt traffic.

I mentioned reciprocal switching a moment ago, and I know that is an issue that is very much on your minds. I am restricted in what I can say since that remains on appeal. Regarding Board support for legislation, I think that is really a question for the Chairman, and that issue, along with the related question of whether the Board will be advancing a reauthorization proposal, are two areas where the election may play a role in what direction the Board goes. Not only might we have a new chairman, we will be dealing with a new administration and a new Congress, so we will have to see where we are at that point.

C. Does the Board have authority to address contracts?

I was asked whether the Board has authority to address contracts. I think the statute, Section 10709, is pretty clear that Board authority over contracts is greatly restricted. But in case this issue comes before the Board in the future, I'm going to have to decline to speak further on that.

D. Clarifying the Common Carrier Obligation.

Another question you raised was about clarifying the common carrier obligation. That is a big one. I have some complex thoughts on that one. I mean, on the one hand, I am a big, big proponent of clarity in Board decisions. That is always something I strive for, and I think something the Board should strive for. Clarity makes our orders clearer, and it helps reduce litigation and disagreement in the future over what a given Board decision means. That being said, right now the Board decides alleged violations of the common carrier obligation on a case by case basis, and that fact specific approach, while slow, has its benefits. The most obvious one is that the Board can really tailor the remedy, if one is needed, to the facts at hand.

My worry about clarifying the common carrier obligation in a broader way is the possibility of unintended consequences, sweeping conduct or service failures that, while unfortunate, should not be classified as violating the common carrier obligation.

So I guess I should say that while I prefer the case-by-case approach, any clarification of the common carrier obligation must be done carefully, with ample opportunity for input from stakeholders. I would not want to set forth a clearer standard and have that be the wrong standard.

E. Continued service concerns.

I was also asked to address general, continued service concerns, which I think is a good opportunity to talk about September's hearing on growth in the freight rail industry. Not to put too fine a point on it, but a healthy and growing freight rail industry benefits everyone—even if you ship nothing by rail, and a lot of shippers do have the choice to ship by truck instead. But moving shipments from truck to rail benefits everyone. Rail is cheaper. It is better for the environment. It takes trucks off the road, which decreases wear and tear on public infrastructure and even saves lives.

While several parties at the growth hearing had valid criticisms for past or current practices of the railroads, something that I must underscore is that the United States freight rail network remains the best in the world. It is a phenomenal resource, even when it's not running optimally. This benefits the supply chain, which can take advantage of the private investments that railroads have made into the network, and it benefits the economy, as it offers a fuel-efficient, cost-efficient option for shippers to move their goods. But despite the clear benefits of rail, many shippers who could ship by rail choose to ship by truck. The hearing got into several reasons for this preference for truck, but two big issues from shippers was a lack of reliability and communication from the railroads.

Shippers often see rail as less reliable than truck, and it is easier to figure out where a truck is and when it will arrive at its destination than it is with a railcar. Both of these are valid points, and issues that the Class I railroads can and must address. And it really gets to what my chief concern always is as a regulator—service. Poor service impacts shippers and it impacts the national economy. But I have said, and I will say it again, regulations cannot provide good service. Carriers are the only ones with that power. So I want to give railroads room to run and operate the way that they want. They should be able to innovate, shift resources, and do what they think is best for their business. The same is true for shippers. And carriers, like shippers, are in the best position to know what resources they need to compete and perform well.

At the end of the day, what shippers deserve is dependable service that is delivered with a customer-centric focus. And while opinions may differ, my own view is that the Carriers themselves will do a much better job of *voluntarily* achieving this goal across their networks than perhaps any changes that can be put into place through regulation. This is not to say that there are not circumstances that warrant regulation. It is just to say that in my view, the Carriers are in the best position to make operational decisions on how to meet the needs of their customers.

They can make improvements faster and without the negative consequences of increased regulation, and so, ideally, they will continue to improve and make increased regulation by the Board unnecessary.

But I think the freight rail industry is poised to move forward. The rail industry is starting to turn a little bit and become more customer oriented, seeking to grow its volumes rather than focus on increasing prices or cutting costs. CSX and Norfolk

Southern are two of the railroads that are really leading the charge in terms of changing the way they do business. Both railroads are focusing on resiliency and customer service. I think their quick actions after the Key Bridge collapse in Baltimore are evidence of that. When I asked CSX and NS about their response to the Key Bridge collapse at the growth hearing, in case you didn't attend or watch their testimony, let me tell you what they said. Joe Hinrichs said that two things really helped—first, operations and sales within CSX worked well together to come up with solutions quickly. But he also said, and I think this is part of resiliency, that it was the improved relationship with labor that allowed CSX to quickly reroute trains from Baltimore to Newport News, because CSX was able to go to the union and the next day get approval to transfer employees to provide that new service. Without sufficient employees, and without a strong working relationship between labor and management, that is just not going to happen. And Ed Elkins from NS talked about the importance of fluidity and having capacity for resiliency that you can apply when things go wrong because there's always something going wrong somewhere. Ed also talked about the importance of trust with employees, customers, and even the ship operators, that NS would be able to deliver on what they said they were going to do. Things are going to go wrong, and the true test is how well the railroad is able to bounce back to normal operations.

There is certainly room for improvement in the rail industry, but there is also a lot to be optimistic about. Carriers are creating new partnerships with trucking companies to provide service that is more competitive with truck, such as BNSF's Quantum service in partnership with J.B. Hunt. Norfolk Southern has created a new department seeking to fuel customer growth and make rail easier to use, and it is working more closely with short lines to improve interchange. These are just a couple of examples of how the Class I railroads are changing their operations in order to drive growth. And I would be remiss if I did not mention the railroads efforts over the past couple of years to enter into paid sick leave agreements with their labor unions, which help retain and attract employees, because you can't have growth without employees. Are things perfect? No. But I think when we see these innovations, we are seeing carriers *trying* to be responsive to shippers needs and to grow their networks by providing a better service product. I hope to see more of approaches like these in the future, because I think that rail has a bright future, especially if carriers provide the type of reliable service that their customers deserve.

IV. Rail Customer and Public Assistance Program

Before I close, I have to plug the Board's Rail Customer and Public Assistance Program. You can find information about the program on the Board's website under the "Resources" tab. If you're a shipper and are having service issues or some other issue that you think the Board can help with, they are a great first call. Agency staff who work in the program are highly knowledgeable, and they can help with anything from giving you some information over the phone to informal mediation. And if you are having an issue and would just like to talk to someone, they will not reveal your identity to the railroad or other party without your consent. Again, it's informal, so they can't give you any binding guidance, but they are able to solve a lot of issues quicker, on an informal basis, before the issue ever gets to the Board itself.

I'm happy to take any questions you might have.

Good afternoon! It is truly an honor to be here with all of the leaders of the rail industry as well as my colleagues—Vice Chairman Hedlund and Member Fuchs. I would like to take a moment to thank Tony Hatch for inviting us. Having the opportunity to be in this room and to hear the views of so many of the industry leaders is invaluable. I would also like to say that I am very appreciative of the opportunity to share some of my views as a Member of the Surface Transportation Board.

Since I started at the Board in January 2021, it has not been the smoothest time for the rail industry. As everyone in this room knows, the pandemic was a world event that had unforeseen effects on the supply chain. And the recovery for U.S. railroads, as well as for almost every other industry in the nation, was a difficult one. Since the recovery, carriers have had to contend with numerous events affecting trade flows—foreign conflicts, the Key Bridge collapse, rail negotiations, last month's port strike, foreign embargoes and I am sure I'm leaving things out. But I think what we've seen is that carriers have, in fact, become more resilient at dealing with both expected and unexpected disruptions. This is not the same rail industry that we had post-pandemic.

Carriers have taken active steps to improve their businesses and, in doing so, strengthen the supply chain. I'd like to commend the railroads, first and foremost, on improvements they have made in their relationships with labor through paid leave agreements and efforts to improve work life balance. Carriers have also invested billions of dollars in capital improvements over the past couple of years, despite volumes being down. And they have invested in new technologies that can increase the efficiency and safety of their operations. Investment in the network and expansion of capacity is going to pay dividends as volumes return. But I think the most monumental, positive change I have seen in the rail industry, is the acknowledgment over the past couple years that carriers need to improve their service product to become competitive with truck. We've seen a greater emphasis on service, and we've seen carriers become more customer-centric. They have offered new service products, improved communication with customers, and even partnered with truck to offer faster, more on-time service. Changes like these, which improve the reliability of the rail network and the strength of the supply chain overall, make my job as a regulator a lot easier.

I have also been giving thought to the Board's role in the supply chain, and what we as a Board can do to strengthen the network. I think one of those ways is through Federal preemption. Regulations have costs, and preemption prevents carriers from being subject to a patchwork of regulations, which not only increase compliance costs for carriers but would also be detrimental to rail service for shippers.

In addition to preemption, another way the Board can strengthen the network is to manage our docket more efficiently. Part of our role is to administer decisions in a timely fashion, and we can do better on that. Please note, this is not a criticism of Board staff or my colleagues. Since I joined the Board, the demand on the docket has been extraordinarily high, both with cases filed with the Board and with discretionary matters that the Board has taken up. Those have contributed to longer time periods to issue decisions, and there has been little if any time to review our internal processes. Going forward, the Board should make it a priority to look into our internal processes and streamline them so that we can issue decisions in a more timely manner.

I am cognizant that lengthy decisional timelines increase litigation and other costs, and they also inject uncertainty into industry decisions. The question becomes not "what will the Board decide," but "when, or if, will the Board decide it." And I would like the Board, myself included, to keep in mind that delayed decisions increase costs for railroads and shippers alike and even hinder investments. When parties come to the Board, it is because they have an issue that they were not able to solve themselves. The Board is not their first choice, and nobody enjoys unnecessary litigation. . . except maybe the attorneys. But, once a matter is before us, we have a duty, sometimes statutory and sometimes simply as a matter of good government, to decide the matter efficiently.

I think it's also important for the Board to continue to engage with stakeholders. We already do that, whether at the staff level through OPAGAC, or at the Board level, our through our advisory committees. Maintaining those lines of communication with carriers, shippers, and industry groups is important and even in my short time on the Board I have seen those lines of communication resolve issues before becoming a multi-year case. My apologies to the lawyers on those missed legal fees. But in all seriousness, communicating with stakeholders ensures that the Board has context and perspective when considering whether to take regulatory action, and I think that is very important for the members and the Board as a whole.

In closing, I'd like to address a question that has been asked of me—what is the long-term role of the Board? I think the week-to-week or month-to-month role of the Board may vary, but ultimately, it is to ensure the fluidity of the network. Sometimes, this means stepping in, where carriers or shippers bring disagreements to the Board. Other times, it could mean stepping back and allowing carriers to innovate and invest in each of their networks. Either way, the Board should always be guided by the long-term, sustainable health and growth of the network, and I think the Board, or any agency for that matter, should be wary of actions that could operate to hinder that growth absent extremely compelling reasons.

Thank you all for the opportunity to talk with you this afternoon and for the important role that you serve in keeping the freight rail network and nation's economy moving.

Good morning, it's great to be here with all of you in Toledo. Before I begin, I would like to thank your Executive Director, Eric Wenberg for inviting me to your conference. These conferences always provide wonderful opportunities to talk with the folks who are out there and interacting with the freight rail network on a daily

basis and it is from these informal conversations that I often learn the most. So, thank you Eric as well as those that I had an opportunity to meet last evening.

Just in case anyone here isn't familiar with what the Surface Transportation Board does, I wanted to begin this morning with a brief overview and highlight some of the Board's recent matters as well as a couple of pending items.

BOARD OVERVIEW

The Board is an independent Federal agency tasked with the economic regulation of various modes of surface transportation. However, our primary area of responsibility is freight railroads. We hear cases brought by shippers challenging rates, and we have jurisdiction over railroad practices and service. We also review rail mergers, rail construction, and abandonment of railroads. Although the rail industry has been deregulated in many ways, there is still a place and a need for regulation since many shippers do not have options when it comes to which railroad, they use or whether they can use another mode of transportation at all. I am a big believer in competition, and so I want competition and the market to drive railroads' business decisions, not government regulations. But where there is a market failure or there is insufficient competition, that is the area I think the Board should regulate.

RECENT MATTERS FOR THE BOARD

I'd like to take a moment to talk about the recent matters that have kept the Board very busy over the last couple of years. In early 2022, it was clear that there was a service crisis in the rail industry. Velocity was down. Terminal dwell and dwell at origin were up for some railroads by double digits. And trains holding due to crew issues were also up substantially. We heard from many stakeholders about just how bad the service had gotten. The National Grain and Feed Association recounted how one of its members had to spend \$3 million on secondary freight to keep animals fed, and another had to stop selling feed when a loaded train sat at origin for one week because of a lack of crew. In April 2022, the Board held a two-day hearing on freight rail service challenges and heard from various industries and public officials including the Secretary of Transportation as well as executives from the Class 1 carriers. Not only did we hear in great detail about the *extraordinary* service disruptions, but also about the challenges associated with a rail labor shortage, which by the way, were pointed to by labor and the carriers themselves.

Immediately following the hearing, we issued an order requiring the reporting of service metrics and head counts. In the months that followed, we carefully monitored the bi-weekly reports and we started to see improvements across the network. We also saw a reduction in service complaints. And Members of the Board met with the CEOs of the Class 1 carriers who shared their plans on service recovery and their plans to attract and retain rail labor during what we now know was one of the tightest labor markets we have experienced in decades.

As if the post-pandemic recovery did not present enough of a challenge, 2022 also saw the rail carriers and the unions engaged in a labor dispute that posed a threat of bringing our freight rail network to a *grinding* halt. This would have cost our economy upwards of at least \$1 billion per day and could have driven prices even higher for many consumer goods. And while the Board had no role in the negotiations, many of us held our breath along with the rest of the nation, until early December when the President signed a bill that imposed a settlement between labor and the carriers.

Also in 2022, the Board conducted an 11-day-long hearing regarding restarting Amtrak service on the Gulf Coast. That proceeding is now in abeyance pending settlement, but the Board recently held an additional hearing in the matter to inquire about the status of the settlement discussions.

And, of course, no discussion of the Board's recent activities would be complete without mentioning the merger between two Class 1 railroads, Canadian Pacific and Kansas City Southern. The Board approved that merger, subject to a number of conditions, in March of last year after review of an extensive record. That decision is currently on appeal.

ON THE BOARD'S AGENDA RIGHT NOW

That brings me to a couple of things on the Board's agenda right now. In January 2024, the Board extended part of our temporary reporting requirements for carriers that arose out of the service crisis hearing that I mentioned earlier. Ultimately, the Board required carriers to report certain service and employment metrics through the end of 2024. Again, because there is a petition for reconsideration pending, I can only speak about this case in a limited fashion. The Board extended the employ-

ment reporting requirements while discontinuing reporting on service metrics. Through the end of the year, railroads will have to report monthly on headcounts, and a few railroads will also have to provide additional information about trainee classes and hiring goals.

Another priority for the Board, which will come as no surprise to anyone who has heard Chairman Oberman speak is reciprocal switching. Last fall, the Board issued a notice of proposed rulemaking and requested comment on many issues contained within. In short, this proposed rule would establish standardized metrics. If carriers provide service that falls below the metrics, certain shippers who are served by a single carrier in terminal areas would be eligible to receive service from an alternative carrier. The comments and replies are in, and the Board is considering them. Again, because this is pending, I am not able to talk about this proceeding in any greater detail but what I can say is it is something that the Board is very focused on.

THE STATE OF THE RAIL NETWORK

I would also like to talk for a moment about the state of the rail network today. But first, I will need to talk about where we were by way of comparison.

At the beginning of the pandemic, volume on the rail network dropped to astonishingly low levels. Faced with extraordinary uncertainty, the rail carriers, like the airlines and many other industries, responded by furloughing employees. Once volume returned, the carriers expected that they could bring their employees back. What they experienced was, they could not. I find it hard to fault them for that given the unprecedented nature of the pandemic and how it affected economies and industries across the globe. But that lack of employees contributed to the service crisis. Since then, railroads have increased their headcounts. In January 2024, headcounts were up by 9 percent from their lowest point during the service crisis in 2022 while Train and Engine employment has risen 15 percent during that same time. And service *has* improved. While there are still pockets of service challenges on the network, I am hearing a lot fewer complaints from shippers now than I was in 2022 or even since last year. The biggest concern I hear from shippers now is this: service is fine, but volumes are down. How will the railroads perform when volumes return? And yes, volumes are down and have been down for some time. Last quarter, carloadings for the Big 4 railroads were over 12 percent lower than they were in the fourth quarter of 2021. That is a big reason that the Board extended railroad reporting of employment metrics through the end of the year, so that we have that extra visibility into headcounts when volumes do return. Because when they do, Carriers will need to have resiliency in their workforce to meet that increased demand.

And so, as a regulator, what I care about most is service. Poor service impacts shippers and it impacts the Nation's economy. But as I have said before, regulations cannot provide shippers with a good service product. Only the Carriers themselves can do that. And I believe they should be able to innovate, shift resources, and do what they think is best for their business. The same is true for shippers. And carriers, like shippers, are in the best position to know what resources they need to compete and to perform well.

GOOD SERVICE AVOIDS INCREASED REGULATION

That being said, we've seen what happens when service suffers, and that is that there are calls for increased regulation of the rail industry. And I will be the first to say, increased regulation is not something that I believe is in the best interest of the network, and it is not something that Congress wanted when it created the Board. The Surface Transportation Board is directed to follow the principles set forth in the Rail Transportation Policy enacted by Congress. While some of these principles are often viewed as competing, one such principle is to "minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required." I call attention to this policy because the plain words of the statute require the Board to implement regulations "when they are required." Shippers, Carriers and Members of the Board all hold different views on when "regulations are required." To *me*, the role of the Board is to determine two things: whether there are issues that rise to the level of the need for regulatory action *and* whether the issue can be solved by regulation. In order to make that determination, the Board must consider both the principles of the Rail Transportation Policy as well as carefully consider any potential unintended consequences of the proposed regulatory solution. After input and comment from the industry, the Board must then consider whether the benefits of the proposed regulatory solution will outweigh any unintended harm.

At the end of the day, what shippers deserve is dependable service that is delivered with a customer-centric focus. And while opinions may differ, my own view is that the Carriers themselves will do a much better job of *voluntarily* achieving this goal across their networks than perhaps any changes that can be put into place through regulation. While I believe there are circumstances that warrant regulation, I also believe the Carriers are in the best position to make operational decisions on how to meet the needs of their customers.

THE ROLE OF SHIPPERS

And I know that so far, I've had a lot to say about the carriers, but it goes without saying that everyone in this room knows that shippers serve a vital role to the freight rail network as well. Carriers can't do their job well without open and effective communication with shippers. So I have to commend all of you for being out there interacting with your carriers on a frequent basis, because the carriers can't really know what they are doing well, or poorly, without your feedback. Certainly, there are times when the Board is asked to get involved when there is either a breakdown in communication or a dispute between a shipper and a railroad. But generally speaking, those cases are and should be the exception, not the rule. Service is doing pretty well right now, and while volumes are down, I don't think that is the only reason things are moving. I believe another big reason has to be the continuous conversations between you and your rail carriers, and for that I thank you.

NEW PARTNERSHIPS AND INVESTMENTS

While I know there is concern from shippers about the future, I think there are also reasons to be optimistic as carriers pursue new partnerships and invest in their networks. Just to name a few recent examples, there is BNSF's new partnership with J.B. Hunt and GMXT to provide faster intermodal service to and from Mexico, as well as BNSF and J.B. Hunt's Quantum service that aims for 95 percent on-time performance. Another example is last year's merger between Canadian Pacific and Kansas City Southern and UP, CN, and GMXT launched a new intermodal service last year connecting Canada, the U.S., and Mexico.

Additionally, the railroads are investing in infrastructure to not only maintain but also modernize their networks. Norfolk Southern invested \$1 billion in infrastructure in 2023, while in 2024, CSX plans to spend \$2.5 billion, UP plans to spend \$3.4 billion, and BNSF plans to spend \$3.9 billion. And I would be remiss if I did not mention the railroads' efforts over the past year or so to enter into paid sick leave agreements with their labor unions—agreements which may help to both retain and attract employees to the rail industry. It is my hope that I continue to see even more approaches like these going forward because I believe that rail has a bright future, especially if carriers provide the type of reliable service that their customers deserve.

RAIL CUSTOMER AND PUBLIC ASSISTANCE PROGRAM

Before I close, I would like to mention the Board's Rail Customer and Public Assistance Program in the event that there is anyone in the room who may not be aware of this resource. You can find information about the program on the Board's website. If you are having service issues or some other issue that you think the Board can help with, they are a great first call. Agency staff who work in the program are highly knowledgeable, and they can help with anything from giving you some information over the phone to informal mediation. And if you are having an issue and would just like to talk to someone, they will not reveal your identity to the railroad or other party without your consent. Again, it's informal, so they can't give you any binding guidance, but they have successfully resolved countless issues on an informal basis without those issues having to ever get to the Board itself.

CLOSING

I would like to close by highlighting that despite the challenges the industry has faced during the last few years, that the United States has the most extensive freight rail network in the world. And the value of this resource cannot be overstated. Approximately 40 percent of long-distance freight in the U.S. moves by rail which is why our national freight rail network plays an indispensable role in delivering goods to American families and businesses. Perhaps even more significantly, the U.S. Department of Transportation estimates the total number of U.S. Freight shipments will have increased by 30 percent between 2018 and 2040. This means that reliable and predictable service on the network will only become even more

vital to linking businesses to each other within the United States and to businesses abroad as well. Which is why, at the end of the day, what I care about most is predictable and reliable rail service which in my view, cannot be achieved through regulation but can only be provided by the carriers themselves.

And so again, I would like to thank all of you for the contributions you make to the freight rail network, the Nation's supply chain, and the Nation's economy. I encourage each of you to keep communicating with your carriers and when necessary, with the Board. Thank you so much for your time and I look forward to your questions.

Good morning, everyone. It's great to be here and thank you for giving me the opportunity to give you this regulatory update.

BACKGROUND

Just to tell you a little more about my background, prior to working at the Board, I worked for 14 years with the Southeastern Pennsylvania Transportation Authority, the commuter railroad that serves the Philadelphia area. My most recent role with SEPTA was deputy general counsel, and in that role, I represented the agency before the FRA and the Pennsylvania Public Utility Commission; served as lead counsel on a major railroad reconstruction project; and served as lead counsel on real estate transactions and contract negotiations. Prior to that role, I served as the Director of Legislative Affairs for SEPTA, leading a team to advocate for SEPTA at the local, state, and Federal level, and reviewing legislation and regulations at all levels to determine their impact on SEPTA.

Earlier in my career, I was in private practice with a focus on bankruptcy law and commercial litigation, and I served as a law clerk for the U.S. Bankruptcy Court for the Eastern District of Pennsylvania and a law clerk for the late Vincent A. Cirillo, President Judge Emeritus of the Superior Court of Pennsylvania.

INTRODUCTION

Thank you for the warm introduction. It is wonderful to be here and to have the opportunity to meet with all of you. Chairman Oberman was invited to be your guest speaker today, and I know he would have liked to have attended himself if he could have. Just as an aside, are there any Dallas Cowboys fans in the room? I flew in from Philadelphia yesterday and I am an Eagles fan. I am hoping to have a better performance today than the Eagles had on Monday night against the Cowboys—or you will really wish Marty could have been here today.

TRANSITION TO THE BOARD.

I have had an opportunity to meet with numerous stakeholders since I joined the Board. I am often asked about my transition to the Board so I thought I would take a moment to talk about it. I joined the Board on January 11, 2021. When I joined the Board, I knew the issues pending before the Board were complex and challenging. What I didn't know was just *how* complex and *how* challenging they are. I know I have so very much to learn and believe that I will continue to learn every day until the last day of my term a little under 5 years from now.

What I also quickly observed was how welcoming and helpful all my fellow Board Members were and how much smoother my transition was because of Patrick, Marty, and Ann. And Robert, who was sworn in just a few days prior to me, was in constant contact with me as we navigated the transition together. This frequent communication has continued with all my colleagues on both a personal and professional basis, and I am grateful to have the opportunity to serve with such a great group of people and to serve at time when it is permissible to speak with a fellow Board Member about pending issues. I find these conversations to be invaluable—especially when they involve issues where I am not in agreement with a fellow Member. Having the opportunity to speak with another Member provides me with the “why” behind their position and allows me to have a better understanding of their opposing view. In some instances, I have even been enlightened to the point of agreeing with their position and on limited occasions, I know that sharing my view has been persuasive as well.

I would also be remiss if I did not point out the invaluable role that the Board's career professionals have had in my transition, as well as the help they have given to me with my learning curve. My observation is that the Board is very fortunate to have a small but highly talented group of professionals whose dedication to their work is evident in everything they do. In my short time on the Board, there has

not been a question that they have not been able to answer off the top of their heads, and I believe the quality of our decisions speak for themselves. Lastly, I would like to take a moment to recognize the important role that my attorney advisor, Mike Small, has had in my transition. Mike unfortunately could not be here today. Mike has truly been an incredible resource to me, and I cannot imagine having made this transition without him. I am hoping that he is not participating via Zoom today and is taking a well-deserved break from listening to me.

IMPORTANCE OF HEARING FROM STAKEHOLDERS

In my short time at the Board, I've had the opportunity to meet with many different groups, including railroads, shipper groups, and individual shippers. I have made these meetings a priority because, and let me stress this, these meetings are extremely important to me. It's one thing to read a brief or a comment that sets forth a problem that stakeholders are having, and another thing entirely to hear from you directly and have you explain to me in conversation what you are experiencing in the field. I can't emphasize enough how helpful these meetings are to me—to have the opportunity to ask questions and to hear your perspectives. And so, at least for me, as long as we are not discussing a pending matter, if SWARS or anyone here today wants to present a challenge, explain it, and describe what you think the solution is, my door is wide open. Even if the Board is hearing completely different proposals from other stakeholders, I still want your suggestions, because you're the industry experts. More input can only make the Board's decisions better. Right now, I've been at the Board for about eight months, and to say that there's a high learning curve is an understatement. But as I gain more experience in this role, I can only imagine that these meetings will become even more helpful.

ROLE AT THE BOARD AND REGULATORY PERSPECTIVE.

As you all know, I am just one of the five members of the Board. We all bring different strengths and backgrounds to the Board, which play a role in how each of us reaches our decisions. In my meetings with stakeholders, I have often been asked about my views, my leanings, or how I make decisions. Just to give you a sense about my perspective: I try to approach issues first from a question of, "What did Congress ask the Board to do?" I look at statutes, and legislative intent, and especially the Rail Transportation Policy set out by Congress. Now, I don't know how many of you have looked at the Rail Transportation Policy, but it sets out fifteen often-competing policy priorities to guide the Board's decisions. The Rail Transportation Policy, or RTP as we call it, directs the Board to minimize the need for Federal regulatory control—but also requires the Board not to minimize it too much, and to still provide some regulatory control. Where there isn't effective competition, the RTP asks us to make sure rates aren't too high—but we should also make sure they aren't too low either. Congress carved a narrow path for the Board to walk, and shippers and railroads are often pitted against each other on either side.

And yet, even though railroads and shippers are often at odds, in the long run, shippers, railroads, and the Board are, I think, in agreement. In one meeting I had with a shipper, they talked at some length about recurring problems with missed switches. But during that same conversation, the shipper emphasized the importance of a strong freight rail network, and how important it was for the shipping community that railroads are healthy. Even though shippers and railroads agree on this in principle, there is strong disagreement on how best to maintain and improve the health and strength of our freight rail network. But when I make decisions, and when I meet with stakeholders, the health and strength of freight rail network is always my ultimate goal.

COMING SOON—DEMURRAGE TRANSPARENCY MEASURES.

With regard to recent decisions, I know that all of you are focused on the various aspects of your industry so you might not be familiar with the Board's recent decisions. I'd like to take a moment to give a brief overview of one recent decision and expand a bit on my views, because the decision will be effective this coming Wednesday, October 6th.

In April, the Board issued a final rule in the *Demurrage Billing Requirements* proceeding. The final rule outlines several transparency measures for Class I carriers when they are billing shippers for demurrage charges and creates minimum standards for what railroads must tell shippers on or with any demurrage invoice. Among the items that railroads must provide are the original ETA of each car, the receipt of each car at the last interchange with the invoicing carrier, and the actual placement of each car.

While I know that transparency doesn't solve every problem, it can solve some and, at the very least, make clear where the points of disagreement are for demurrage charges. It is my hope that this rule makes the circumstances surrounding any demurrage charge more transparent to shippers so that they have a better ability to determine the reasonableness of individual charges.

In that regard, I also believe that this rule may be beneficial for the railroads themselves. By giving shippers greater clarity into demurrage charges, shippers may find it less necessary to inquire about certain charges. And when they do have a need to contact a railroad about a charge, ensuring that shippers and railroads are coming to the issue with the same information may help to prevent some disputes and resolve others more quickly and easily.

However, I recognize that this is not the end of the process. After the rule becomes effective in October, I ask you and your members to please let me know how things are going, either through your conversations with OPAGAC or by getting in touch with me directly. Even now, before the rule is effective, questions are forming in my mind: Have you seen changes in demurrage practices? Have you seen improvements? Did the Board's decision create unforeseen new issues? Is the additional information that you're getting from the railroads helpful? Is there any other information related to demurrage that would be helpful?

GOALS AS A BOARD MEMBER.

This ties in with a couple of my goals as a Board member. The first of these is that I want to make sure that I do not decide these issues and then remain cloistered away in DC, unaware of the effect of our decisions on railroads and shippers. I want to be responsive to your concerns. But the Board necessarily is somewhat removed from the effect of our decisions. We aren't a shipper, and we aren't a railroad, so the Board very much relies on you, our stakeholders, to be its eyes and ears out there to tell us how things are going on the ground. And so, *especially* in situations like a pending proceeding where the rules prohibit me from meeting with you, I would like to request that when you file comments and pleadings, to get into specifics as much as you possibly can. Provide photos, diagrams, metrics, whatever you can. Really explain the situations and difficulties you're having so that I can step into your shoes and see things from your perspective. If some rule is going to have a detrimental effect on your business, please be sure to tell us, but as much as you can, please show us and provide supporting data when possible.

Another goal I have is to help ensure that Board decisions, to the extent possible, provide clarity, not just to the individual parties before us, but to the broader community of stakeholders as well. Depending on the case, our decisions can have far-reaching effects. I want to make sure that when we decide an issue that sets out or clarifies a policy, or applies precedent to a new situation, that we set out the principles for our decision in such a way that members of the freight rail community can read a decision and get a good sense of how the Board will decide a similar case in the future.

OVERVIEW OF DOCKET.

It is an incredibly busy time right now at the Board. As you are aware, there are several high-profile matters—all of which I, unfortunately, cannot discuss with you because we are not permitted to discuss pending proceedings. I would like to give you a quick overview of what the Board is working on, but first, I'd like to take a moment to discuss the President's Executive Order, which I've been asked about recently, and how the executive order impacts the Board.

COMMENTS REGARDING EXECUTIVE ORDER ON COMPETITION.

As you are all aware, the executive order expressed concerns about consolidation in industries, and the effects of consolidation on competition. It highlighted the effects of consolidation not only on consumers, in terms of pricing, service, and choice, but also on some producers, who may encounter concentrated market power as they try to sell their goods.

While most of the executive order did not touch on the rail industry, the concerns about consolidation and pricing, and the desire to foster competition, are already reflected in the rail transportation policy, which is set forth by Congress, and the Board is directed to follow that policy when making many of its decisions.

The rail transportation policy establishes the policy of the U.S. government, and the Board, to allow competition and demand to establish reasonable rates, and to ensure that there is effective competition. In the absence of competition, where rates are too high, Congress directed us to maintain reasonable rates. If predatory pricing

and practices exist, or there are undue concentrations of market power, the Board, through our decisions and rulemakings, is tasked with prohibiting those.

In other words, the driving forces and the concerns expressed in the President's executive order are consistent with the policies set forth within the Rail Transportation Policy. Therefore, concerns about competition, pricing, and market power will continue to inform the Board's decisions, as Congress intended.

And just as a last note, the Board is an independent agency, which means that we are ultimately guided by the RTP and our governing statutes. As the RTP certainly acknowledges, regulatory action is not always helpful in fostering competition, and further, imposing regulations will often have long-term impacts. So whenever the Board proceeds with regulatory action, we need to be as certain as possible that our proposed regulations will achieve our desired outcome, and try to avoid situations where unintended, undesirable consequences outweigh the benefits of regulation.

MERGERS.

Now, moving on to the Board's docket: First, of course, the Board has two large mergers pending before it, one of which is a major merger of two Class I railroads. It is the first time in 20 years that the Board has reviewed a merger of that size. The first involves CSX's acquisition of Pan Am Railways, which would extend CSX's network in New England. The second involves Canadian Pacific's acquisition of Kansas City Southern, which would create a single railroad that extends from Canada, through the U.S., and into Mexico. For each of these mergers, the Board will be going through a transparent, public process, to ensure that concerns from all stakeholders are taken into account.

RULEMAKINGS.

The Board has several rulemaking proceedings before it right now, some initiated by the Board, and some initiated by stakeholders. I'm not going to go through all of them, but to highlight a few:

- We have a petition from several Class I railroads asking us to change how we determine whether Class I rail carriers are revenue adequate on an annual basis, in which they argue for a standard that would benchmark revenue adequacy to the S&P 500.
- We have a rulemaking proceeding to consider a new procedure for challenging the reasonableness of rates in smaller cases, in which the Board would decide a case by selecting either the shipper's or the railroad's final offer.
- There's another proposal from several Class I railroads to create an arbitration program to resolve small rate disputes.
- And we also have a proposal from several organizations to create regulations authorizing private railcar owners to assess, essentially, demurrage charges when a Class I railroad holds on to a private railcar beyond a reasonable time.

That brings me to one proceeding that I particularly wanted to highlight, because the Board is currently seeking public comment on an important issue.

FIRST-MILE LAST-MILE.

A few weeks ago, we issued a decision asking for comments about issues related to first-mile last-mile rail service metrics. In my meetings with shippers and shipper organization, this is an issue that has been raised repeatedly. During these meetings, shippers have presented their challenges with first-mile, last-mile. While I would not be able to summarize those challenges, the challenges seem to vary by shipper. Our recent decision asks for, broadly, four types of information.

First, what issues are you having? How does the issue effect your operations? What remedies are available to you right now? Second, are there additional metrics that you think would be helpful for the Board to collect, and how would those metrics benefit you? Third, what data do Class I carriers currently track? And fourth, what are the trade-offs for any suggestions?

If you are having issues with first-mile last-mile service, I would like to hear about it. If you have an idea for information and metrics that you believe the Board should collect and which would be helpful to clarifying the challenges associated with First Mile Last Mile, I hope you will include it in your comments.

In my view, and I'd ask that you keep this in mind as you consider your comments, the most important question the Board is asking in the First-Mile Last-Mile proceeding is this: What problem are we trying to solve? Your comments will be essential for the Board to understand the scope of the problem.

PUBLIC COMMENTS ARE CRUCIAL.

Clearly, the issues before the Board are wide-ranging, and in several proceedings, any action that we take could have large effects on the industry or the network. Because these regulations are often in place for many years and come with associated costs, I believe it is incumbent upon the Board to proceed cautiously with any action that could have an effect on the rail network. One way the Board can proceed with caution is to make sure that the Board seeks input from the very people who best know the network—the stakeholders. If there's one thing I've learned in the 70-or-so meetings I've had with shippers and railroads and other organizations, it's how much I don't know. I both value and depend upon the insight and experience from people like the ones in this room who are literally on the network on daily basis, to tell me what works and what doesn't and how we could make it better. So, if there is something that the Board is doing that sounds like a good idea or bad idea, I hope you will submit detailed comments.

IMPORTANCE OF PROCEEDING WITH CAUTION.

I've learned a few lessons both during the pandemic and during my time at the Board about how interconnected things are, how supply chain issues affect us all, and how many intersecting problems there are right now in the supply chain. In my meetings with stakeholders, both on the railroad and shipper sides, I've had a lot of productive and enlightening discussions about the issues affecting the rail network right now, and I cannot thank enough the people and organizations I've met with for lending me their expertise as I try to stay informed about the state of the network. I really see that as one of the most important aspects of my job, because whenever the Board considers regulatory action, I do not take this responsibility lightly, nor do I want us to do so in a vacuum.

If I could sum up one takeaway from those meetings, it's that there are many potential issues affecting the network right now. Issues that stakeholders have raised to me include: chassis shortages; a shortage of railroad labor; truck driver shortages; and warehouse labor shortages. We've seen shifts in consumer demand, a lumber shortage, and now a continuing semiconductor shortage. And from my conversations, it sounds like the port and intermodal issues are likely to be with us for some time.

As I hear about all of these problems, I try to focus on two things. First, what can the Board do to help? I say *can* because at least some of the issues that are affecting the network may originate elsewhere along the supply chain, and therefore it's simply not an area where the Board has any power to regulate. Not only should the Board try to regulate within its area of expertise, but it should also regulate within its statutory mandate.

Second, what *should* the Board do to help? Part of the issue with regulations is that once they are on the books, it is very difficult to remove them. And as the Board looks to solve issues that we see in the network, I want to ensure that the problems that we are trying to solve are not temporary issues, or issues that may be resolved by the market. I do not want to impose a more-or-less permanent solution to what turns out to be a temporary problem. I wouldn't want to saddle either shippers or railroads with regulations that turn out to be unnecessary.

And this just further underscores the importance of hearing from you when we do propose regulations or ask for input, as in the First Mile Last Mile docket. Whenever possible, I'd like to rely on data before the Board creates a new rule, and it is from you and your companies that we are going to get a lot of that data. So, if anyone has first-mile last-mile issues, or you think that some additional metrics would help the Board to determine what actions are necessary, please send us your comments. The docket number is EP 767. Comments are due by December 17th. Replies are due by February 17th. It would be great for the Board, and for other stakeholders, to hear your thoughts.

CLOSING.

As I said earlier, my door is always open, even if right now, that door is mostly a digital one. I am certainly available to meet through Teams or Zoom, but I'm hoping to get out and visit some of you to see your operations firsthand. That way, when I'm back in the office, I'll have a better, real-world picture of how things operate. Thanks so much for your time, and I'd be glad to answer some questions if you have any.

**STATEMENT OF HON. TIM SHEEHY,
U.S. SENATOR FROM MONTANA**

Senator SHEEHY. Thank you all for your opening statements.

Obviously, recent events with aviation, we will look forward to talking a little bit about the NTSB. But I think before we get to current events, as Senator Luján alluded to earlier, we are in a highly polarized time. But recently there is a bipartisan letter shared from a number of us expressing concern over proposed rail merger between Norfolk Southern and Union Pacific. I will enter that into the record here with our Committee staff.

[The information referred to follows:]

UNITED STATES SENATE
Washington, DC, October 30, 2025

Hon. PATRICK FUCHS,
Chairman,
Surface Transportation Board,
Washington, DC.

Hon. MICHELLE SCHULTZ,
Vice Chair,
Surface Transportation Board,
Washington, DC.

Hon. KAREN HEDLUND,
Member,
Surface Transportation Board,
Washington, DC.

Dear Chairman Fuchs, Vice Chair Schultz, and Member Hedlund:

We write regarding the recently proposed merger between the Union Pacific Railroad (UP) and Norfolk Southern (NS) Railway and to encourage the Surface Transportation Board (“STB,” or “the Board”) to subject this proposed merger to a rigorous and comprehensive evaluation not just for its potential short-term efficiencies, but for its ability to demonstrate clear and tangible long-term improvements in competition.

As you know, the STBs post-2001 “Major Rail Consolidation Procedures” were adopted specifically to place heightened emphasis on whether Class I railroad mergers *enhance*, rather than merely preserve, competition, and to ensure that any potential anticompetitive effects or other harms are outweighed by *substantive and demonstrable* gains to the public interest. The proposed UP/NS merger will be the first to come before the Board under these rules, and it is essential that you establish a strong precedent and apply these heightened standards in the way they were intended.

In conducting its review, we strongly encourage the STB to take into consideration the impact the proposed merger, if approved, may have on our Nation’s agricultural producers, and on the STBs mandate to preserve long-term competition and ensure efficient, economically viable rail service.

Impact on Agricultural Supply Chains

U.S. farmers, ranchers, and producers are facing historic market losses as they strive to provide the highest quality, lowest-cost food supply in the world. They depend on reliable and competitive rail service to move their agricultural products to markets both domestic and international. Our producers already face limited competitive options for rail service. Further consolidation could compound these challenges by reducing routing flexibility, constraining network fluidity, increasing market power, and limiting access for both producers and processors. As part of its review of the proposed merger, the STB should take into account the long-term implications for the movement of agricultural products across the domestic rail network, including potential impacts on shipping costs and market access.

Preserving Long-Term Competition

Since the passage of the Staggers Rail Act of 1980, which largely deregulated freight railroads, the number of Class I carriers in the U.S. has dropped from over 30 to just six. Today, four of those carriers control more than 90 percent of U.S. rail freight. Already highly consolidated, the current landscape of railroads as it exists today represents a fragile equilibrium with two in the west, two in the east, and two through the middle.

As the STB reviews the proposed merger, it is important to consider how additional consolidation could alter this equilibrium. In particular, the Board should ex-

amine potential impacts on key freight corridors, where fewer alternatives for shippers could reduce competitive pressure on rates and service. Over time, such dynamics risk embedding higher costs, diminished service quality, and less innovation across the network. These conditions, once entrenched, are difficult to reverse and may discourage future market entrants. The STB's post-2001 merger rules are designed precisely to guard against this outcome, requiring that mergers demonstrably strengthen competition rather than simply accelerate consolidation.

Efficient, and Economically Viable Rail Service

Historical precedent highlights what is at stake. The 1996 Union Pacific–Southern Pacific merger triggered widespread service breakdowns and safety lapses. Integration challenges led to nine worker fatalities, a Federal Railroad Administration finding of a “fundamental breakdown” in safety practices, and freight disruptions lasting more than a year and a half—delays that cost the broader economy an estimated \$4 billion.

If approved, a combined UP/NS would handle more than 40 percent of all U.S. freight rail traffic. The Board should weigh the risks of a similar disruption given the proposed scale: a transcontinental system spanning 50,000 route miles across 43 states. Service interruptions of this magnitude could have severe consequences, especially for agricultural producers. Time-sensitive shipments during harvest could be delayed or spoiled, export windows could be missed, and access to global markets could be sharply reduced.

We thank you for your careful consideration of this merger application, and its impact on domestic agricultural production, as well as the STB's mandate to enhance long-term competition. We look forward to working with you to ensure the STB continues to promote an efficient, competitive, and economically viable freight rail network that serves the public interest.

Sincerely,

JOHN HOEVEN
United States Senator

TIM SHEEHY
United States Senator

BILL CASSIDY, M.D.
United States Senator

STEVE DAINES
United States Senator

ROGER MARSHALL, M.D.
United States Senator

M. MICHAEL ROUNDS
United States Senator

ROGER F. WICKER
United States Senator

JIM BANKS
United States Senator

JONI K. ERNST
United States Senator

AMY KLOBUCHAR
United States Senator

MARTIN HEINRICH
United States Senator

TINA SMITH
United States Senator

RAPHAEL WARNOCK
United States Senator

PATTY MURRAY
United States Senator

RUBEN GALLEGO
United States Senator

TAMMY BALDWIN
United States Senator

TAMMY DUCKWORTH
United States Senator

RICHARD J. DURBIN
United States Senator

Senator SHEEHY. This letter, bipartisan, recognizes a growing concern from industry and from elected officials about mass consolidation within the rail industry. And the free market is the free market. As a former businessman, I support the best free market outcomes possible, but ultimately the free market must also serve its customers effectively.

And I want assurances from both you, Mr. Kloster and Ms. Schultz. And I would be curious of your thoughts right now of what the Service Transportation Board is going to do to examine this merger and make sure that in the end, if it does happen, we are not placing the needs of our farmers and ranchers, our manufacturers, and our rural communities who depend on an increasingly con-

solidated rail industry to serve them, their needs and their businesses.

Ms. SCHULTZ. Thank you, Senator. I read the letter and clearly this transaction will be the largest and most monumental transaction that has ever come before the Board in the history of the Board. And what I can say is that I also expect that the record in this matter will be voluminous matching, you know, the magnitude of the case.

I can speak for myself in saying that in all matters that come before the Board I review the evidentiary record, the comments that are filed on the docket, and the applicable law and statutes, and I will be prepared to do so in this case as well.

Senator SHEEHY. Mr. Kloster, any thoughts on the merger?

Mr. KLOSTER. Yes, Senator. You know, I have spent my whole career in the rail history and I have seen a lot, and I have seen all the mergers, you know, the successes, but also the failures. You know, my view is that, yes, this is the largest—this will be the largest merger ever. And you know my commitment to you and to this Committee would be to be objective, to be fair, to be impartial, to do all the research and the analysis to come up with the right decision regarding this merger, or any topic that, you know, case issue that comes before the Board.

Senator SHEEHY. And ultimately for the Board—this is more of a philosophical question—but for either of you, I mean, what do you view the highest responsibility of the Board? Is it rail safety and standards of operation? Or is it industry health, and as far as industry health, where does that—where does that vector point you? Is that health of the corporations? The rail corporations? Is it the health of the businesses they serve? How do you view that that philosophical ordering of the priorities?

Ms. SCHULTZ. Senator, thank you for the question. With all due respect, because the merger is a pending matter I have to be very, very careful about any comments I make on, you know, my views on any of the standards that I might be reviewing. As I am sure you are aware, this will be a case of first impression as it relates to the new merger rules, they are very much public and available on our website, but for me to provide comment on my views on how I view the standards of law or how I might apply them would be pre-decisional.

Mr. KLOSTER. I agree with Member Schultz.

Senator SHEEHY. Mm-hmm.

Mr. KLOSTER. The only thing that I would add would be that I do not think there is any particular—there are a lot of matters that are important, and it is going to be incumbent upon me as a member, assuming I am confirmed, you know, to weigh all those matters.

Senator SHEEHY. Mr. DeLeeuw, obviously we had a tragedy in Louisville recently, and that comes on the Hill—we have the safest airspace in the world. We have the safest aviation system in the world. I think it is important we remember that because clickbait on YouTube wants us to think that planes will fall out of the sky. But they do fall out of the sky, accidents do happen, and I think this actually dovetails into our last conversation about mass consolidation in any industry, and oftentimes those benefits are built

as efficiencies. But it also creates a lack of competition between manufacturers and between operators.

So I am curious for your thoughts right now, and we only have a few seconds left, but what are your current concerns about what American aviation looks like so we can continue to be the leaders of the world, whether it is in manufacturing, whether it is in commercial operations. How do we maintain America's aviation dominance in the 21st century?

Mr. DELEEUEW. Well, thank you, Senator, for the question. I do think we have the premier aviation system in the world. We have by far the absolute best controllers in the United States. We have professional pilots. I think our national airspace system is safe. When we do discover things are maybe not quite right, for instance, the government shutdown, the airlines, the FAA are very proactive at looking at the data and making decisions to making sure things stay safe.

So in all matters in the aviation industry, we do very formalized risk assessments, we look at the consequences, and we look for ways to mitigate risks that we discover based on the hazards we are aware of.

Senator SHEEHY. Well, the NTSB is a great organization, and the entire world has modeled their air safety off of ours. So I look forward to continuing that legacy.

Senator LUJÁN, I recognize you for your questions.

Senator LUJÁN. Thank you, Senator.

Mr. DeLeeuw, yesterday I had the opportunity to ask Mr. Morse questions about his role, as Deputy Director in the Office of Presidential Personnel, he told me in a meeting in my office when I asked him if he would ever do anything illegal, he said no. I appreciated that. But during his—during the hearing, he refused to answer any of my questions about the firings he carried out, saying they were subject to litigation.

However, Mr. Morse's actions have a direct link to your nomination today because he wrote the e-mail illegally firing Vice Chair Alvin Brown from the National Transportation Safety Board. Yes or no, is your nomination to the NTSB to take the vacancy left by Mr. Brown's firing?

Mr. DELEEUEW. Senator, I thank you for the question. I have an expertise flying aircraft and aviation safety. I am eager to serve on the NTSB, but I am not a constitutional lawyer. So your question, which I certainly understand, I will respectfully have to leave that with the courts in the legal process.

Senator LUJÁN. Which position would you be taking? Is there a vacant position today?

Mr. DELEEUEW. Sir, I have just been nominated to be one of the Board Members at the NTSB.

Senator LUJÁN. You do not know which position it is?

Mr. DELEEUEW. Sir, I believe it is an open position currently, but I do not—

Senator LUJÁN. I do not think it is a question from anyone here. It is not up to the courts. I am surprised you will not even answer that one.

Mr. DELEEUEW. Well—

Senator LUJÁN. But I will move on. I am not trying to play gotcha here, just that is fact. Anyone dispute that?

Hearing none. Yes or no, does the NTSB have a quote, "For-cause removal criteria" which says that, "The President may remove a member for inefficiency, neglect of duty, or malfeasance in office". And if you need the statute, it is 49 U.S.C. Section 1111(c). And I can get a copy of it if you need to see it.

Mr. DELEEUEW. Yes, Senator.

Senator LUJÁN. Yes or no, did Mr. Brown file a lawsuit suing the Trump administration for his illegal removal from the position at NTSB?

Mr. DELEEUEW. Senator, thank you for that question. Quite frankly, I am not aware of the—I hear rumors, I hear some stories in the media, but I am not aware of official lawsuits on—from no one.

Senator LUJÁN. Fact, Mr. Brown filed a lawsuit. I do not know if there is any dispute. Yes or no, has Mr. Brown's case been resolved?

Mr. DELEEUEW. Not that I am aware of, Senator.

Senator LUJÁN. Do you believe in the judicial process?

Mr. DELEEUEW. Yes, Senator.

Senator LUJÁN. Last week, I joined my Democratic colleagues in a letter to the Chairman urging him not to move forward with his hearing on NTSB Vice Chair Brown's replacement. As I mentioned in my opening remarks, Vice Chair Brown is actively challenging his unlawful removal in court. If the Senate moves forward to confirm the replacement and the courts then reinstate Vice Chair Brown to the NTSB, we could have two Senate confirmed board members for only one position.

My question, Captain DeLeeuw, if the court rules in favor of Vice Chair Brown and direct him to be reinstated, will you commit to stepping aside swiftly?

Mr. DELEEUEW. Senator, that is something that I have not considered or thought about, but if that situation was to arise, I would reach out and talk to the General Counsel of the NTSB and possibly the Department of Justice.

Senator LUJÁN. I appreciate that.

Mr. [sic] Schultz, since you currently serve on the Surface Transportation Board, I would like to ask you a few questions—or Ms. Schultz, I apologize—yes or no; is the Surface Transportation Board an independent Federal agency?

Ms. SCHULTZ. I am sorry. Yes, Senator, the only statute—

Senator LUJÁN. Yes or no—yes or no; did Board Chair Patrick Fuchs send an e-mail to all career staff placing political blame for the shutdown?

Ms. SCHULTZ. Chairman Fuchs sent an e-mail indicating that there was an impending shutdown.

Senator LUJÁN. Did he put blame on someone, one party or the other?

Ms. SCHULTZ. There was language within the e-mail that indicated that, yes.

Senator LUJÁN. So in fact, he did place political blame for the shutdown. The reason I say this is statements like these are very concerning. As you know, there is a law that passed Congress years ago, it was actually by a New Mexico U.S. Senator, Senator Hatch,

it is called the Hatch Act, and this could be seen as a violation of the Hatch Act.

Ms. Schultz, in your opening statement from your prior confirmation hearing, you wrote, quote, "It is incumbent upon the Board to approach matters brought before it by conducting a thorough analysis of the facts and adjudicating matters in an impartial manner within the bounds of its jurisdiction and the law".

However, the President has made it clear that agencies like the STB should not be independent, but wholly beholden to the President's direction and demands. How can the STB effectively function while subjected to political interference and coercion? Is it possible?

How can the STB effectively function while subjected to political interference and coercion?

Ms. SCHULTZ. I am sorry, Senator, I could not hear the last portion, while—

Senator LUJÁN. How can the STB function effectively if they are subjected to political interference and coercion?

Ms. SCHULTZ. Coercion, sorry, sir.

Senator LUJÁN. I have an accent. I apologize.

Ms. SCHULTZ. I just, I could not hear the last part. I am sorry. Senator, I appreciate the concern that you have raised. I would also go back to, I believe what you opened with, which is the STB is an independent agency. It is contained within statute. And I can say that, if confirmed, I will uphold and apply the law in a fair and impartial way.

Senator LUJÁN. I appreciate that. I have other questions but I want to be mindful of my colleagues as well. Very much appreciate your response, Ms. Schultz.

Senator SHEEHY. Senator Baldwin, you are recognized for your questions.

STATEMENT OF HON. TAMMY BALDWIN, U.S. SENATOR FROM WISCONSIN

Senator BALDWIN. Thank you. I am going to continue down similar path to Ranking Member Luján.

Mr. Kloster, I am concerned deeply about the independence and the integrity of the Surface Transportation Board, especially heading into an extremely significant decision that the Board will have to make regarding Union Pacific and Norfolk Southern in that merger.

Union Pacific's CEO recently met with the President about the merger and went as far as to make a contribution of funds to help President Trump build his ballroom. President Trump has stated that the merger sounds good to him, even though it should be clear that a merger of this magnitude would increase costs, create more unreliable service for shippers, and reduce overall competition.

When this merger comes before the Board, do I have your commitment to act independently of political influence and base your decision on the merits and the merits alone? Or do you plan to deliver the decision that the President wants?

Mr. KLOSTER. Absolutely, I will treat it with independence impartiality the merger application, it has not—they have not even filed an application so no one wants—no one even knows what they are going to propose. You know, if I am confirmed and I am on the

Board, you know, I will look forward to, like everybody else, reading that and considering that. But I will promise to do all my research, my analysis, again, in an independent manner.

Senator BALDWIN. On that issue of research and analysis, the Surface Transportation Board's post-2001 major rail consolidation procedures places heightened emphasis on whether Class I railroad mergers enhance rather than simply preserve competition. So will you commit to following this comprehensive evaluation required by these updated standards when evaluating the Union Pacific and Norfolk Southern merger?

Mr. KLOSTER. Yes, I will—

Senator BALDWIN. Thank you.

Mr. KLOSTER.—I will follow the law.

Senator BALDWIN. Ms. Schultz, I am going to ask you the exact same question that I just asked Mr. Kloster. Will you commit to following the rigorous and comprehensive evaluation required by the STB's post-2001 merger rules when evaluating the Union Pacific and Norfolk Southern merger?

Ms. SCHULTZ. Yes, Senator.

Senator BALDWIN. OK. It is my understanding, and I am dovetailing on a question that Senator Luján just asked, because when we had—and thank you both for meeting with me in advance of this, and having a fulsome discussion about many of the issues that the STB will grapple with.

But I asked a question about whether there were any partisan postings or e-mails that you were aware of, and it is my understanding—and you replied no—but it is my understanding that just before the agency closed its doors on October 1, that Chairman Fuchs sent an unprecedented e-mail to agency staff blaming Democrats for the government shutdown. Are you aware of this e-mail and did you receive it?

Ms. SCHULTZ. Yes, Senator, I did receive it. And I would like to note, in our meeting, at that time I was not aware of the e-mail. Upon meeting with some of the members of your staff, it was brought to my attention. I did go back and I did review the e-mail, but at the time that we met, I was in fact not aware of the e-mail.

Senator BALDWIN. Among other things, that e-mail states that Democrats are blocking this Continuing Resolution in the U.S. Senate due to unrelated policy demands. And I have to tell you that I was really disappointed to see this e-mail. It is unbecoming of an independent board which is looking more like Trump—Donald Trump's board with the illegal firing of Robert Primus. Do you think it is appropriate for the Board leadership of an independent agency to circulate a clearly partisan e-mail to staff?

Ms. SCHULTZ. Senator, I believe it is my understanding from reading the news, that that e-mail went out across the Government as a whole. That said, what I cannot say—

Senator BALDWIN. So the Chairman sent that to other departments, other agencies?

Ms. SCHULTZ. Not our Chairman, I believe similar language was included across—in other—

Senator BALDWIN. Do you believe it was appropriate?

Ms. SCHULTZ. Senator, what I can say is, if confirmed I will review every case the way I have always approached it, which is with

impartiality, absent apart from politics which has no place at all within any Board decision, and I give you my commitment that I will—any pending matter I will apply the law on its merits.

Senator BALDWIN. Do you believe the firing of Robert Primus was justified?

Ms. SCHULTZ. Senator, as you are aware, my former colleague, Mr. Primus, has filed a lawsuit against the Surface Transportation Board. It is my practice to not comment on pending litigation.

Senator BALDWIN. OK. More hypothetically then, do you—should the expectation be that as Board Members you will be removed if you do not support the President's agenda?

Ms. SCHULTZ. I have been appointed by the President for my first term. I have been nominated for a second term, and I serve at the pleasure of the President. So he has the power to appoint and the power to remove.

Senator SHEEHY. Thanks for your answer, Ms. Schultz. We are over time.

We will go back to the NTSB. We have talked a lot about rail here. None of you are constitutional lawyers, so let us talk about planes and trains. Your role in the NTSB, obviously the NTSB is the gold standard in investigating post-crash analysis. As a survivor of a fatal plane crash, I have been through an NTSB investigation. And I do not think anybody can argue that that how you dissect a crash scene and draw lessons from that is renowned worldwide.

But I think one thing that we can probably do better is hasten the feedback loop between when an accident happens and how that feedback makes it back to our manufacturing base, so we can ensure, and not just manufacturing base, our air traffic control system. We have heard a lot these past few months, and of course we are hearing a lot now about how America's ATC system is old. It is struggling under the weight of growing air traffic, and obviously now we are having controller shortages.

So I would love to hear your thoughts about what role the NTSB can play in ensuring that our ATC modernization and airspace modernization happens rapidly and safely so we can meet the demands of 21st century air travel?

Mr. DELEEUEW. Well, thank you, Senator, for the question. You know you mentioned about the NTSB. You know, the NTSB is a small agency, roughly about 425 people plus or minus 20, it is the preeminent safety agency worldwide, and what is amazing is for 400-and-plus people they provide a fantastic service to the American public.

So the NTSB does take the time, you know, you mentioned about the timeliness, I think that certainly improved in the last few years, but the NTSB is not about necessarily a timeliness piece of it. They want to be at—you know, investigation that is timely but it is all about the quality. So I have worked with the NTSB for years and I would say that, you know, timeliness is an issue and they are aware of it, but it is all about the quality. So they want to make a good final report with safety recommendations that will benefit safety and save lives.

The CHAIRMAN. Thank you. Mr. DeLeeuw, ahead of this hearing, Democrats criticized me for including you on this panel because of

the pending litigation involving the former Mayor of Jacksonville. That is a distraction from the merits of your nomination. 11 people were killed in an aviation accident on Tuesday. This is a serious nomination and by any measure you are extremely qualified.

I want to start by asking you about your experience working in aviation safety. You currently serve as the Managing Director for Safety and Efficiency at American Airlines, and you have been in various safety positions at American and at the Allied Pilots Association for more than 15 years. What aviation safety issues have you personally worked on?

Mr. DELEEuw. Well sir, thank you, Senator. Thank you for that question. Well, over the years I have worked with a lot of different programs. You know, the airlines they follow a safety management system. And so we have got four components to that, safety promotion, safety policy, safety risk management, safety assurance. I have been primarily in the safety assurance aspect of that which involves the voluntary confidential reporting programs. and aviation—we call that the Aviation Safety Action Program.

We also have the Flight Ops Quality Assurance which is flight data monitoring. We were—I was responsible to work with my team to start a continuous LOSA program, and the last several years we have started another safety assurance program called the Learning and Improvement Team. All these, some of these are trend setters, let us say.

But on the other part of it is that over the years several things have popped up. I would have to say that I was fortunate to be part of a joint committee between the American Airlines and the Allied Pilots Association. On the 737 MAX Return to Service, and that was successful. American was actually the first carrier to return the MAX to Revenue Service. But the entire process of working with the manufacturer was well done, and I think it was able to improve safety for all.

The CHAIRMAN. Thank you. By any measure you are objectively very well qualified for this position. As you know, in October, this Committee unanimously approved my legislation, the ROTOR Act, which requires aircraft operating in controlled airspace to be equipped with ADSB IN technology. ADSB IN is a valuable safety enhancing technology that improves situational awareness in the cockpit.

Mr. DeLeeuw, the NTSB recommended ADSB IN years ago. You are a commercial pilot. Can you tell us about your experience implementing ADSB IN and why it is important?

Mr. DELEEuw. Thank you, Senator. That is a—it is a great question. I am glad to answer that. I am a huge proponent of ADSB IN, and I certainly appreciate everybody's work on the Commerce Committee, and certainly your leadership to get that pushed through.

You know, American Airlines has equipped many of our aircraft with the ADSB IN technology. We have been using that and we have been trying the system out. We have worked well with the air traffic controllers in a certain center. At first everybody is a little bit skeptical, but over the time now I would have to say that as we have looked through it.

And we have, you know, tried the system out, and we have worked with it, both pilots and controllers like this system. It is going to improve safety. It will save lives. It will reduce controller workload. It is the next step we need to improve safety in the airline system.

The CHAIRMAN. And what do you foresee as the challenges to implementation?

Mr. DELEEUEW. Well, Senator, I am a safety guy, but I would have to say that anytime new technology comes out, there is always a question about cost. I understand that. But my understanding is that people I have talked to, whether it is the labor associations, or the other airlines, there is always a little bit of concern on that, but in this case here there seems to be support throughout the industry for ADSB IN.

The CHAIRMAN. Well, I am hopeful that the Senate and the full Congress will listen to your testimony and move quickly to pass the ROTOR Act into law and put it on the President's desk to be signed.

Turning to the STB, in 2023, Congress enacted legislation that I wrote to fix a broken permitting process for four bridges between Texas and Mexico. One of those bridges is the Porto Verde Bridge in Maverick County, Texas. This past summer, the STB approved the environmental impact statement for the Porto Verde Bridge's corresponding railroad project. However, I have heard that Union Pacific has objected and put up various operational roadblocks to completing this project.

Ms. Schultz and Mr. Kloster, if confirmed, will you commit to working with me to ensure that the Green Eagle Railroad and the Porto Verde Bridge sponsors get a fair shot to finish their project?

Ms. SCHULTZ. Yes, Senator.

The CHAIRMAN. Thank you.

Mr. KLOSTER. Yes.

The CHAIRMAN. Senator Moreno.

STATEMENT OF HON. BERNIE MORENO, U.S. SENATOR FROM OHIO

Senator MORENO. Thank you to the nominees for being here. Congratulations on being nominated by the President of the United States. I am sure for you and your families it is a great honor.

Mr. DeLeeuw, to start with you. Obviously, the NTSB is an investigative agency. You do not—you are not a regulator, correct?

Mr. DELEEUEW. Yes, Senator.

Senator MORENO. But you have been around the block, as they say, you have seen a lot in your career, like our Chairman said, imminently qualified. Kind of help us understand, help the public understand what the day is like for an air traffic controller? From your investigations where you see things went well, not commenting on a specific investigation, but just generally speaking, would you agree it is a very high-stress job?

Mr. DELEEUEW. Senator I appreciate that question. So I have been flying for 45 years in the national airspace system. I have flown all over the world, over many countries. I can say unequivocally that the air traffic controllers in this country are, by far, the best in the world. The air traffic controllers they have long hours,

demanding days, I am aware of some of the—some of the impacts with the government shutdown. I am also aware of the struggles they have had in keeping controllers.

But I am fortunate to go—every year I participate in the—what they call the NATCA Communication for Safety and I am always amazed at the professionalism of the controllers. They have an award ceremony on the last night there, which is they refer to as the Archie Awards, and they give out—recognize the controllers who save lives.

So I would have to say that the—I am not an air traffic controller, but I have certainly worked with them. I consider them part of my brother and sisterhood, but they are—they are what keeps this national airspace system running.

Senator MORENO. And with a stressful job like that, we have limitations, right? They cannot work 20 hours a day, for example. They have to take breaks; is that accurate?

Mr. DELEEUEW. Senator, I am actually not familiar with their work rules.

Senator MORENO. But you would not want an air traffic controller that was fatigued, that was overly stressed? You want to make sure they are crisp and they are doing their job? That would be accurate just based on investigations you have been around?

Mr. DELEEUEW. Yes, Senator.

Senator MORENO. How many people do you know in your career that were either your co-workers that went a month and a half without getting a paycheck? Have you ever experienced that? In other words, have you ever—would you, like when you were—when you were just starting your young family, would you have gone a month and a half without a paycheck?

Mr. DELEEUEW. Well, I would hope I would not. If I had to do that, I sure would be mowing lawns then.

Senator MORENO. Right. And that would add enormous stress to you, your family, your spouse, your kids?

Mr. DELEEUEW. Yes, Senator.

Senator MORENO. I mean, to think about daycare, right? You cannot afford daycare. Daycare does not take credit. They expect to get paid.

Mr. DELEEUEW. Yes, sir.

Senator MORENO. And all that circulating through somebody's mind adds even more stress; is that fair?

Mr. DELEEUEW. Yes, Senator.

Senator MORENO. You need to be crisp when on. About a week ago, very unreported story, there was a helicopter—see if this story sounds familiar—there was a helicopter flying through the airspace at Cleveland Hopkins Airport. Fortunately, it was a nice day and that air—that helicopter flew almost directly in front of an inbound Southwest Airlines flight at 2,000 ft with almost no separation, vertical separation. They were literally on a collision path.

Now, when you are a pilot and you can see things out of the cockpit, it is a lot easier to be able to prevent those kinds of accidents; is that accurate, because you can see the obstacle in front of you?

Mr. DELEEUEW. Yes, Senator.

Senator MORENO. And you have flown into Cleveland Hopkins before in your career?

Mr. DELEEUEW. Many times, sir.

Senator MORENO. So you know we have—we are like Texas, we have beautiful weather 365 days a year. Now, imagine if that had been instead of last week, a nice sunny day, imagine it been a heavy snowstorm, zero visibility, snow showers, and you were totally dependent on instrumentation, what would have possibly happened in that situation?

Mr. DELEEUEW. Senator, thank you for the question. I am not 100 percent familiar with the event you are referring to, and I—I remember reading or seeing something about that. Based on what you are telling me, I assume there is an investigation going on.

Senator MORENO. Of course.

Mr. DELEEUEW. And with that being the case, I would prefer not to get ahead of NTSB, and I would prefer to recuse and not discuss that yet.

Senator MORENO. And Mr. Chairman, the point I am trying to make is obvious. We have asked these air traffic controllers to go into a dark room in a very stressful job where there is all kinds of regulations about what they can and cannot do because we want to reduce that stress. And we are now day 37 into a Government shutdown in which they have not gotten paid and they are being used as political pawns. And quite frankly, I find that atrocious.

I find it atrocious that the Air Traffic Controllers Union itself, not exactly a right-wing organization, has begged Democrats to allow us to have a vote to open the Government, but Democrats have refused and they are playing with people's lives. They are allowing our skies to become more dangerous.

So for my Democrat colleagues, especially in this Committee that constantly talk about how important safety is, why don't we actually open the Government today—or actually let us have a vote. Let us have a vote to open the Government and get people paid.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Luján.

Senator LUJÁN. Thank you, Mr. Chairman. I appreciate that.

I am going to ask some questions of Ms. Schultz. I am going to respond to Senator from Ohio. Ms. Schultz, I appreciate the question and response that you had to Senator Baldwin.

Mr. Kloster, the same question I have to you is, was the firing of Mr. Primus justified?

The CHAIRMAN. Please turn your microphone on.

Mr. KLOSTER. Oh. Sorry. I did not know him. I do not know the circumstances. I was not privy to the circumstances that he was removed by President Trump.

Senator LUJÁN. I have a follow up.

Mr. KLOSTER. It is a—it is in litigation, so I do not really have a comment on that.

Senator LUJÁN. I have a follow up here. The White House said that they fired Mr. Primus because he did not support the President's America First agenda, their words.

Mr. KLOSTER. Yes.

Senator LUJÁN. Ms. Schultz, yes or no, do you feel pressure to support the President's agenda?

Ms. SCHULTZ. Thank you for the question, Senator. The answer to that is no. Again, I think of—in response to other questions, in my time on the Board with pending matters, I approach it from a pretty similar manner, which is to look at the—to look at the applicable law, including any statutes, regs, existing precedent. I also review the record extensively, consider the arguments on the merits, and you know, the policy principles that are set forth by Congress in the Rail Transportation Policy—

Senator LUJÁN. I appreciate—I am sorry that the Senator from Ohio has to leave after what he shared. I was going to share with him some statistics from DWI in Ohio and how many people die there every year. I was also going to respond to all that happened recently under President Trump with the nonsense that came from Elon Musk with termination after termination, threat after threat.

My House Republican colleagues have been home for I do not know 40, 50 days. I do not know what they are up to. Speaker Johnson, when he was asked about bringing them back specific to pay the controllers, Speaker Johnson said, quote, “He would not bring the House back to pay controllers”, because he said it would be a waste of our time.

Look, I do not want to get in a back and forth of pointing fingers. I am tired of that. And I find I am falling guilty to it every day. It is time to fix this stuff. The reason there was not a shutdown under the previous administration with Democrats in the majority working with our Republican colleagues, because we worked together. Those CRs were amended. Democrats and Republicans got together to do the right thing for the American people. We need to do that again. And I am certainly hopeful that we will get there as well.

I am sorry that Senator Moreno does not want to see that there is a 26 percent increase in DWI deaths in Ohio. That one of the leading causes of fatalities in Ohio is people getting killed by people driving drunk. I hope that we will have a chance to have a conversation and that rather than just trying to throw a swing, you want to sit here and you are going to listen to the response as well.

I am just terribly sorry about that as well. But let me just get back here to close, and I appreciate the follow up here.

Mr. Kloster, the same question to you. Do you feel pressure to support the President’s agenda?

Mr. KLOSTER. Well, I am not on the Board, so there has been no pressure, but if I was on the Board, if I was confirmed, I would take anyone’s input, whether it was the President, or a member of this Committee, I would take their input. And then I would use that to make an independent, fair, unbiased decision.

Senator LUJÁN. You would take their input if it was in the record? Or you are going to take their input if they go to social media and say something?

Mr. KLOSTER. I am not on social media. I mean other than LinkedIn and that is—

Senator LUJÁN. Do you watch—do you watch television news? Do you watch—

Mr. KLOSTER. Oh. Totally. Yes.

Senator LUJÁN. So if the President says on broadcast news—

Mr. KLOSTER. Yes.

Senator LUJÁN.—I want you all to do something and it is not in the record, how do you deal with that?

Mr. KLOSTER. That kind of stuff goes in one ear and out the other, for me.

Senator LUJÁN. It does not matter, correct?

Mr. KLOSTER. It is not going to matter.

Senator LUJÁN. It has to be in the record. Whatever evidence it is that you are going to use to make a decision has to be in the record that you are evaluating of whatever the case is; is that correct?

Mr. KLOSTER. I am not sure what you mean by “on the record”, if someone called me up?

Senator LUJÁN. So help me understand, sir. I am from a small farm here. And is it you are going—

Mr. KLOSTER. Yes. And this is my first foray into this world.

Senator LUJÁN. Mr. Kloster, you have accepted a nomination.

Mr. KLOSTER. Yes.

Senator LUJÁN.—into a very serious job into an independent agency.

Mr. KLOSTER. Yes.

Senator LUJÁN. There are serious cases presented to you. A track going awry and going off a line. The case is presented to you to try to figure out what has happened; is that correct?

Mr. KLOSTER. Yes.

Senator LUJÁN. Is there a record that you review that is part of that case? Or what would you call it? What is the paper that gets put in front of you that you have to read and understand that all the evidence, all the investigations, what is that called? What do you call it? Because I want to use your—

Mr. KLOSTER. Yes. No, I understand what you mean by record now. Yes.

Senator LUJÁN. Would you call it a record?

Mr. KLOSTER. Yes. An application, or the evidence.

Senator LUJÁN. OK. So I am using your words—OK. If someone tells you to do something in the news, since you watch the news, you do not do social media, but you do—you watch the news.

Mr. KLOSTER. Yes.

Senator LUJÁN. And it is not in the record as we have just had a conversation about what the record is, do you just completely ignore it? Does it have no bearing in the outcome of the case?

Mr. KLOSTER. As I said, I would take all input, you know.

Senator LUJÁN. All right. Ms. Schultz, I am not even going to ask you the same question because I know you are going to say, no. It has to be in the record. That is how you have proven this.

So, Mr. Kloster, look, I am not a JD. I am not as smart as my colleagues here. I am a former public utility commissioner. I had to go to Reno to an ALJ school. You might want to go to the same school before you take this job so that you can understand what your responsibility is and how to evaluate a record and make a decision, man.

If any one of us goes to the news, or we speak from the mountain tops, or even in this hearing, and it is not in the case, and the record that you have before you, that you are making a decision, it does not matter, man.

I certainly hope that we just get to that case, and Mr. Chairman, maybe you and I can support some budget and funding to get some ALJ training for some of these folks and I would be—I would be proud to co-sponsor it with you.

Mr. KLOSTER. I appreciate that recommendation. And I also admit that, you know, if confirmed, there is going to be a bit of a learning curve for me in understanding how things are done. And I commit to getting up to speed as quick as I can.

Senator LUJÁN. There is a good school in Reno. I would be happy to get you information on it if you would like.

Mr. KLOSTER. Thank you.

The CHAIRMAN. Very good. Thank you to each of the nominees, Mr. DeLeeuw, Mr. Kloster, Ms. Schultz. My final question is required of all nominees.

If confirmed, do you pledge to work collaboratively with this Committee to provide thorough and timely responses to this Committee's requests, and to appear before the Committee when requested?

Mr. DELEEUW. Yes, Senator.

Mr. KLOSTER. Yes, Senator.

Ms. SCHULTZ. Yes, Senator.

The CHAIRMAN. Thank you. I have 31 letters of support from various organizations for the nominations of Mr. DeLeeuw, Mr. Kloster, and Ms. Schultz. I ask unanimous consent that these letters be inserted in the hearing record.

Without objection, so ordered.

[The information referred to follows:]

AMERICAN CHEMISTRY COUNCIL
November 6, 2025

Hon. TED CRUZ,
Chairman,
Committee on Commerce, Science, and
Transportation,
U.S. Senate,
Washington, DC.

Hon. MARIA CANTWELL,
Ranking Member,
Committee on Commerce, Science, and
Transportation,
U.S. Senate,
Washington, DC.

Dear Chairman Cruz and Ranking Member Cantwell:

On behalf of the American Chemistry Council (ACC), I strongly endorse the nominations of Vice Chair Michelle Schultz to serve a second term and Richard Kloster to serve a first term on the U.S. Surface Transportation Board (STB). ACC urges the Committee to move expeditiously to review and favorably report the nominations for confirmation by the full Senate.

ACC represents more than 190 of America's leading chemical companies. Our members produce a wide variety of chemicals, polymers, and related products that make our lives and our world healthier, safer, more productive, and more sustainable. The business of chemistry supports over 25 percent of the U.S. Gross Domestic Product and directly touches nearly all manufactured goods. Our industry is one of the largest freight rail customers, shipping 2.1 million carloads annually. We rely on a strong, resilient, and efficient freight transportation network to support our domestic and international supply chains.

The STB plays a critical role in maintaining a healthy and competitive freight rail network while protecting the interests of rail customers and preventing undue concentration of market power. The Board faces critical challenges in modernizing its regulatory framework and reviewing the largest railroad merger ever proposed. Strong leadership is needed now more than ever to help ensure that the freight rail network delivers for U.S. manufacturers and serves the public interest.

Vice Chair Schultz understands STB's vital role and has provided dedicated service to all rail stakeholders during her first term. Mr. Kloster's deep expertise and broad experience with rail carriers, suppliers, and customers would be a welcome

addition to the Board. ACC believes that, if confirmed, both nominees will help continue to move the country's freight rail policies forward.

Thank you for your attention to these important nominations.

Sincerely,

CHRIS JAHN,
President and CEO,
American Chemistry Council.

cc: Committee on Commerce, Science & Transportation
The Honorable John Thune, Majority Leader, U.S. Senate
The Honorable Chuck Schumer, Minority Leader, U.S. Senate

NATIONAL COAL TRANSPORTATION ASSOCIATION
Sandy, Utah, November 3, 2025

VIA EMAIL

Hon. JOHN THUNE,
Senate Majority Leader,
U.S. Senate,
Washington, DC.

Hon. TED CRUZ,
Chair,
Senate Commerce, Science, and
Transportation Committee,
U.S. Senate,
Washington, D.C. 20510

Hon. TODD YOUNG,
Chair,
Surface Transportation, Freight,
Pipelines and Safety Subcommittee,
Senate Commerce, Science, and
Transportation Committee,
U.S. Senate,
Washington, DC.

Hon. CHUCK SCHUMER,
Senate Minority Leader,
U.S. Senate,
Washington, DC.

Hon. MARIA CANTWELL,
Ranking Member,
Senate Commerce, Science, and
Transportation Committee,
U.S. Senate,
Washington, DC.

Hon. GARY PETERS,
Ranking Member,
Surface Transportation, Freight,
Pipelines and Safety Subcommittee,
Senate Commerce, Science, and
Transportation Committee,
U.S. Senate,
Washington, DC.

Dear Senators Thune, Schumer, Cruz, Cantwell, Young, and Peters:

The National Coal Transportation Association (NCTA) supports the confirmation of supports the confirmation of Ms. Michelle A. Schultz (R) of Pennsylvania to serve as Members of the Surface Transportation Board (STB or Board).

NCTA is a nonprofit corporation comprised of electric utilities, coal producers, shippers of coal-related commodities, and entities that produce, repair, and manage all facets of railcar component parts and systems, as well as provide services for railcar operations. Its primary purpose is to promote the exchange of ideas, knowledge, and technology associated with the transportation and beneficial uses of coal. NCTA's members rely on a strong, reliable freight rail supply chain to ensure its customers receive their needed fuel.

Our country's ever-growing reliance on freight rail commands the Board to provide necessary and effective oversight, especially considering only four Class I railroads control 90 percent of our Nation's freight rail traffic. Freight rail is a vital component of our Nation's economy. Freight rail also enhances the growth of our economy and our global competitiveness.

FRCA welcomes the nomination of Member Schultz, the Board's current Vice Chairman, to serve a second term expiring November 30, 2030. Her continued leadership on the Board will help ensure continuity as the Board addresses longstanding proceedings such as Commodity Exemption and First-Mile/Last where the latter is expected to be incorporated in a more comprehensive data modernization initiative to include (1) eliminating unneeded data collections, (2) strengthening mission critical collections, (3) streamlining filing and automating processes, and (4) improving data visualization.

NCTA welcomes the continued leadership of Vice Chairman Schultz as the Board faces a potential merger between two Class I carriers—under new merger rules that have never been tested before—in an already consolidated market environment, with the continued use of Precision Scheduled Railroading.

FRCA views Vice Chair Schultz as an appropriate nominee to serve as Member of the STB and welcomes her swift confirmation.

Thank you for your continued leadership, and commitment in ensuring the continuity of a full complement of Members to the Board at this most critical time.

Sincerely,

JOHN N. WARD,
Executive Director.

FREIGHT RAIL CUSTOMER ALLIANCE
October 31, 2025

VIA EMAIL

Hon. JOHN THUNE,
Senate Majority Leader
U.S. Senate
Washington, DC

Hon. TED CRUZ,
Chair,
Senate Commerce, Science, and
Transportation Committee,
U.S. Senate,
Washington, DC.

Hon. TODD YOUNG,
Chair,
Surface Transportation, Freight,
Pipelines and Safety Subcommittee,
Senate Commerce, Science, and
Transportation Committee,
U.S. Senate,
Washington, DC.

Hon. CHUCK SCHUMER,
Senate Minority Leader,
U.S. Senate,
Washington, DC.

Hon. MARIA CANTWELL,
Ranking Member,
Senate Commerce, Science, and
Transportation Committee,
U.S. Senate,
Washington, DC.

Hon. GARY PETERS,
Ranking Member,
Surface Transportation, Freight,
Pipelines and Safety Subcommittee,
Senate Commerce, Science, and
Transportation Committee,
U.S. Senate,
Washington, DC.

Dear Senators Thune, Schumer, Cruz, Cantwell, Young, and Peters:

The Freight Rail Customer Alliance (FRCA)—an umbrella organization including trade associations representing more than 3,500 manufacturing, agriculture chemical, and alternative fuels companies, electric utilities, and their customers—strongly supports the confirmation of Ms. Michelle A. Schultz (R) of Pennsylvania and Mr. Richard Kloster (R) of West Virginia to serve as Members of the Surface Transportation Board (STB or Board).

Our country's ever-growing reliance on freight rail commands the Board to provide necessary and effective oversight, especially considering only four Class I railroads control 90 percent of our Nation's freight rail traffic. Freight rail is a vital component of our Nation's economy. Farmers rely on rail both for fertilizer to grow their crops and to deliver those crops to market, and utilities and propane suppliers rely on rail to receive the fuel they need to serve their customers. Freight rail also enhances the growth of our economy and our global competitiveness.

FRCA welcomes the nomination of Member Schultz, the Board's current Vice Chairman, to serve a second term expiring November 30, 2030. Her continued leadership on the Board will help ensure continuity as the Board addresses longstanding proceedings such as Commodity Exemption and First-Mile/Last where the latter is expected to be incorporated in a more comprehensive data modernization initiative to include (1) eliminating unneeded data collections, (2) strengthening mission critical collections, (3) streamlining filing and automating processes, and (4) improving data visualization.

In addition, FRCA appreciates the nomination of Mr. Kloster to serve as Member of the STB for a term expiring December 31, 2028. With more than three decades' direct experience working with railroads, rail suppliers, and shippers, Mr. Kloster will provide not just varied rail industry expertise to the Board but also his unique business perspectives geared towards solving problems. His varied background will allow him to become familiar with the issues before the STB fairly quickly—matters that involve the most substantive issues of great importance to the Board, shippers, railroads, and the general public. They are technical, complex, and challenging, requiring resolution to reflect today's market conditions and freight rail demands.

FRCA welcomes the continued leadership of Vice Chairman Schultz and the service of Mr. Kloster as the Board faces a potential merger between two Class I carriers—under new merger rules that have never been tested before—in an already consolidated market environment, with the continued use of Precision Scheduled Railroading.

FRCA views Vice Chair Schultz and Mr. Kloster as appropriate nominees to serve as Members of the STB and welcomes their swift confirmation.

Thank you for your continued leadership and commitment in ensuring the continuity of a full complement of Members to the Board at this most critical time.

Sincerely,

ANN WARNER LLC,
Spokesperson for FRCA.

cc: Members of the Senate Commerce, Science and Transportation Committee

About FRCA

An umbrella membership organization, the Freight Rail Customer Alliance (FRCA) includes large trade associations representing more than 3,500 electric utility, agriculture, chemical, and alternative fuel companies and their consumers. Through a growing coalition of industries and associations, the mission of FRCA is to obtain changes in Federal law and policy that will provide all freight shippers with reliable rail service at competitive prices. www.railvoices.org

ALLIED PILOTS ASSOCIATION
Fort Worth, TX, October 27, 2025

Hon. Senator TED CRUZ, Chair,
Hon. Senator MARIA CANTWELL, Ranking Member,
U.S. Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

Dear Chair Cruz and Ranking Member Cantwell,

On behalf of the 16,000 American Airlines pilots the Allied Pilots Association (APA) is honored to serve, I am writing to express APA's support for the nomination of Captain John DeLeeuw to serve on the National Transportation Safety Board (NTSB). Captain DeLeeuw brings an exceptional depth of experience and a decades-long commitment to aviation safety that make him superbly qualified for this critical role.

With a distinguished career in aviation and safety oversight, Captain DeLeeuw has demonstrated unwavering dedication to the principles of accident prevention, investigative integrity, and public service. His background includes experience as a military and commercial pilot, leadership in safety management systems, and direct involvement in accident investigations. These qualifications reflect his technical expertise and his ability to lead with clarity and compassion in high-stakes environments.

Captain DeLeeuw's insights into the operational realities of aviation, combined with his analytical approach to safety and risk management, will be a valuable complement to the NTSB's mission. His collaborative spirit and commitment to transparency further underscore his readiness to serve the American public in this capacity.

I respectfully urge the Committee to give full and favorable consideration to Captain DeLeeuw's nomination. His appointment would be an asset to the Board and to the continued advancement of transportation safety in the United States.

Thank you for your attention to this important matter.

Sincerely,

FIRST OFFICER NICK SILVA,
President,
Allied Pilots Association.

GATX CORPORATION
Chicago, IL, November 3, 2025

Hon. TED CRUZ, Chairman,
Committee on Commerce, Science and Transportation,
United States Senate,
Washington, DC.

Dear Mr. Chairman

On behalf of GATX Corporation, I want to express our strong support for the confirmation of Michelle Schultz to serve another term on the Surface Transportation Board (STB). Throughout her tenure, Member Schultz has demonstrated a deep un-

derstanding of the freight rail industry and a balanced commitment to ensuring a safe, efficient, and competitive transportation system that benefits shippers, carriers, and the broader community.

Ms. Schultz has played an essential role in improving transparency and collaboration between the STB and industry stakeholders. Her leadership in the Board's work on rail service performance data and dispute resolution procedures has been instrumental in advancing a more responsive and accountable regulatory environment. She has consistently emphasized pragmatic solutions grounded in careful analysis, reflecting a strong appreciation for safety, efficiency and operational realities.

Her combination of legal expertise, regulatory experience, and deep knowledge of rail transportation policy make her an asset to the Board.

I urge the Committee to advance her nomination.

Sincerely,

PAUL F. TITTERTON,
EVP & President, Rail North America.

THE BOEING COMPANY
Seattle, WA, November 5, 2025

Hon. TED CRUZ,
United States Senator,
Washington, DC.

Dear Chairman Cruz:

On behalf of The Boeing Company, I write to express our support for John DeLeeuw's nomination to serve as a Member of the National Transportation Safety Board (NTSB). Mr. DeLeeuw's extensive expertise, his commitment and leadership in the field of aviation safety, and his willingness to serve our country in this role make him well-qualified to serve in this vital position.

Mr. DeLeeuw is widely respected by his government and industry peers for his thoughtful approach, his analytical rigor, and his ability to build consensus in his efforts to build a safer commercial aviation system. Many Boeing pilots and engineers have known him and worked with him throughout his career, and his reputation in the field of aviation safety is exceptional.

Mr. DeLeeuw would bring a wealth of expertise and knowledge to the NTSB: more than three decades of experience as a military and commercial pilot, with deeply rooted experience in aviation safety and risk management. His 19,000 flight hours, on a variety of aircraft including the C-130, the 727, MD-80, and the 787, give him a practical understanding of human factors and the operational realities that influence transportation safety outcomes. His work as American Airlines' Managing Director of Safety and Efficiency demonstrate his passion to improve safety for all who fly and keep us safe: passengers, flight crews, cabin crews, maintenance, and ATC. His personal commitment to advance the industry as a whole is evident in his involvement in organizations such as the U.S. Aviation Safety Team (USAST) and the International Society of Air Safety Investigators (ISASI).

Given his extensive experience, Mr. DeLeeuw is well-qualified to help advance the NTSB's mission of improving the safety of transportation systems across all modes. Thank you for your consideration of this important nomination.

Sincerely,

DONALD W. RUHMANN,
*Chief Aerospace Safety Officer,
Senior Vice President,
Global Aerospace Safety.*

SOUTHWEST AIRLINES PILOTS ASSOCIATION
Irving, Texas, October 29, 2025

Hon. Senator Ted Cruz, Chair,
Hon. Senator Maria Cantwell, Ranking Member,
U.S. Senate Committee on Commerce, Science and Transportation,
Washington, DC.

Dear Chair Cruz and Ranking Member Cantwell,

On behalf of the more than 11,000 Southwest Airlines pilots represented by the Southwest Airlines Pilots Association (SWAPA), I am writing to offer SWAPA's support for Captain John DeLeeuw's nomination to the National Transportation Safety Board (NTSB).

Captain DeLeeuw has extensive experience in the airline industry and has dedicated his life to aviation safety. His credentials and credibility make him exceptionally equipped for this vital safety role. I believe he is uniquely qualified as his work as an investigator and Managing Director of Safety for American Airlines and as the National Safety Chair for the Allied Pilots Association have allowed him to see first-hand the impact that the NTSB has on the safety and efficacy of the airline industry.

A veteran military and commercial pilot, he has led safety management initiatives and participated directly in accident investigations demonstrating both technical expertise and sound judgment under pressure. His practical understanding of aviation operations, analytical approach to risk management, and collaborative leadership will greatly benefit the NTSB's mission.

I respectfully ask that the Committee favorably consider Captain DeLeeuw's nomination. There are very few in the aviation industry who have the skillset, support, and credentials that John possesses. His service would greatly strengthen the Board and further the advancement of transportation safety across this great nation.

Sincerely,

CAPTAIN JODY REVEN,
President,
Southwest Airlines Pilots Association.

AIRLINES FOR AMERICA
October 28, 2025

Senator TED CRUZ,
Chairman,
Senate Commerce, Science, and
Transportation Committee,
Washington, DC.

Senator MARIA CANTWELL,
Ranking Member,
Senate Commerce, Science, and
Transportation Committee
Washington, DC.

Dear Chairman Cruz and Ranking Member Cantwell:

On behalf of the members of Airlines for America (A4A), I write in support of Captain John DeLeeuw's nomination to be a Member of the National Transportation Safety Board (NTSB).

The NTSB is a critical element of our Nation's aviation system and plays a key role in investigating accidents and making critical recommendations to enhance aviation safety. Members of the NTSB must have the experience and judgment to guide this important work, and Captain John DeLeeuw has these qualifications.

Captain DeLeeuw's decades of experience in the cockpit of both commercial and military aircraft provide him the technical expertise to support the ongoing work of the NTSB. Additionally, his current role as the Managing Director of Safety and Efficiency at American Airlines give him unique knowledge into the safety management systems in the real world.

Airlines work tirelessly to constantly improve their robust safety management systems, and safety is always the priority for each and every flight we operate. The NTSB would greatly benefit from Captain DeLeeuw's expertise, and he will make important contributions to enhance aviation's strong safety culture.

A4A supports Captain DeLeeuw's nomination and urges his swift confirmation.

Sincerely,

CHRISTOPHER T. SUNUNU,
President and CEO,
Airlines For America.

AMERICAN AIRLINES
Fort Worth, Texas, October 28, 2025

Senator TED CRUZ,
 Chairman,
 U.S. Senate Committee on Commerce,
 Science, and Transportation,
 Washington, DC

Senator MARIA CANTWELL,
 Ranking Member,
 U.S. Senate Committee on Commerce,
 Science, and Transportation,
 Washington, DC.

Dear Chairman Cruz and Ranking Member Cantwell:

On behalf of American Airlines and its 130,000 team members, I write in support of Captain John DeLeeuw's nomination to be a Member of the National Transportation Safety Board (NTSB).

The United States aviation system is the safest in the world and commercial aviation has long been the safest mode of transportation—two achievements made possible by the entire aviation ecosystem and importantly, the critical work and advocacy of the NTSB. The Board's role as chief investigator in aviation, highway, marine, rail, pipeline and hazardous materials transportation accidents requires impartial review, in-depth industry experience and an unwavering commitment to the safety of the traveling public and the United States.

Captain DeLeeuw has long been a champion of safety—in the aviation industry and for our Nation. As a United States Air Force pilot, he dedicated more than seven years while on active duty in defense of the American people. That custodial duty followed Captain DeLeeuw to American Airlines where he has not only maintained the safety of the skies while on the flight deck, but has led our airline and our global industry in pursuit of continuous improvement. Captain DeLeeuw's experience in routine airline operations and response to large-scale industry safety risks—including his industry-leading work following the tragic Boeing 737 MAX accidents—are critical attributes to advance the NTSB's mission of preventing future fatalities and serious injuries.

American's foundation—our north star—is safety. It is bolstered by a robust safety management system and a constant pursuit of protecting our team, customers and equipment. Captain DeLeeuw has played an invaluable role in further strengthening American's safety culture—a culture that is, ultimately, industry-agnostic. I am confident Captain DeLeeuw's safety leadership and experience will support the NTSB's multi-modal safety work.

American Airlines is proud to support Captain DeLeeuw's nomination and urges his swift confirmation.

Sincerely,

DAVID SEYMOUR,
Chief Operating Officer,
 American Airlines.

AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION
Washington, DC, November 3, 2025

Senator TED CRUZ, Chairman,
 Committee on Commerce, Science, and Transportation,
 Washington, DC.

Dear Chairman Cruz;

The American Short Line and Regional Railroad Association (ASLRRA) represents the Nation's 600 short line and regional railroads.

ASLRRA staff and our members regularly work collaboratively with the National Transportation Safety Board (NTSB) towards the shared goal of continuously improving safety across the rail network, benefitting employees, tens of thousands of shippers across the United States who depend on rail to be competitive, the communities where short lines serve, and the U.S. economy.

The ASLRRA supports the nomination of John DeLeeuw as an NTSB Board Member. His decades-long career of demonstrating attention to safety and leadership in elevating safety above competing priorities make him an ideal board member.

He understands what it takes to operate in both commercial and military combat environments, keeping safety at the forefront. His experience leading safety investigations and coordinated response at American Airlines includes working as the Party Coordinator for American Airlines when working with the NTSB on investigations. This deep experience in establishing practices that support safety culture and

safety performance and the procedures and protocols of managing an investigation will allow for Captain DeLeeuw to make an immediate impact at the NSTB.

We appreciate Mr. DeLeeuw's consistent and active engagement with the aviation industry. His experience with the Aviation Safety Action Program, which has similarities to the Federal Railroad Administration's Confidential Close Call Reporting (C 3 RS) program, will help him to understand short line railroad safety concerns and opportunities.

Sincerely,

CHUCK BAKER,
President,
ASLRRA.

FLIGHT SAFETY FOUNDATION
Alexandria, VA, Oct. 30, 2025

Hon. TED CRUZ,
Chairman, Committee on Commerce, Science, and Transportation,
United States Senate,
Washington, DC.

Hon. MARIA CANTWELL,
Ranking Member, Committee on Commerce, Science, and Transportation,
United States Senate,
Washington, DC.

Re: Letter of Support for the Nomination of Capt. John DeLeeuw to the National Transportation Safety Board

Dear Chairman Cruz, Ranking Member Cantwell, and Members of the Committee:

On behalf of Flight Safety Foundation, I am pleased to express strong support for the nomination of Capt. John DeLeeuw to serve as a Member of the National Transportation Safety Board (NTSB).

I have known and worked with Capt. DeLeeuw for the past seven years through numerous aviation safety initiatives. In his role as managing director of Safety & Efficiency and as a Boeing 787 captain at American Airlines, John leads a large, multidisciplinary team responsible for core safety management system (SMS) assurance programs—FOQA, ASAP, LOSA, fatigue risk management, and learning/improvement—integrated to deliver measurable safety performance. His career reflects a consistent pattern of data-driven analysis, just-culture advocacy, and practical implementation of solutions across complex airline operations.

Capt. DeLeeuw has actively engaged with Flight Safety Foundation's advisory and technical work over many years. For example, he contributed to the Foundation's In-Time Aviation Safety Management System (IASMS) research roadmap efforts and has shared best practices with the aviation community, including as a speaker at our International Aviation Safety Summit (IASS). In every setting, he has demonstrated technical depth, operational judgment, and the ability to build trust among labor, management, regulators, and manufacturers—qualities essential to the NTSB's fact-finding mission.

Importantly, John brings direct, relevant experience with major investigations and safety communications. He has served as American Airlines' party coordinator in NTSB investigations and understands both the rigor of the Board's process and the discipline required to separate advocacy from objective analysis. Combined with prior service as a U.S. Air Force C-130 evaluator and instructor pilot, his background equips him to approach complex investigations with independence, technical competence, and humility.

From my firsthand interactions, John is principled, transparent, and solutions oriented. He listens carefully, tests assumptions with data, and helps organizations translate lessons learned into sustained safety improvement. I am confident he will be a thoughtful and effective Member of the NTSB and a constructive colleague to the Board and staff.

For these reasons, I respectfully urge the Committee to support his nomination favorably.

Regards,

HASSAN SHAHIDI,
President and CEO.

ALLIED PILOTS ASSOCIATION
Fort Worth, TX, October 27, 2025

Hon. Senator TED CRUZ, Chair,
Hon. Senator MARIA CANTWELL, Ranking Member,
U.S. Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

Dear Chair Cruz and Ranking Member Cantwell,

On behalf of the 16,000 American Airlines pilots the Allied Pilots Association (APA) is honored to serve, I am writing to express APA's support for the nomination of Captain John DeLeeuw to serve on the National Transportation Safety Board (NTSB). Captain DeLeeuw brings an exceptional depth of experience and a decades-long commitment to aviation safety that make him superbly qualified for this critical role.

With a distinguished career in aviation and safety oversight, Captain DeLeeuw has demonstrated unwavering dedication to the principles of accident prevention, investigative integrity, and public service. His background includes experience as a military and commercial pilot, leadership in safety management systems, and direct involvement in accident investigations. These qualifications reflect his technical expertise and his ability to lead with clarity and compassion in high-stakes environments.

Captain DeLeeuw's insights into the operational realities of aviation, combined with his analytical approach to safety and risk management, will be a valuable complement to the NTSB's mission. His collaborative spirit and commitment to transparency further underscore his readiness to serve the American public in this capacity.

I respectfully urge the Committee to give full and favorable consideration to Captain DeLeeuw's nomination. His appointment would be an asset to the Board and to the continued advancement of transportation safety in the United States.

Thank you for your attention to this important matter.

Sincerely,

FIRST OFFICER NICK SILVA,
President,
Allied Pilots Association.

REGIONAL AIRLINE ASSOCIATION
Washington, DC, October 27, 2025

Senator TED CRUZ,
Chairman,
Senate Commerce, Science, and
Transportation Committee,
Washington, DC.

Senator MARIA CANTWELL,
Ranking Member,
Senate Commerce, Science, and
Transportation Committee,
Washington, DC.

Dear Chairman Cruz and Ranking Member Cantwell:

On behalf of the members of the Regional Airline Association (RAA), I write in support of Captain John DeLeeuw's nomination to be a Member of the National Transportation Safety Board (NTSB).

The NTSB plays a vital role in maintaining the high standard of safety found in our Nation's aviation system. The work they do is key to enhancing aviation safety and it is essential that the Board Members have industry knowledge and expertise to ensure that appropriate safety recommendations are made to improve our national airspace. Captain DeLeeuw's decades of experience on the flight deck of both commercial and military aircraft provide him with the technical expertise to enhance the ongoing work of the NTSB.

Captain DeLeeuw has dedicated the majority of his career to improving aviation safety and increasing the adoption of a positive safety culture in aviation. His current role as the Managing Director of Safety and Efficiency at American Airlines provides him a unique insight into the safety management systems of the aviation industry and how all the operations of an airline, and the broader aerospace community, contribute to the safety of the National Airspace System.

Regional carriers are proud of our robust safety management systems and safety is always the priority for each and every flight we operate. Captain DeLeeuw would provide first-hand knowledge of our industry's strong safety culture and be an asset to the multi-modal safety work of the Board.

RAA is proud to support Captain DeLeeuw's nomination and urge his swift confirmation.

Sincerely,

FAYE MALARKEY BLACK,
President & CEO
Regional Airline Association.

AMSTED DIGITAL SOLUTIONS
West Chester, PA, Monday, January 27, 2025

Mr. SERGIO GOR,
Assistance to the President,
Office of Presidential Personnel,
The White House.

Re: Recommendation Letter—Mr. Richard J. Kloster

Mr. Gor,

I am writing to wholeheartedly recommend Mr. Richard J. Kloster for a board seat position on the Surface Transportation Board. Having had the privilege of working with Richard in various capacities throughout my 31 years in the freight railroad industry, I can confidently attest to his exceptional qualifications, deep industry knowledge, and unwavering commitment to the betterment of rail transportation.

Richard brings a wealth of professional experience that spans multiple facets of the freight rail sector. Early in his career, he gained hands-on insight into the operational challenges that rail operators face daily, providing him with a grounded understanding of the industry's complexities. His tenure at GE Railcar Leasing, one of the leading freight railcar leasing companies of its time, expanded his expertise and honed his ability to bridge the gap between rail network operations and the needs of railcar asset users. Over the past several years, Richard has become a recognized leader whose insights and research are sought after by stakeholders across the rail industry's ecosystem. His ability to assess strategic initiatives and offer actionable recommendations has been instrumental to numerous organizations navigating the evolving transportation landscape. On a personal level, Richard exemplifies humility, intellectual curiosity, and a genuine desire to help others succeed. His collaborative approach and forward-thinking perspective have fostered partnerships across the industry, uniting diverse stakeholders toward shared goals. He views the rail industry as a collective endeavor, emphasizing cooperation and innovation to advance its mission.

Given Richard's extensive experience, strategic mindset, and balanced perspective, I am confident he would be an invaluable asset to the Surface Transportation Board. His ability to approach regulatory challenges with impartiality, coupled with his unwavering commitment to ensuring the growth, safety, and efficiency of the freight rail sector, makes him uniquely qualified for this role.

Thank you for considering my recommendation. Please feel free to contact me at 214.707.3107 or bmyers@amstedrail.com if you require further information or wish to discuss Richard's candidacy in greater detail.

Sincerely,

BRAD A. MYERS,
EVP & Chief Operating Officer,
Amsted Digital Solutions Inc., an Amsted Rail company.

SOUTHWEST AIRLINES
Dallas, TX, November 3, 2025

Hon. TED CRUZ,
Chair,
Committee on Commerce, Science, and
Transportation,
United States Senate,
Washington, DC.

Hon. MARIA CANTWELL,
Ranking Member,
Committee on Commerce, Science, and
Transportation,
United States Senate,
Washington, DC.

Dear Chairman Cruz and Ranking Member Cantwell,

On behalf of Southwest Airlines, I am glad to express support for the nomination of John DeLeeuw to serve on the National Transportation Safety Board (NTSB).

As a leader in aviation safety with a history of service to the country, Mr. DeLeeuw is prepared to fill this critical role and help ensure that aviation remains the safest mode of transportation. Mr. DeLeeuw's strong record includes years of leadership and service as a pilot in the United States Air Force followed by decades as a Captain at American Airlines, including time as the Managing Director for Safety. John is a strong safety advocate who works openly and collaboratively with all stakeholders to continuously improve Safety across our industry.

We are glad to join NTSB Chair Jennifer Homendy and other aviation stakeholders in expressing our view that Mr. DeLeeuw will be an excellent addition to the NTSB, and we encourage the Senate to quickly to fill this important position.

Respectfully,

CAPT. DAVE HUNT.

LIVONIA, AVON & LAKEVILLE RAILROAD CORP.
Lakeville, NY, October 23, 2025

To whom it may concern,

I am writing in support of the nomination of Richard (Dick) Kloster to become a member of the Surface Transportation Board. Over the past 30 years Dick has established himself as a leader and expert in the Railroad Industry and has served in high-level corporate positions and on various transportation related boards and trade associations.

Dick brings a wide range of experience that will be a great asset to the STB. Starting out as railroad field employee, Dick has literally worked his way through all facets of the industry and has acquired a unique knowledge base that is extremely rare in the industry. Dick brings expertise in railroad operations, railcar fleet management, equipment leasing, and strategic planning. His strengths in market research, financial planning, and supply chain management will be very useful in addressing the issues that are presented to the Board.

With the range of issues currently before the Board—and the likelihood of additional filings ahead—it's clear that experience will be essential to navigating what's next. Dick's strong background, respected industry reputation, and genuine passion for the railroad sector make him exceptionally well-suited to contribute as an effective and valued Board member.

I've known Dick personally for close to 20 years. I've leaned on him the entire time for help and advice. His vast knowledge and huge network of contacts have been invaluable to me.

Thank you for your time and consideration. Please don't hesitate to reach out if you have any additional questions or need further information.

Sincerely,

BOB BABCOCK,
President/CEO,
 Livonia, Avon & Lakeville Railroads.

HIGHROAD CONSULTING, LTD.
Highland, Indiana, October 28, 2025

Hon. TED CRUZ,
 Chair,
 Senate Commerce, Science and
 Transportation Committee
 U.S. Senate
 Washington, DC.
 ATTN:
Sean_Brebbia@commerce.senate.gov
 Chief Counsel for Oversight and
 Investigations
Ryan_Cannon@commerce.senate.gov
 Coalitions and Member Services Advisor

Hon. MARIA CANTWELL,
 Ranking Member,
 Senate Commerce, Science and
 Transportation Committee
 U.S. Senate
 Washington, D.C. 20510
 ATTN:
Michael_Davisson@commerce.senate.gov
 Professional Staff Member

Dear Chairman Cruz and Ranking Member Cantwell:

I am writing to endorse Richard Kloster's appointment to the U.S. Surface Transportation Board. I have personally known Mr. Kloster for more than thirty years, and can attest to his academic background, his character, and the potential contribution he will make at the Board.

Richard worked for me in an entry level marketing position at Chicago & North Western. He later resigned to return to the University of Alabama to pursue a Master's degree. He subsequently returned to North Western as a Market Manager in a different business unit. Richard has acquired impressive experience and knowledge since leaving the railroad; he gained new insight during his term with GE Railcar, which seemed to propel him forward, earning him recognition as the Number One industry expert in Rail car rules, policies, utilization, and acquisition of equipment.

Knowing Richard, I believe it likely that he is not done yet, because he has the passion for problem solving, always wanting to know more. I have always known Richard to use a pragmatic approach when making business decisions, and I submit he will make a positive contribution when working with STB Chairman Fuchs and the other Board members.

Thank you for considering this endorsement of Richard Kloster, and please feel free to contact me if you require additional information.

Sincerely,

SANDRA J. DEARDEN,
President.

THE GREENBRIER COMPANIES
Lake Oswego, Oregon, October 30, 2025

Hon. TED CRUZ,
Chairman,
U.S. Senate Committee on Commerce,
Science, and Transportation,
Washington, DC.

Hon. MARIA CANTWELL,
Ranking Member,
U.S. Senate Committee on Commerce,
Science, and Transportation,
Washington, DC.

Re: Nomination of Richard J. Kloster to the Surface Transportation Board

Dear Chairman Cruz and Ranking Member Cantwell:

I am pleased to recommend Richard (Dick) Kloster for a position on the Surface Transportation Board. With over 20 years of experience in the rail industry, Dick has built a strong reputation as a knowledgeable consultant, especially in his work with shippers, supply chain organizations, and shortline railroads. His extensive background uniquely equips him to offer valuable insights and solutions to the Board.

Throughout his career, Dick has shown a steadfast commitment to improving the efficiency and effectiveness of rail transportation. As an industry consultant, he has worked directly with various stakeholders, including railroads, shippers, and supply chain companies. In doing so, he has successfully navigated complex challenges to achieve mutually beneficial outcomes. This hands-on experience has provided him with a thorough understanding of the dynamics within the rail industry and the factors that influence its operations.

His active involvement in key industry associations, such as the National Industrial Transportation League (NITL) and the Railway Supply Institute (RSI), highlights his dedication to the field. His leadership within these organizations demonstrates his ability to collaborate with a diverse group of professionals, reflecting his commitment to fostering dialogue and cooperation throughout the industry.

Dick's expertise in supply chain management and his deep understanding of the regulatory environment makes him an ideal candidate for the Surface Transportation Board. He possesses a unique ability to balance the needs of various stakeholders while advocating for policies that promote innovation and sustainability within the rail industry. His analytical skills and strategic mindset will be invaluable as the Board addresses the ongoing challenges and opportunities facing the transportation sector.

Dick is an exceptional candidate for the Surface Transportation Board. His appointment would greatly benefit the Board and significantly contribute to the ongoing advancement of the rail industry. I wholeheartedly endorse his candidacy and am confident that he will bring the same level of dedication and expertise to this role as he has demonstrated throughout his career.

Thank you for your consideration. Should you require any further information or wish to discuss his qualifications in more detail, please feel free to contact me at your convenience.

Sincerely

JACK ISSELMANN,
Senior Vice President, External Affairs and Communications,
Past Chairman,
 Railway Supply Institute.

PACKAGING CORPORATION OF AMERICA
Lake Forest, IL, February 2, 2025

SERGIO GOR,
 Assistant to the President, Office of Presidential Personnel,
 The White House,
 Washington, DC.

Dear Mr. Gor:

I am writing you today in regard to the open seat on the Surface Transportation Board (STB). I am Vice President of Transportation for Packaging Corporation of America (PCA), the Country's third largest producer of corrugated container products, and third largest producer of office and printing papers. PCA operate 8 paper mills and 95 box plants and we have business relationships with all of the Class I railroads and many of the short line railroads that operate in the United States.

In addition to my responsibility with PCA, I currently serve as Chair on the STB's RSTAC Committee, Chair of the National Industrial Transportation League, and a Board Member of the National Freight Transportation Association. In the case of this letter, however, I am weighing in solely in my capacity at Packaging Corporation of America.

I understand Mr. Richard (Dick) Kloster is on the short list of candidates to fill the STB seat. I want you to know that he has my full support. Over his decades of surface transportation experience, Dick has accumulated a blend of rail (Class I, Regional and Short lines), shipper and supply chain consultancy experiences. He has earned a place in my professional circle as someone I can bounce ideas off and know I'm getting a thoughtful reply based on his vast history and experience. He and I have had many deep conversations about supply chain management, and I consider him to be an expert in supply chains that rely on rail. I am convinced Dick will serve the STB and the Nation's Shippers/Supply Chains with the same distinction and integrity that I have experienced with him.

Please feel free to reach out to me should you require more feedback. Thank you for your service to the Nation.

Sincerely,

ROSS CORTHELL,
Vice President—Transportation.

MODERN RAIL CAPITAL
Chicago, IL, October 29, 2025

Hon. TED CRUZ, Chairman,
 Senate Committee on Commerce, Science, and Transportation,
 Washington, DC.

Dear Chairman Cruz and Members of Committee,

I am writing to express my support for the nomination of Richard Kloster to serve as a Member of the Surface Transportation Board (STB). Dick's extensive experience in the freight rail industry, his deep understanding of transportation economics, and his commitment to balanced, data-driven policy makes him well-qualified for this critical role.

Dick brings over three decades of experience in the rail sector, including his current leadership at Integrity Rail Partners, his prior service on the board of the Railway Supply Institute, railcar leasing experience at GE Rail, and railroad experience with Chicago Northwestern Railroad. His work has consistently demonstrated a deep knowledge of the complex interplay between rail carriers, shippers, equipment owners, and regulators. He is well respected for his analytical rigor, collaborative

approach, and focus on improving the efficiency and fairness of the U.S. freight rail system.

At a time when the STB faces critical decisions, including oversight of major rail mergers, service performance, and infrastructure investment, Dick's appointment would ensure the Board benefits from a seasoned voice with both strategic insight and operational expertise. His nomination comes at a pivotal moment, and I am confident he will serve with distinction and integrity.

I urge the Committee to advance Dick's nomination swiftly and favorably. His leadership will be an asset not only to the Board but to the broader transportation community and the national economy it supports.

Thank you for your consideration.

Sincerely,

KEVIN COOK,
President,
Modern Rail Capital.

Cc: Sean_Brebbia@commerce.senate.gov
Ryan_Cannon@commerce.senate.gov
Janie.Sheng@stb.gov

PRIVATE RAILCAR FOOD AND BEVERAGE ASSOCIATION
October 31, 2025

VIA EMAIL

Hon. JOHN THUNE,
Senate Majority Leader,
U.S. Senate,
Washington, DC.

Hon. TED CRUZ,
Chair,
Senate Commerce, Science, and
Transportation Committee,
U.S. Senate,
Washington, DC.

Hon. TODD YOUNG,
Chair,
Surface Transportation, Freight,
Pipelines and Safety Subcommittee,
U.S. Senate,
Senate Commerce, Science, and
Transportation Committee,
Washington, D.C.

Hon. CHUCK SCHUMER,
Senate Minority Leader,
U.S. Senate,
Washington, DC.

Hon. MARIA CANTWELL,
Ranking Member,
Senate Commerce, Science, and
Transportation Committee,
U.S. Senate,
Washington, DC.

Hon. GARY PETERS,
Ranking Member,
Surface Transportation, Freight,
Pipelines and Safety Subcommittee,
U.S. Senate,
Senate Commerce, Science, and
Transportation Committee,
Washington, DC.

Dear Senators Thune, Schumer, Cruz, Cantwell, Young, and Peters:

The Private Railcar Food and Beverage Association (*PRFBA*) thanks you for considering the nominations of Vice Chair Michelle A. Schultz (R) of Pennsylvania and Mr. Richard Kloster (R) of West Virginia to serve as Members of the Surface Transportation Board (STB or Board).

PRFBA is comprised of numerous global food and beverage companies headquartered in North America who generated an estimated \$150 billion in revenues in 2024. All are major rail shippers that 1) own or lease their own railcars and 2) rely on the railroads to produce and distribute their food and beverage products that are vital to the health and welfare of our Nation and essential to feeding its citizens. Without adequate rail service, their food and beverages will not be on American store shelves.

Our country's ever-growing reliance on freight rail commands the Board to provide necessary and effective oversight, especially considering only four Class I railroads control 90 percent of our Nation's freight rail traffic. Freight rail is a vital component of our Nation's economy—it enhances the growth of our economy and our global competitiveness.

PRFBA welcomes the nomination of Member Schultz, the Board's current Vice Chairman, to serve a second term expiring November 30, 2030. Her continued leadership on the Board will help ensure continuity as the Board addresses longstanding proceedings such as Commodity Exemption and First-Mile/Last where the latter is expected to be incorporated in a more comprehensive data modernization initiative to include (1) eliminating unneeded data collections, (2) strengthening mission crit-

ical collections, (3) streamlining filing and automating processes, and (4) improving data visualization.

PRFBA appreciates the nomination of Mr. Kloster to serve as Member of the STB for a term expiring December 31, 2028. Mr. Kloster will provide his more than three decades' direct experience working with railroads, rail suppliers, and shippers. He will offer not just diverse rail industry expertise to the Board but also his unique business perspectives geared towards solving problems. Also, Mr. Kloster's varied background will allow him to become familiar with the issues before the STB fairly quickly—matters that involve the most substantive issues of great importance to the Board, shippers, railroads, and the general public. They are technical, complex, and challenging, requiring resolution to reflect today's market conditions and freight rail demands.

PRFBA looks forward to the continued leadership of Vice Chair Schultz and the service of Mr. Kloster as the Board faces a potential merger between two Class I carriers—under new merger rules that have never been tested before—in an already consolidated market environment.

PRFBA views Vice Chair Schultz and Mr. Kloster as appropriate nominees to serve as Members of the STB and welcomes their swift confirmation.

Thank you for your consideration, and continued leadership and commitment in ensuring the continuity of a full complement of Members to the Board at this most critical time.

Sincerely yours,

HERMAN HAKSTEEN,
President,

Private Railcar Food and Beverage Association.

cc: Members of the Senate Commerce, Science, and Transportation Committee

NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE
Dunkirk, MD, October 31, 2025

VIA EMAIL

Hon. JOHN THUNE,
Senate Majority Leader,
U.S. Senate,
Washington, DC.

Hon. TED CRUZ,
Chair,
Senate Commerce, Science, and
Transportation Committee,
U.S. Senate,
Washington, DC.

Hon. TODD YOUNG,
Chair,
Surface Transportation, Freight,
Pipelines and Safety Subcommittee,
U.S. Senate,
Senate Commerce, Science, and
Transportation Committee,
Washington, D.C.

Hon. CHUCK SCHUMER,
Senate Minority Leader,
U.S. Senate,
Washington, DC.

Hon. MARIA CANTWELL,
Ranking Member,
Senate Commerce, Science, and
Transportation Committee,
U.S. Senate,
Washington, DC.

Hon. GARY PETERS,
Ranking Member,
Surface Transportation, Freight,
Pipelines and Safety Subcommittee,
U.S. Senate,
Senate Commerce, Science, and
Transportation Committee,
Washington, DC.

Dear Senators Thune, Schumer, Cruz, Cantwell, Young, and Peters:

The National Industrial Transportation League (*NITL* or “The League”) thanks you for considering the nominations of Vice Chair Michelle A. Schultz (R) of Pennsylvania and Mr. Richard Koster (R) of West Virginia to serve as Members of the Surface Transportation Board (STB or Board).

NITL was founded in 1907. Its member companies range from some of the largest users of the Nation's transportation systems to smaller companies engaged in the shipment and receipt of goods—spending billions of dollars on freight annually. The League is the “voice of the shipper” on freight transportation policy matters involving all modes. The League members move a variety of commodities via rail including agriculture, chemicals, steel, scrap, paper/pulp/forest, retail, and fuel products. NITL members require reliable and cost-effective freight rail transportation services to meet their production and customers' requirements.

Our country's ever-growing reliance on freight rail requires the Board to provide necessary and effective oversight, especially considering only four Class I railroads control 90 percent of our Nation's freight rail traffic. Freight rail is a vital component of our Nation's economy—it enhances the growth of our economy and our global competitiveness.

NITL welcomes the nomination of Member Schultz, the Board's current Vice Chair, to serve a second term expiring November 30, 2030. Her continued leadership on the Board will help ensure continuity as the Board addresses longstanding proceedings such as Commodity Exemption and First-Mile/Last where the latter is expected to be incorporated in a more comprehensive data modernization initiative to include (1) eliminating unneeded data collections, (2) strengthening mission critical collections, (3) streamlining filing and automating processes, and (4) improving data visualization.

The League appreciates the nomination of Mr. Kloster to serve as Member of the STB for a term expiring December 31, 2028. NITL and its members have worked with Mr. Kloster during his more than three decades' direct experience working with railroads, rail suppliers, and shippers. He will provide not just varied rail industry expertise to the Board but also his unique business perspectives geared towards problem solving. His varied background will allow him to become familiar with the issues before the STB quickly—matters that involve the most substantive issues of significant importance to the Board, shippers, railroads, and the public.

They are technical, complex, and challenging, requiring resolution to reflect today's market conditions and freight rail demands.

NITL looks forward to the continued leadership of Vice Chair Schultz and the service of Mr. Kloster as the Board faces a potential merger between two Class I carriers—under new merger rules that have never been tested before—in an already consolidated market environment, with the continued use of Precision Scheduled Railroad.

NITL views Vice Chair Schultz and Mr. Kloster as appropriate nominees to serve as Members of the STB and welcomes their swift confirmation.

Thank you for your consideration, and continued leadership and commitment in ensuring the continuity of a full complement of Members to the Board at this most critical time.

Sincerely yours,

E. NANCY O'LEDDY,
Executive Director,

National Industrial Transportation League.

cc: Members of the Senate Commerce, Science, and Transportation Committee

February 5, 2025

Mr. Sergio Gor
Assistant to the President
Office of Presidential Personnel
The White House

Dear Mr. Gor:

I am writing to express my personal support for Richard (Dick) Kloster as a candidate for a role on the Surface Transportation Board (STB).

It has been my immense pleasure to have known Dick for nearly 30 years—initially working together at GE Capital Railcar Services and later and to this day, collaborating with him on a range of industry issues and initiatives.

Dick brings a wealth of knowledge and experience to the table. His service as a long-time NIT League board member and years as a 'go to' industry advisor highlights his commitment, credibility and deep understanding of the dynamics around serving the shipper community. He is a well-respected professional with keen insights that would benefit the shipper community and promote safety, improved service, and enhanced technology usage in rail transportation.

In my roles as President, CIT Rail and Chairman and currently Past Chairman, Railway Supply Institute—I understand the importance of having well qualified, committed professionals on the STB and I'm confident Dick would be an outstanding board member.

Thanks in advance for your consideration and kindly let me know if I can be of any further assistance.

Sincerely,

JEFFREY T. LYTLE.

RAILROAD DEVELOPMENT CORPORATION
Pittsburgh, Pennsylvania, October 30, 2025

Hon. SAM BREBBIA, Chief Counsel,
 Hon. RYAN CANNON, Coalitions and Member Services Advisor,
 Senate Commerce, Science, and Transportation Committee,
 Washington, DC.

Gentlemen,

Please accept this as a letter of recommendation for the appointment of my railway colleague Richard Kloster to the Surface Transportation Board.

As background I have known him in my capacity as both Chairman of Railroad Development Corporation (www.rrdc.com), a Pittsburgh-based family owned international railway investment and management company, and the Iowa Interstate Railroad ("IAIS", www.iaisrr.com), a Class 2 railroad operating between Chicago and Peoria in the east and Council Bluffs in the west. The significance of IAIS in this case is that we connect with each of the USA's Class 1 railroads and thus have interaction with STB-regulated companies on a constant basis.

As additional background, I teach an undergrad course on rail deregulation at Carnegie Mellon University, having spent my life in the industry and being involved in not only railroading in North America but also railway businesses in Latin America, Africa and Europe.

Finally, I am well aware of the STB's mission having served as Co-chair of its Passenger Rail Advisory Committee for the last year.

All of the above is not to brag but rather confirm that I am well positioned to recommend Mr. Kloster, because of his own background.

To be specific, he is both analytical and broad based, the best evidence of that being the diversity of his industry roles over the years ranging from statistical analysis of railcar fleets to representing multinationals and investors in the domestic marketplace. And his respect at the industry level includes an annual role in Railtrends, the top industry event for rail finance.

More specifically, Mr. Kloster is well aware of the role that railroads like IAIS play in the global marketplace and has among other things brought international investors to see us, thus facilitating not only commerce but finance.

I would be pleased to provide additional perspective on his fitness for the job, and to the extent that there is interest in a follow-up conversation with anyone related to his appointment I would be more than happy to oblige in anticipation of Mr. Kloster's confirmation, and this next chapter in his service to the Nation.

Sincerely,

HERNY POSNER III.

cc: Hon. Jamie Sheng, Director, OPACAC, STB Mr. Richard Kloster

TRINITY INDUSTRIES
Dallas, Texas, November 3, 2025

Hon. TED CRUZ,
 Chairman,
 U.S. Senate Committee on Commerce,
 Science, and Transportation,
 Washington, DC

Hon. MARIA CANTWELL,
 Ranking Member,
 U.S. Senate Committee on Commerce,
 Science, and Transportation,
 Washington, DC

Re: Nomination of Richard J. Kloster to the Surface Transportation Board

Dear Chairman Cruz and Ranking Member Cantwell:

As the Senate Committee on Commerce, Science, & Transportation prepares to hold a confirmation hearing for Richard J. Kloster to serve as a member of the Surface Transportation Board (STB), Trinity Industries, Inc. ("Trinity") appreciates the opportunity to express its strong support for Mr. Kloster's nomination and urges the committee to swiftly advance Mr. Kloster for full Senate consideration.

Trinity is a proud, publicly-held U.S. provider of railcar products and services in North America, with a leading railcar lease fleet and manufacturing, maintenance, and repair operations. With an owned and managed fleet of approximately 144,000 railcars, the Trinity platform plays a critical role in the North American supply chain, and the country's national security. Trinity supports the U.S. market with a footprint of 2,978 U.S. employees across 42 U.S. locations, including its Dallas, Texas headquarters; its production facility in Longview, Texas; its maintenance and repair facilities in Saginaw and Fort Worth, Texas; Shell Rock, Iowa; Jonesboro, Ar-

kansas; and Caltersville, Georgia; and its rail logistics and services facilities in Florida, Georgia, Maryland, Michigan, North and South Carolina, Texas, and Virginia, among others.

Mr. Kloster has extensive experience across the U.S. freight rail ecosystem. He has demonstrated great leadership in the railway supply industry and his deep understanding of the complexities of the rail network make him an excellent choice for this crucial role as a member of the STB. He has experience working for Class 1 and short line railroads, a rail car lessor, a rail car fleet management service provider, and a transportation economic forecasting and consulting firm. He also holds several patents for rail car design innovations. His knowledge and background make him an eminently qualified nominee to the STB.

Mr. Kloster will bring a unique, balanced, and knowledgeable perspective to the STB, and his insights into all segments of the rail industry will be invaluable in shaping the future of freight rail in America. Again, Trinity strongly supports Mr. Kloster's nomination and appreciates your consideration in supporting his nomination.

Sincerely,

JACK L. TODD,
Vice President, Public Affairs,
Trinity Industries, Inc.

November 3, 2025

Hon. TED CRUZ ,
Chairman,
Committee on Commerce, Science, and
Transportation,
U.S. Senate
Washington, DC.

Hon. MARIA CANTWELL,
Ranking Member,
Committee on Commerce, Science, and
Transportation,
U.S. Senate,
Washington, DC.

Dear Chairman Cruz and Ranking Member Cantwell:

The undersigned groups representing agricultural producers and agribusinesses strongly endorse and respectfully urge you to confirm Michelle Schultz for another term at the Surface Transportation Board (STB) and Richard Kloster for a first term.

The STB provides oversight of the freight rail marketplace, and STB Vice Chairman Schultz understands its vital role having been a board member for almost five years and overseeing the rail industry's recovery from very rough rail service conditions. As the Board considers a proposal for the largest rail merger in history, her deep understanding of STB services in the American Supply chain will be a great resource.

We are impressed by the extensive rail industry experience of Mr. Kloster, who founded Integrity Rail Partners Inc., a private transportation consulting company. Prior roles include Senior Vice President and Chief Commercial Officer for Alltranzek, Senior Consultant on freight transportation for FTR, President of Advanced Rail Equipment Solutions and partner for Northern American Transport Solutions. He also has served on the boards of the National Industrial Transportation League and the Railway Supply Institute.

Given the important matters pending at the STB, we urge swift movement to confirm Michelle Schultz for a second term at the STB and Richard Kloster to a first term.

Sincerely,

Agricultural Retailers Association
American Cotton Shippers Association
American Feed Industry Association
AmericanHort
American Malting Barley Association
American Seed Trade Association
American Soybean Association
International Fresh Produce Association
National Association of Wheat Growers
National Cotton Council
National Council of Farmer Cooperatives
National Grain and Feed Association
National Milk Producers Federation
North American Millers' Association

Pet Food Institute
The Fertilizer Institute
USA Rice
U.S. Rice Producers Association

Cc: Committee on Commerce, Science & Transportation
The Honorable John Thune, Majority Leader, U.S. Senate
The Honorable Chuck Schumer, Minority Leader, U.S. Senate

WATCO COMPANIES, LLC
Pittsburg, Kansas

Sergio Gor
Assistant to the President
Office of Presidential Personnel
The White House

Dear Mr. Gor,

Please allow me to introduce myself, my name is Rick Webb, and I am the Executive Chairman of Watco Companies, LLC. Watco is a full-service supply chain solutions company focusing on freight rail services. In addition to rail services, we provide transloading, terminal and port, and logistics services. Our privately owned company is based in Kansas, but we currently have nearly 5,000 team members serving thousands of Customers throughout North America and Australia.

I write this letter in wholehearted support of having Mr. Richard J. Kloster fill the open Board Member position at the Surface Transportation Board. Mr. Kloster and I started in the rail industry in the early 1980s so we have known and collaborated with each other for decades. I can state without hesitation or reservation that Mr. Kloster is someone that knows the rail industry very well having worked in just about every aspect of it and is known for his sharp intellect and fair-mindedness when doing business.

Mr. Kloster's experience gives him a unique perspective on how the rail industry works and more importantly how it is supposed to work for the benefit of all stakeholders. Having worked for a Class 1 railroad, a shortline railroad, for several service providers and on behalf of many Customers/Shippers puts Mr. Kloster in the best position possible to know and understand the needs from all perspectives and to determine the most appropriate economic and fair solution for all parties.

If the task is to find an STB Board Member who has professional standing and business experience with demonstrated knowledge in transportation, transportation regulation and economic regulation then, in my opinion, one could not find a more qualified and capable candidate than Richard J. Kloster.

Best of luck with this process and let me know if you need further information or discussion as the decision for the next Surface Transportation Board Member is being made.

Sincerely,

RICK WEBB,
Executive Chairman.

The CHAIRMAN. Senators will have until the close of business on November 10 to submit questions for the record. The nominees will have until the close of business on November 13 to respond to those questions.

That concludes today's hearing. The Committee stands adjourned.

[Whereupon, at 11:16 p.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
JOHN F. DELEEUEW

Alvin Brown Firing. During an interview with my staff on October 31, 2025, you were asked whether you would step aside without delay if the courts ruled in favor of Vice Chair Alvin Brown in his pending lawsuit challenging his unlawful removal from the NTSB. During your hearing, you were asked the same question. In response, you testified that you had “not considered or thought about” what you would do in such a situation.

Question 1. You have now had ample time to consider this very important question. If the courts rule in favor of Vice Chair Brown and direct him to be reinstated, will you commit to stepping aside swiftly?

Answer. I would consult with legal counsel and comply with all court orders.

American Airlines Recusal. You have a long history working for American Airlines, spending at least 33 years flying for the airline, including serving as American’s Managing Director for Safety and Efficiency.

Although American Airlines is not a formal party to the January 29, 2025, Ronald Reagan Washington National Airport (DCA) mid-air collision investigation, PSA Airlines—the regional carrier involved in the crash—is a wholly owned subsidiary of American.

Question 1. Given your relationship with American Airlines, do you intend to recuse yourself from this NTSB investigation if confirmed?

Answer. Yes.

Question 2. Given your employment at American, do you commit to recusing yourself from all matters before the NTSB involving American Airlines and its subsidiaries?

Answer. If confirmed, I will follow all applicable ethics laws and obligations, including recusal requirements. I will consult with NTSB ethics officials to ensure that any necessary recusals are handled appropriately.

Question 3. Do you commit to consulting with NTSB’s General Counsel to ensure there are no conflicts of interest before participating in Board matters involving American Airlines or its subsidiaries?

Answer. Yes.

Strong ADS-B In Performance Standard. It’s crucial for the safety of the flying public that aviation operators, especially the commercial passenger fleet—which moves over 2 million passengers each day, is equipped with ADS-B In technology, and not alternatives that don’t deliver on safety.

Importantly, not every type of ADS-B In performs the same way and delivers the same benefits. That’s why our bipartisan DCA safety legislation requires ADS-B In that boosts situational awareness for pilots and delivers real-time traffic advisories and alerts to ensure a robust additional layer of safety on the flight deck.

Question 1. What are the benefits of pilots having ADS-B In that is integrated with avionics on the flight deck?

Answer. ADS-B In, unlike other means to identify traffic information, (TCAS Advisories), offer the pilot the ability to see all the traffic information around them before the traffic becomes a threat to the crew.

Question 2. How would ensuring a clear compliance date for operators to equip with ADS-B In help advance safety in our aviation system?

Answer. I strongly support a deadline for ADS-B In implementation. Without a date, there could be delays equipping resulting in a degradation in safety that could have been achieved earlier.

Question 3. Do you agree that ADS-B In provides pilots with better situational awareness at lower altitudes where Traffic Alert and Collision Avoidance System (TCAS) does not activate?

Answer. Yes. Pilots would have ability to reference the traffic around them and the improved situational awareness would lead to an awareness of threats.

Question 4. Do you support our efforts to ensure FAA is moving forward with plans to certify advanced technologies that will be able to deliver stronger safety benefits than TCAS?

Answer. Yes, I believe ADS-B In provides additional safety enhancements and at American Airlines, our pilots have verified the safety benefits provided by our ADS-B In equipage. Offering airlines the ability to use the technology to not only improve safety but use the technology to improve airspace throughput, turns this mandate into a win/win for the National Airspace System.

Independent Agencies. I am deeply concerned about this Administration's illegal firings at independent agencies—and its blanket refusal to nominate a Democrat to any independent Board or Commission. President Trump has illegally fired over 25 Members from independent Boards and Commissions this year, including at the NTSB. Meanwhile, nearly ten months into this Administration, the White House has not nominated any member of the opposite party to any independent Board or Commission.

Question 1. Do you believe in the importance of bipartisanship on independent Boards and Commissions?

Answer. Yes.

Question 2. Do you support having a fully staffed NTSB, which includes Members of the opposite political party?

Answer. Yes.

Question 3. If the President or anyone else in this Administration threatened to fire you unless you took an action you disagreed with, would you refuse?

Answer. I do not believe the President would make such a threat; if so confirmed, I pledge to follow the law.

Rail Safety/Surface Transportation Reauthorization. Last year, there were 37 train derailments in the state of Washington. Captain DeLeeuw, if confirmed you will have to respond to tragedies in many different modes of transportation. On February 3, 2023, we saw one of those tragedies with the preventable train derailment in East Palestine, Ohio. NTSB made 34 new recommendations after its investigation.

Last Congress, Senators Brown, Fetterman, Casey, and then-Senator Vance introduced the Railway Safety Act that would implement a number of those recommendations.

Question 1. If confirmed do you commit to reviewing those 34 recommendations and working with Congress to include comprehensive rail safety reforms in the upcoming surface transportation reauthorization?

Answer. Yes, if confirmed, I will work with the Chairwoman of the NTSB to advocate for implementation of the rail safety recommendations.

Roadway Safety. The NTSB is responsible for investigating significant highway crashes in the United States. We are currently facing a concerning roadway safety trend. In the state of Washington, 2023 was the worst year for traffic deaths since 1990. And last year, 730 people died in crashes on our roads.

Question 1. How do you believe we can reverse our worsening roadway safety record and save lives on our roads?

Answer. I believe education to all drivers about the dangers of impairment, distraction, and excess speed, and advocating for the adoption of current NTSB Safety Recommendations to be implemented, will help to reverse the trend.

Question 2. The NTSB has 198 open recommendations to Department of Transportation on highway safety matters. What do you believe are the most important recommendations the board has made to address roadway safety?

Answer. Safety recommendations focusing on reducing speeding, impaired driving, and distracted driving by improving driver behavior through education and technology. These recommendations include the mandatory use of intelligent speed assistance systems, passive alcohol detection systems, and advanced driver-assistance technologies.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. AMY KLOBUCHAR TO
JOHN F. DELEEUEW

Aviation Safety. Americans deserve safe and dependable air travel, and no one should have to second guess whether their loved one will make it safely to their des-

mination. In your testimony you mentioned the importance of implementing National Transportation Safety Board recommendations to improve safety.

- Which open NTSB recommendations do you believe are especially important for improving aviation safety?

Answer. Require ADS-B In (with a deadline), improve general aviation safety, and implementation of Safety Management Systems (SMS) for all revenue passenger-carrying operations.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. TAMMY BALDWIN TO
JOHN F. DELEEUEW

Question 1. In August, a CPKC train derailed in Dodge County, Wisconsin. This is the second derailment in the exact same location in two years. It raises serious questions about the reliability of this stretch of rail infrastructure and poses safety concerns for the Reeseville community. The NTSB is leading an ongoing investigation into the derailment. If confirmed, will you commit to thoroughly investigating this derailment and providing safety recommendations?

Answer. Yes.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TED CRUZ TO
RICHARD J. KLOSTER

Question 1. The Office of Management and Budget (OMB) is the Federal agency responsible, in part, for budget and personnel decisions across the executive branch. Recently, OMB sent a message to Federal employees, including members of the Surface Transportation Board (STB), providing funding and personnel guidance in the wake of the government shutdown. STB leadership forwarded the contents of this message to STB employees. Do you agree that merely forwarding a message from OMB about the government shutdown does not weaken STB's impartiality and ability to decide matters before it in compliance with relevant laws?

Answer. Yes, I agree that this does not affect the STB's impartiality and ability to decide matters before it in compliance with relevant laws.

Question 2. Former STB Democrat Chairman Martin Oberman served on President Biden's "White House Competition Council" during his tenure as STB chairman and attended many meetings at the White House. STB members, and other members of independent executive agencies, interact with the President and other parts of the Executive Branch in the ordinary course of their work. Do you agree that an STB member, like Mr. Oberman in the Biden administration, can talk with the President or other members of the administration without affecting his or her impartiality in deciding matters before the STB?

Answer. Yes, I agree an STB member can talk with the President or other members of the Administration without affecting his or her impartiality in deciding matters before the STB. I believe it is not improper or inappropriate for agency heads, including STB members, to communicate with the President or other parts of the Executive Branch, consistent with applicable law. If confirmed, I commit to giving full and fair consideration to all comments filed in the docket.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ERIC SCHMITT TO
RICHARD J. KLOSTER

Question 1. St. Louis is one of only a few cities in the U.S. with major facilities for both Union Pacific and Norfolk Southern. Any merger among these carriers could significantly affect the region.

- When reviewing a merger of this scale, how do you intend to evaluate local economic impacts in cities like St. Louis—specifically in terms of employment, service reliability, and freight movement?

What safeguards will you commit to implementing to ensure that communities like St. Louis don't lose rail capacity or face service degradation as a result of network realignment?

Answer. Because the UP-NS merger is currently pending before the STB, I cannot comment further. If confirmed, I commit to carefully reviewing all comments of stakeholders, filed in the docket and to apply the relevant law.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
RICHARD J. KLOSTER

Surface Transportation Board (STB) Independence. During the 114th Congress, then Chairman Thune sponsored the Surface Transportation Board Reauthorization Act of 2015, which became law. Senator Thune's bill wisely added these 13 words to the law: "The Surface Transportation Board is an independent establishment of the United States Government."

I am concerned that the White House will seek to put its thumb on the scale of Union Pacific–Norfolk Southern merger unless we have board members that are committed to its independence from this or any President.

Question 1. YES or NO: Do you believe in the importance of bipartisanship on independent boards and commissions?

Answer. If confirmed, I am committed to working in a fair and objective manner with all members of the STB, regardless of party affiliation.

Question 2. YES or NO: If the President or anyone else in this Administration threatened to fire you unless you took an action you disagreed with, would you refuse?

Answer. While I do not believe the President or anyone else in this Administration would take any such actions, if confirmed, yes, I would refuse.

Question 3. YES or NO: Do you commit to make an independent determination of the merger's impact on American farmers, workers, and families regardless of political pressure?

Answer. While I cannot comment on pending (or anticipated) matters, yes, in any matter that comes before me, if I am confirmed, I commit to making independent determinations consistent with law.

Question 4. Do you think an STB Member is required to follow the President's direction?

Answer. I believe the STB Members should and will review all evidence and comments filed on the docket fully and fairly.

Question 5. If confirmed, do you intend to follow formal or informal direction from President Trump with respect to any actions taken in your official capacity?

Answer. As noted for Question 4, if confirmed, I will review all evidence and comments filed in at the STB docket fully and fairly.

Question 6. Approximately nine months ago, you "liked" a LinkedIn post that read: "MAGA with a mandate from the American people demands that all 3 of these be confirmed. If you are Republican and vote nay then your political career is OVER!!" The post contained pictures of Kash Patel, Tulsi Gabbard, and Robert Kennedy Jr., while their nominations were pending before the Senate.

Yes or No: Do you agree that an STB Member is charged with protecting the public interest—not political interests?

Answer. Yes, I agree that an STB member is charged with following the law, which I commit to.

Hatch Act Violations: The Hatch Act generally prohibits Executive Branch employees from engaging in political activity while on duty. Political activity includes "activity directed at the success or failure of a political party, candidate for partisan political office, or partisan political group."

At the hearing, STB Member Schultz acknowledged receiving an e-mail from STB Chair Patrick Fuchs which blamed only "Congressional Democrats" for the government shutdown.

Question 1. Do you think it is appropriate for the head of an independent agency to send an agency-wide e-mail attempting to assign political blame to only one political party?

Answer. If confirmed, I commit to complying with the Hatch Act. I am not familiar with this situation, but my understanding is that that this was a government-wide e-mail from the Executive Office of the President, and STB leadership from both parties has long followed established redistribution protocols for EOP-drafted notices.

Question 2. If you were directed to send an e-mail like this to STB staff, would you refuse?

Answer. If confirmed, I commit to complying with the Hatch Act as an STB member.

Question 3. If you believed an employee of the Board violated the Hatch Act, would you report it to the U.S. Office of Special Counsel?

Answer. Yes, if confirmed, upon advice of counsel, I would report a violation of the Hatch Act to the U.S. Office of Special Counsel.

Competition: Mr. Kloster, you have been in the rail industry for decades and have witnessed the changes to the rail industry brought on by precision scheduled railroading (PSR).

Question 1. How would you define PSR?

Answer. PSR is a term used in the industry to describe changes in operating philosophy and practice. Most large railroads have deployed aspects of PSR, some significantly but others much less.

Question 2. How has PSR impacted the rail industry?

Answer. I think that railroads have made changes over the years that have had different impacts and that the core of the issue for shippers is how it has affected their service, which is a very personal and specific thing to a particular shipper.

Question 3. How have you seen consolidation among railroads impact the industry?

Answer. Over the last 30 years, I've seen rail consolidation led to great efficiencies and improvements in rail service, as well as opening new markets for shippers. But I've also seen consolidation led to increased prices and other difficulties for shippers. The economics and competitive impacts of any consolidation are unique and should be carefully studied.

Question 4. What issues do you think the board needs to take a closer look at to improve service and competition in the rail industry?

Answer. Reliable rail service and competition in the rail industry are at the center of many pending matters currently before the STB. If confirmed, I commit to working diligently with my STB colleagues on these matters.

Common Carrier Obligations: Federal law required railroads to provide "transportation or service on reasonable request."

Question 1. Do you believe that this common carrier obligation includes a duty to provide reliable service to shippers?

Answer. Common carrier can be found in 49 U.S.C. § 11101, and if confirmed, I will uphold the law.

Cost-Benefit Analyses: Currently, the surface transportation board is not required to formally consider the costs and benefits of a regulation during the rule-making process.

Question 1. Do you believe the Board should conduct a formal costs and benefit analysis as part of the rule making process?

Answer. As a private sector executive and market analyst, I am always weighing costs and benefits, and as a policy matter that is what the STB has always done and what it should continue to do.

Question 2. Are there ever times where you think a rule should not pass a cost benefit analysis?

Answer. Any rule adopted by the STB has, by definition, passed a cost-benefit analysis, whether or not it follows the formal procedures outlined by OMB policy.

Reciprocal Switch Rule: In July, the U.S. Court of Appeals for the Seventh Circuit overturned the Board's reciprocal switching rules.

Question 1. Do you believe the Board should revisit the regulations to update them in accordance with the Court's findings?

Answer. This issue is now back at the Board and commenting on this issue would not be appropriate. If I am confirmed to the Board, I commit to working with my fellow members to address and resolve this issue.

Rate Cases: U.S. Court of Appeals for the Eighth Circuit recently overturned the Board's Final Offer Rate Review case which the Board implemented in response to provisions within the STB Reauthorization Act of 2015.

Question 1. Do you believe that rate review cases at the Board need to be expedited?

Answer. If confirmed, I commit to working diligently to make sure all rate issues are dealt with fairly and in a timely fashion.

Question 2. What ideas do you have to expedite rate review cases?

Answer. If I am confirmed, I commit to working with the other Board Members to explore ways to expedite rate review cases.

Union Pacific-Norfolk Southern Merger. If approved, the Union Pacific-Norfolk Southern merger would be the largest rail merger in the U.S. history. The com-

binned railroad would be worth over a quarter of a trillion dollars and control 40 percent of the Nation's rail traffic. In Washington State, one in every six tons of freight travels by rail.

Whether that's our wheat harvest moving to export port or consumer goods traveling to households—Washington's farmers, families, and businesses deserve reliable freight service options at reasonable rates.

Question 1. YES or NO: Do you commit to following the STB's merger rules that require you to only approve this merger if it increases competition?

Answer. While I cannot comment on pending (or anticipated) matters, I do commit to always following relevant laws and acting impartially.

Question 2. YES or NO: Do you commit to carefully examining the impacts on ports, farmers, small business shippers, and to workers and public safety?

Answer. Again, while I cannot comment on pending (or anticipated) matters, I commit to giving full and fair consideration to all evidence and comments filed in the record.

Helping America's Farmers. According to an October 2, 2025, report from the Farm Bureau, U.S. Farm Income is down year-over-year for almost every crop category tracked, including: Corn, Soybeans, Vegetables & Melons, Wheat, Hay, Cotton, and Rice. For example the report notes, "From January through August 2025, U.S. soybean exports to China totaled just 218 million bushels, down sharply from 985 million bushels in 2024, when China purchased about half of all U.S. soybean exports."

Question 1. What can the STB do to lower transportation barriers for America's farmers and ensure they have rail access at reasonable rates to market their crops?

Answer. I believe the STB should fairly apply the laws and regulations in order to ensure an efficient and reliable interstate rail network that benefits all shipper industry segments.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. AMY KLOBUCHAR TO
RICHARD J. KLOSTER

Agricultural Shippers. Agricultural producers depend on reliable and competitive rail service to move their products to domestic and international markets. Agricultural shippers already face limited competitive options for rail service and further consolidation could compound these challenges.

- How do you plan to protect the interests of agricultural shippers going forward?

Answer. Agricultural shippers, as well as many other industries, are vital to the railroads. If confirmed, I commit to using the legal authorities of the STB to ensure an efficient interstate railroad network.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TAMMY BALDWIN TO
RICHARD J. KLOSTER

Question 1. The common carrier obligation requires the railroads provide service upon reasonable request and at reasonable rates. However, it unfortunately lacks a clear definition, which the Transportation Research Board found to be "poorly defined." Earlier this year, I introduced the Reliable Rail Service Act with Senator Marshall to better clarify the common carrier obligation, with the strong support of a wide range of rail shippers and rail labor unions. Do you believe that additional clarification of the common carrier obligation would provide more certainty to shippers?

Answer. I believe clarity is always a good thing, and that reliable rail service is a top issue. If confirmed, I commit to working closely with Senator Baldwin on rail service issues. If the Reliable Rail Service Act is enacted, I would apply the requirements set forth in the Act.

Question 2. One of my longstanding priorities is for the STB to review, reduce or eliminate most or all its existing commodity exemptions. Shippers of exempted commodities are currently unable to seek relief from the STB unless they receive a "revocation" of the exemption beforehand. Doing so is a costly and lengthy process, and few shippers have pursued revocations for that reason. If confirmed, will you commit to looking into this issue further?

Answer. This is a matter that is currently before the Board, so it would be inappropriate for me to comment on it. If confirmed, I commit to looking into this issue with my fellow Board Members.

Question 3. Do you believe the President and his Administration should be allowed to shape and influence Board actions and decisions?

Answer. Yes, the President and his Administration can do so, such as by providing comments to government agencies.

Question 4. As an Independent Regulatory Agency, should the Board officially engage in partisan activities, including communications with Agency employees?

Answer. The STB is an independent agency established by Congress. The Board must carry out its functions in a fair and impartial manner.

Question 5. If the Board and its members are required to no longer operate as an independent and impartial agency, what impact would it have on our country's freight rail network and the national supply chain?

Answer. The Board is an independent agency by law and if confirmed, I commit to making decisions fairly and after full consideration of the record.

Question 6. Can the Board effectively function if subjected to political interference?

Answer. If confirmed, I commit to always exercising my own independent judgment after a thorough review of the record.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. LISA BLUNT ROCHESTER TO
RICHARD J. KLOSTER

Topic: Independence of the Surface Transportation Board (STB)

Question 1. The White House said they fired Member Primus because he did not support the President's America First agenda.

a. Do you believe Mr. Primus's firing was justified, and does it compromise the integrity and impartiality of the Board?

Answer. Because Mr. Primus has filed a lawsuit regarding his firing, it would be inappropriate for me to provide to comment on.

b. Considering this, do you feel pressure to support the President's agenda? Should every member, including Democrats support the President's agenda? If not, should they be removed?

Answer. Because Mr. Primus has filed a lawsuit regarding his firing, it would be inappropriate for me to provide to comment on. The STB is an independent agency and if confirmed, I commit to following executing my duties consistent with law.

c. Given the independence of the Surface Transportation Board, do you believe the President and the Trump administration should be permitted to influence the Board's decisions?

Answer. The President and the Trump administration are free to provide comments in the record on pending matters before the STB. This has been the practice of previous administrations, as well.

d. If the Board and its members operate with only the President's agenda in mind, how will this impact our Nation's freight rail network and national supply chains? Can the Board continue to function effectively?

Answer. If confirmed, I commit to executing my responsibilities as a member of the STB fairly and impartially, after full consideration of the evidence and facts presented in the record of all matters that come before me.

Question 2. During your confirmation hearing, Ms. Schultz confirmed that Chairman Fuchs sent an unprecedented e-mail to Surface Transportation Board staff blaming Democrats for the government shutdown.

a. How would you define the Hatch Act?

Answer. The Hatch Act is current law and if confirmed, I commit to complying with the Act.

b. Is it appropriate for apolitical Surface Transportation Board staff to be subjected to partisan e-mails from Board leadership and does it undermine the impartiality of the Board?

Answer. Because I am not at the STB, I have no personal knowledge of any e-mails, but I understand this was a government-wide e-mail from the Executive Office of the President. If confirmed, I commit to complying with the Hatch Act and would consult with agency counsel on all potential Hatch Act issues.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TED CRUZ TO
MICHELLE A. SCHULTZ

Question 1. The Office of Management and Budget (OMB) is the Federal agency responsible, in part, for budget and personnel decisions across the executive branch. Recently, OMB sent a message to Federal employees, including members of the Surface Transportation Board (STB), providing funding and personnel guidance in the wake of the government shutdown. STB leadership forwarded the contents of this message to STB employees. Do you agree that merely forwarding a message from OMB about the government shutdown does not weaken STB's impartiality and ability to decide matters before it in compliance with relevant laws?

Answer. Yes, I agree that sending such a message has no bearing on the STB's impartiality and ability to decide matters before it in compliance with relevant laws. As a general matter, STB leadership has long complied with government-wide personnel, funding, and other general administrative policies set forth across Administrations of both parties—from executive orders on hiring to regulations on workforce and building management to guidance on budget formulation. It is my understanding that the established practice of STB leadership, regardless of party, has been to utilize OMB-drafted notifications and that this practice is consistent with government-wide protocols or practices across Administrations.

Question 2. Former STB Democrat Chairman Martin Oberman served on President Biden's "White House Competition Council" during his tenure as STB chairman and attended many meetings at the White House. STB members, and other members of independent executive agencies, interact with the President and other parts of the Executive Branch in the ordinary course of their work. Do you agree that an STB member, like Mr. Oberman in the Biden administration, can talk with the President or other members of the administration without affecting his or her impartiality in deciding matters before the STB?

Answer. Yes, an STB member can talk with the President or other members of the Administration without affecting his or her impartiality in deciding matters before the STB. As you point out, former Chairman Oberman actively participated in President Biden's "White House Competition Council," interacting with the President and other parts of the Executive Branch. In Executive Order 14036, *Promoting Competition in the American Economy*, which established the White House Competition Council, President Biden encouraged former Chairman Oberman and the STB to consider substantial policy changes and enforcement actions, including rulemakings, investigations, and adjudicatory or licensing actions (*e.g.*, merger reviews). Biden Administration officials then played active roles in many related or ensuing proceedings, by issuing public statements, submitting comments, and appearing at hearings.

Given the significance of the Board's work for our Nation's supply chain and the policy preferences of other political officials, some of whose jurisdictions are affected by Board decisions or have a statutory and regulatory role in Board proceedings, I understand the reasons why Administration officials would offer views on the Board's proceedings. I recognize the benefits of collaboration across government to address issues of national significance, which allows leaders to integrate perspectives and avoid siloed solutions. I also see value in the efficiencies and other benefits gained by consistent administrative policies across agencies, reflecting different agencies' jurisdictions and subject matter expertise. As such, I do not view interaction with the President or other parts of the Executive Branch, that are consistent with applicable law, as undermining my impartiality.

Question 3. You have served on the STB under both the previous and current administration. During your tenure at the STB, has either administration, through official or unofficial channels, commented on board proceedings or decisions? To clarify, official means include an official filing in an open STB docket or an official publicly reported meeting, such as a hearing. Unofficial channels include press releases, statements in the press, comments made in official government documents that were not officially submitted to a STB docket, like an Executive order or official memorandum communication. If yes, please provide examples.

Answer. Yes, during my time on the Board, the previous and current administrations have both officially and unofficially commented on STB proceedings and decisions. For example, the Biden Administration routinely weighed in on STB policy, decisions, and administration, and the following are non-exhaustive examples within different facets of the agency's work:

- *Rulemaking.* President Biden's Executive Order 14036 encouraged former Chairman Oberman and the Board to consider commencing or continuing a rulemaking to strengthen its regulations pursuant to 49 U.S.C. 11102(c). The

STB had a pending matter on the topic at that time. After the Executive Order was issued, the U.S. Department of Transportation and U.S. Department of Agriculture officially offered comments in the relevant docket. After the STB decided to close that docket and commence a new rulemaking, a special assistant to President Biden informally offered views on the STB's new proposed rule, which was then a pending matter, to the *Wall Street Journal*. In general, on the White House website, the Biden Administration listed STB rulemakings as actions the administration was taking to advance competition in transportation.

- *Adjudication/Licensing.* In Executive Order 14036, President Biden encouraged former Chairman Oberman and the Board to consider certain rail carrier actions or responsibilities when determining whether a merger is in the public interest. When the STB evaluated the proposed voting trust underlying the proposed merger between Canadian National and Kansas City Southern, the U.S. Department of Justice formally filed comments. After the STB issued its decision on the proposed voting trust, Administration officials informally commented on the action to the *New York Times*. In general, the Biden Administration commented on and participated in several adjudicatory proceedings of interest, ranging from new passenger rail service to other mergers or transactions, including other Federal agencies' weighing in on the proposed merger between Canadian Pacific and Kansas City Southern.
- *Investigations/Enforcement.* President Biden also encouraged former Chairman Oberman and the Board to vigorously enforce new on-time performance requirements adopted pursuant to the Passenger Rail Investment and Improvement Act of 2008. After Executive Order 14036 was issued, Amtrak filed a complaint to the STB, and the agency launched an investigation consistent with statutory requirements. The relevant parties have subsequently settled.
- *Administration.* As indicated above, the Biden Administration issued many executive orders, directives, and guidance documents concerning personnel, funding, and other administrative matters at the STB and other government agencies. Chairman Oberman implemented many workforce, planning, and other such policies in compliance with or consistent with the Biden Administration's issuances.
- *Litigation.* Consistent with statute, in carrying the agency's litigation responsibilities, the STB routinely collaborates and jointly files with the DOJ in defending the STB's decisions and on other matters.
- *Agency-specific advisory councils.* Both by statute and through the Board's discretion, officials from other agencies serve on the STB's advisory councils, including the Railroad-Shipper Transportation Advisory Council and Passenger Rail Advisory Council, and informally contribute views on the relevant subject matter for discussion.
- *Multi-agency bodies.* In addition to the White House Competition Council, former Chairman Oberman also participated on the White House-led efforts on supply chain resilience.
- *Oversight and agenda formulation.* Biden Administration officials have formally and informally participated in and commented on the STB's oversight proceedings, including testimony from former Secretary Buttigieg.

Examples span both administrations. During my time on the Board, President Trump's Administration has offered formal and informal views on the Board's agenda and proceedings. For example, President Trump has issued executive orders concerning government-wide review of regulations and policies related to competition, regulatory barriers, and American energy dominance, including EO 14267, *Reducing Anti-Competitive Regulatory Barriers*, and EO 14154, *Unleashing American Energy*. Trump Administration officials have also commented on potential and pending adjudications or licensing matters, such as the DOJ's recent formal comments on the proposed transaction between Norfolk Southern and Norfolk & Portsmouth Belt Line Railroad Company. Relevant across administrations, it is important to note that the Board's statutes and regulations explicitly reference the participation of other agencies in STB proceedings and other matters.

As stated above, given the significance of the Board's work for our Nation's supply chain and the policy preferences of other political officials, and considering different jurisdictions and statutory and regulatory roles, I expect government officials, regardless of party, to continue weighing in as appropriate on STB matters in the future.

Question 4. When you have made STB decisions in the past, how did comments by either Administration, made through official or unofficial channels, impact your decision making?

Answer. During my time on the Board, I have demonstrated that I advance and promote thorough and fair decisions based on the evidence and argument in the record. I objectively review comments filed by all interested parties in the docket and make decisions based on the merits, including consideration of the Rail Transportation Policy of the United States at 49 U.S.C. 10101.

Question 5. If confirmed for an additional term, would the process you use to make STB decisions change if the current administration or a future administration were to file comments through official or unofficial means?

Answer. No. I have always given careful consideration to all comments filed officially in the docket. If confirmed, I will continue to review the comments filed by all interested parties fairly, impartially, and thoroughly.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ERIC SCHMITT TO
MICHELLE A. SCHULTZ

Question 1. The Terminal Railroad Association of St. Louis was established in 1889 to serve as a neutral switching and terminal operator for multiple major freight carriers. Today it manages key infrastructure in the region, including the only two active rail bridges across the Mississippi River at St. Louis—the Merchants and MacArthur Bridges. Five of the six Class I railroads hold ownership stakes in the TRRA, but a merger between Union Pacific and Norfolk Southern could significantly shift that balance.

- How would you apply competition standards to determine whether such a change in ownership could reduce competition or access in the St. Louis region?
- Do you believe that the Board should take a more active role in reviewing the governance of joint terminal companies when ownership concentration increases through mergers?

Answer. Because the merger is a pending matter, I am unfortunately unable to answer your question as any comments about how the standard of law will be applied in this case would be pre-decisional. What I can say is that I will be carefully reviewing all comments that are filed in the docket. I will also review the facts, evidence and applicable law and will make a decision based upon the merits of the case.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
MICHELLE A. SCHULTZ

Surface Transportation Board (STB) Independence. During the 114th Congress, then Chairman Thune sponsored the Surface Transportation Board Reauthorization Act of 2015, which became law. Senator Thune's bill wisely added these 13 words to the law: "The Surface Transportation Board is an independent establishment of the United States Government."

I am concerned that the White House will seek to put its thumb on the scale of Union Pacific–Norfolk Southern merger unless we have board members who are committed to its independence from this or any President.

Question 1. YES or NO: Do you believe in the importance of bipartisanship on independent boards and commissions?

Answer. Yes, impartial decision-making is important to the STB's work.

Question 2. YES or NO: If the President or anyone else in this Administration threatened to fire you unless you took an action you disagreed with, would you refuse?

Answer. Yes.

Question 3. YES or NO: Do you commit to make an independent determination of the merger's impact on American farmers, workers, and families—regardless of political pressure?

Answer. Yes. I commit to reviewing the merger decision based upon the record including the filed comments of all stakeholders, the pleadings, the applicable law, and the evidence. I also commit to applying the principles set forth by the Rail Transportation Policy of the United States as enacted by Congress.

Question 4. Do you think an STB Member is required to follow the President's direction?

Answer. As it relates to pending matters, I believe that an STB Member will review all comments filed on the docket fairly and with impartiality.

Primus Removal. In the statute that created the predecessor to the STB in 1887, Congress set the standard of “inefficiency, neglect of duty, or malfeasance in office” for removal of a board member. Congress renewed that standard in 1995 when it created the modern STB. The only explanation the White House gave for the firing of Robert Primus from the STB was that he “did not align with the President’s America First agenda.”

Question 1. You and Mr. Primus served together for over four-and-a-half years on the Board. In your personal experience, did you ever witness Mr. Primus act with, “inefficiency, neglect of duty, or malfeasance in office?”

Answer. As you are aware, Mr. Primus has filed a lawsuit against the STB. As a matter of practice, I do not comment on pending litigation.

Question 2. Do you personally think it was appropriate for the President to fire Mr. Primus?

Answer. Respectfully, again, I must defer providing an answer to this question. As you are aware, Mr. Primus has filed a lawsuit against the STB. As a matter of practice, I do not comment on pending litigation.

Bipartisanship: The STB is designed to be composed of Members from different political parties. Specifically, pursuant to Congress’s statutory directive, not more than three STB Members may belong to the same political party.

Question 1. Do you believe the STB’s decision-making process and credibility benefit from having Members from different political parties on the Board?

Answer. This is required by 49 U.S.C. § 1301 (b)(1).

Question 2. Do you believe it is important for the STB to have Senate-confirmed Members of the opposite political party?

Answer. The membership is set forth by 49 U.S.C. § 1301 (b)(1), and it is required by law that the composition of the Board does not include more than three members of the same political party.

Union Pacific–Norfolk Southern Merger. If approved, the Union Pacific–Norfolk Southern merger would be the largest rail merger in the U.S. history. The combined railroad would be worth over a quarter of a trillion dollars and control 40 percent of the Nation’s rail traffic. In Washington State, one in every six tons of freight travels by rail.

Whether that’s our wheat harvest moving to export port or consumer goods traveling to households—Washington’s farmers, families, and businesses deserve reliable freight service options at reasonable rates.

Question 1. YES or NO: Do you commit to following the STB’s merger rules that require you to only approve this merger if it increases competition?

Answer. I commit to applying the standard set forth in 49 U.S.C. § 11324. As you are aware, this will be a case of first impression as it relates to the application of the merger standard. I commit to applying all the requirements set forth in 49 C.F.R. § 1180.1 to the facts that are presented in the docket and to make an impartial decision that is based upon the law, the record and that is in the best interest of the national rail network.

Question 2. YES or NO: Do you commit to carefully examining the impacts to ports, farmers, small business shippers, and to worker and public safety?

Answer. I commit to carefully reviewing the record and the impacts to all stakeholders, including those you have identified. This case is the largest transaction to ever be filed with at the Board.

I am aware of the significance that this decision could have on the national rail network. I feel the weight of the importance of this decision and take this responsibility very seriously.

Hatch Act Violations: The Hatch Act generally prohibits Executive Branch employees from engaging in political activity while on duty. Political activity includes “activity directed at the success or failure of a political party, candidate for partisan political office, or partisan political group.”

At the hearing, you acknowledged receiving an e-mail from STB Chair Patrick Fuchs which blamed only “Congressional Democrats” for the government shutdown.

Question 1. Do you think it is appropriate for the head of an independent agency to send an agency-wide e-mail attempting to assign political blame to only one political party?

Answer. I am committed to complying with the Hatch Act. In assessing the appropriateness of an agency-wide e-mail, I would ensure its legality, including through

consultation with the STB's Office of Chief Counsel and, as applicable, consideration of relevant U.S. Office of Special Counsel precedent, such as advisory opinions on communications that concern policy or legislation and reference a political party. Further, I would ensure the e-mail's accuracy, including the evaluation of information, reporting, or analysis from credible and non-partisan sources.

Finally, I would consider the necessity or value of the e-mail and any relevant procedures, such as whether it involves pertinent legal or policy information disseminated consistent with established protocols or circulars reflecting different agencies' jurisdictions.

Question 2. If you were directed to send an e-mail like this to STB staff, would you refuse?

Answer. As I have demonstrated throughout my government service, I would continue to comply with the Hatch Act. In assessing the appropriateness of any agency-wide e-mail, I would ensure its legality and accuracy and consider its necessity or value and any relevant procedures.

Question 3. If you believed an employee of the Board violated the Hatch Act, would you report it to the U.S. Office of Special Counsel?

Answer. Yes, if I believed an employee of the Board violated the Hatch Act, I would report it to the U.S. Office of Special Counsel.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TAMMY BALDWIN TO
MICHELLE A. SCHULTZ

Question 1. The common carrier obligation requires the railroads provide service upon reasonable request and at reasonable rates. However, it unfortunately lacks a clear definition, which the Transportation Research Board found to be "poorly defined." Earlier this year, I introduced the Reliable Rail Service Act with Senator Marshall to better clarify the common carrier obligation, with the strong support of a wide range of rail shippers and rail labor unions. Do you believe that additional clarification of the common carrier obligation would provide more certainty to shippers?

Answer. I believe predictable, reliable, service that meets the needs of shippers is critical to the supply chain and the Nation's economy. As you are aware, pursuant to 49 U.S.C. § 11101(a), a rail carrier shall provide transportation or service on reasonable request. I believe that upon reasonable request is a question that is determined based upon the facts of each case. If the Reliable Rail Service Act is enacted, I would apply the requirements set forth in the Act to any cases alleging violations of the common carrier obligation.

Question 2. One of my longstanding priorities is for the STB to review, reduce or eliminate most or all its existing commodity exemptions. Shippers of exempted commodities are currently unable to seek relief from the STB unless they receive a "revocation" of the exemption beforehand. Doing so is a costly and lengthy process, and few shippers have pursued revocations for that reason. If confirmed, will you commit to looking into this issue further?

Answer. Docket No. EP 704 (Sub-1) (Review of Commodity, Boxcar, and TOFC/COFC Exemptions) is currently a pending matter. If confirmed, I commit to looking into this issue further.

Question 3. Do you believe the President and his Administration should be allowed to shape and influence Board actions and decisions?

Answer. I believe that all Presidents and their Administrations have at one time, or another provided comments to governmental agencies. Given the significance of the Board's work for our Nation's supply chain and the policy preferences of other political officials, as well as the different jurisdictions and statutory and regulatory roles, I believe government officials, regardless of party, will continue weighing in as appropriate on STB matters in the future.

Question 4. As an Independent Regulatory Agency, should the Board officially engage in partisan activities, including communications with Agency employees?

Answer. Pursuant to 49 U.S.C. § 1301(a), "(t)he Surface Transportation Board is an independent establishment of the United States Government. The STB's statutory mission requires impartiality in our adjudicatory and regulatory functions. Our decisions are based upon evidence and the applicable law, not partisan considerations. As a general matter, the STB leadership has long complied with personnel, funding, and other administrative policies set forth across administrations of both parties—from executive orders on hiring to regulations on workforce and building management to guidance on budget formulation.

Question 5. During the hearing, you stated that you serve at the pleasure of the President. 49 U.S.C. § 1301 (b) (3) specifies that the President must give cause when removing a Board Member.

a. Do you agree with this part of the Agency's statute?

Answer. As you are aware, Mr. Primus has filed a lawsuit against the STB in the U.S. District Court for the District of Columbia. Because this is the core legal question raised in the lawsuit, it would be inappropriate for me to provide a response.

b. If a Board Member is fired without cause, does it compromise the integrity and impartiality of the Board?

Answer. Again, with all due respect to the question, it pertains to pending litigation and I must refrain from comment. What I can say is that the agency, by way of statute, is an independent agency. If confirmed, I commit to following the law and continuing to issue decisions based upon evidence and the law. I believe this approach protects the integrity of our processes and public confidence in our decisions.

Question 6. If the Board and its members are required to no longer operate as an independent and impartial agency, what impact would it have on our country's freight rail network and the national supply chain?

Answer. The Surface Transportation Board is an independent agency as set forth in statute. See 49 U.S.C. § 1301(a). I will defer to a Court ruling on this matter, or any statutory change from Congress and I will uphold the law.

a. Can the Board effectively function if subjected to political interference?

Answer. The Board is an independent agency. I believe it is not only appropriate, but helpful, when Members of Congress write letters to the STB raising either their concerns or the concerns of their constituents. To the extent those concerns are related to a pending matter, the letter is then filed in the public docket so that all members of the public have access. This same respect for transparency would apply to any elected officials or any stakeholders.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. LISA BLUNT ROCHESTER TO
MICHELLE A. SCHULTZ

Topic: Independence of the Surface Transportation Board (STB)

Question 1. In your *opening statement*, from your 2018 confirmation hearing, you wrote: "it is incumbent upon the Board to approach matters brought before it by conducting a thorough analysis of the facts and adjudicating matters in an impartial manner within the bounds of its jurisdiction and the law."

a. Following your first term on the Board, do you still find that to be the case? And do you believe it is still possible despite recent pressures from the President and the Trump administration?

Answer. Yes. I still believe it is incumbent upon the Board to approach matters with impartiality, transparency and within the bounds of the law.

I have not been contacted by the President or anyone within the administration regarding any pending matter.

Question 2. The White House said they fired Member Primus because he did not support the President's America First agenda.

a. Do you believe Mr. Primus's firing was justified, and does it compromise the integrity and impartiality of the Board?

Answer. Mr. Primus filed a lawsuit against the Surface Transportation Board in U.S. District Court for the District of Columbia. As a general practice, I do not comment on pending litigation and must refrain from comment here.

b. Considering this, do you feel pressure to support the President's agenda? Should every member, including Democrats support the President's agenda? If not, should they be removed?

Answer. Again, the issue of removal is currently pending in litigation. I must respectfully refrain from commenting.

c. Given the independence of the Surface Transportation Board, do you believe the President and the Trump administration should be permitted to influence the Board's decisions?

Answer. I believe that the President as well as members of the Trump administration are free to provide opinions and file comments in pending matters as have members of prior Administrations. I will review all filed comments from all stakeholders, as well as the pleadings, evidence and applicable law and will issue a decision based upon the record in its entirety and on the merits.

d. If the Board and its members operate with only the President's agenda in mind, how will this impact our Nation's freight rail network and national supply chains? Can the Board continue to function effectively?

Answer. As indicated in my opening statement and in response to similar questions presented during the hearing, I approach every pending matter by reviewing the record—including the pleadings, the filed comments from stakeholders, the evidence, the applicable law, and the principles of the Rail Transportation Policy of the United States as enacted by Congress.

After carefully weighing all the aforementioned, I strive to reach decisions that are consistent with the applicable law, and which provide the best outcome for the rail network.

Question 3. During your confirmation, you confirmed that Chairman Fuchs sent an unprecedented e-mail to Surface Transportation Board staff blaming Democrats for the government shutdown.

a) How would you define the Hatch Act?

Answer. By the plain language of the Act itself.

b) Is it appropriate for apolitical Surface Transportation Board staff to be subjected to partisan e-mails from Board leadership and does it undermine the impartiality of the Board?

Answer. I am committed to complying with the Hatch Act. In assessing the appropriateness of an agency-wide e-mail, I would ensure its legality, including through consultation with the STB's Office of Chief Counsel and, as applicable, consideration of relevant U.S. Office of Special Counsel precedent, such as advisory opinions on communications that concern policy or legislation and reference a political party. Further, I would ensure the e-mail's accuracy, including the evaluation of information, reporting, or analysis from credible and non-partisan sources. Finally, I would consider the necessity or value of the e-mail and any relevant procedures, such as whether it involves pertinent legal, or policy information disseminated consistent with established protocols or circulars reflecting different agencies' jurisdictions.

Topic: Reduced STB Staff Capacity

Question 1. In previous *testimony* before this committee, you stated that "The efficiency of freight and intercity passenger rail transportation is vital to the Nation's mobility and economic competitiveness." Earlier this year, Chairman Fuchs reduced staffing capacity and closed the Office of Passenger Rail, an office dedicated to this very issue and Amtrak's on-time performance.

a. Do you agree with the Chairman's decision to close this office and how will it impact the STB's ability to improve and expand intercity passenger rail throughout the country?

Answer. On August 1, 2025, the STB combined its two legal offices, the Office of Proceedings (OP) and the Office of the General Counsel (OGC), into one Office of Chief Counsel. The Board combined these offices to streamline and improve drafting and review procedures, which will benefit the Board and the public. The Office of Chief Counsel also houses the Board's Chief of Passenger Rail and Investigations, who will lead the Board's cross-disciplinary passenger rail flex team. When a matter is initiated, a team will be formed to leverage expertise from across the agency and nimbly respond to the needs of the case. This team replaces the Office of Passenger Rail and ensures the Board can efficiently continue to fulfill its statutory passenger rail investigatory and adjudicatory responsibilities. To date, Chairman Fuchs has not terminated any employee under any Reduction in Force action. I support the agency's actions to combine the two legal offices and housing the Chief of Passenger Rail and Investigations within the legal office. I believe these actions will improve the Board's ability to effectively carry out its statutory responsibilities concerning passenger rail and other matters.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. AMY KLOBUCHAR TO MICHELLE A. SCHULTZ

Rail Merger. Senator Hoeven and I led a bipartisan group of senators in calling on the Surface Transportation Board to closely scrutinize the proposed merger and ensure long-term competition in the railroad industry.

- You mentioned in your testimony that in your role you must be "mindful of what best serves the long-term health and vitality of the national rail network." How will you analyze the potential long-term and knock-on effects of the proposed merger?

Answer. Because the merger is a pending matter, I am unfortunately unable to answer your question as any comments about how I intend to analyze any specific aspect of the case and/or apply the standard of law in this case would be pre-decisional. What I can say is that I will be carefully reviewing all comments that are filed in the docket. I will also review the facts, pleadings, evidence and applicable law and will make a decision based upon the merits of the case that is in the best interest of the network.

Agricultural Shippers. Agricultural producers depend on reliable and competitive rail service to move their products to domestic and international markets. Agricultural shippers already face limited competitive options for rail service and further consolidation could compound these challenges.

- How do you plan to protect the interests of agricultural shippers going forward?

Answer. With all due respect to the question, again, the merger is a pending matter and is case of first impression, so I am unable to say how I plan to protect the interests of agricultural shippers going forward. What I can say is that I will be reviewing all the filed comments from all stakeholders, the pleadings, the applicable law and the evidence and will make a decision based upon the merits of the case. I will also be applying the principles set forth in the Rail Transportation Policy of the United States as enacted by Congress. I recognize the significance that this case will have on the national rail network and commit to making a decision that is in the best interest of the network.

