

FROM THE DESK OF
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**Surface Transportation Board
395 E Street Southwest
Washington D.C. 20423**

RE: EP 770 Rail Service Hearing

Dear Chairman Oberman & Board Members,

I am writing as both a concerned citizen and locomotive engineer for BNSF. As an employee of BNSF with 15 years of service, 11 of those as a locomotive engineer, I am deeply concerned with the state of American railroads and the supply chain. There are many issues to discuss, however I would like to focus on only a few. First let's address the customers.

Customers

The rail carriers (Ms. Farmer in particular) say that customers are their number 1 priority (see the "Tandy Executive Speaker Series: Katie Farmer, President and CEO of BNSF Railway" click link on picture below). I must say if that was the case I highly doubt the STB would be having this hearing. My experience over the last 15 years is



that the customer has become an after thought. In my work area (Vancouver, WA and PNW Division) I have seen BNSF continually cut positions and jobs to reduce "operating ratio" while customers are charged the same rates and serviced less frequently and less predictably. This chase for lower operating ratio is the root of the "Supply Chain Crisis". Ms. Farmer stated that "labor", along with demand for consumer

goods, were some of the reasons for these problems. This is 100% false. It is a direct result of poor leadership and business practices from the rail carriers. She states that they furloughed employees because car numbers were down during the first part of 2020 because of the pandemic. Why furlough to begin with when the numbers showed there would be an increase in demand for these goods? The market (railcar loads) was

down roughly 20% and that would have allowed for more time to focus on building a robust workforce (one that was already there). Instead the carriers moved to furlough. Now we are 2+ years into the pandemic and “labor” does not have the pandemic stimulus packages to keep them from work. She then stated that the railroad is a “24/7” industry. This is true, however the carriers now expect their employees to be available 24/7 with 2-3 days off per month. Do we really need to ask why there is a “labor shortage”? Its not “stimulus packages” keeping labor from working. In addition to these things the carriers are using throttle limitations and TO (Trip Optimizer) that run trains which are allowed to go 55-60mph and instead runs them at 25-35mph, all in the name of “fuel savings”. As an engineer I can be disciplined if I don’t use TO enough (90% of my trip). This has 3 adverse effects.

- 1) Customers don’t get their products in a timely manner.
- 2) Employees work longer hours which results in fatigue and more trains requiring multiple crews to travers territory that used to only take 1 crew (aka dogcatching)
- 3) Congests the railroads due to more trains not making it to their destination on time and being unable to move trains because of “man power issues”.

This is creating higher rates for customers while the railroads pocket the “fuel savings” for themselves. If these business practices are customer oriented shouldn’t the customer see the benefits from them both in prices and customer service? Sadly the railroads know they “own” these customers. Let me just say it seems the railroads have forgotten what they are....Customer Service Providers.

Precision Scheduled Railroading (PSR) has been the driving force of poor customer service. It is designed to make the Class I’s more money by reducing their costs but never passing those saving on the the customers. AKA Profit Margins. Profits are great but increased profit margins only benefit one side, in this case the Class I’s and their share holders. I personally have seen jobs be cut (a 3 man crew Local I worked) were we would build or delivery 3 trains a day be replaced with a 2 man crew that can only get 1-2 trains a day. All to reduce operating ratio. So both the customer and labor force are punished to reach the PSR goals. Ms. Farmer continues to say customers are the most important thing at BNSF yet this hearing is being called by the STB. Obviously her statement is a false one just like her statement in November of 2020 to Railway Age (<https://www.railwayage.com/freight/class-i/first/?RAchannel=home>) where she said “Retention is personal. You don’t often hear people say in an exit interview that they left because of money. People leave because they don’t feel a connection, and so that’s what we focus on at BNSF”. That brings me to my second point. Labor.

Labor

Another major aspect that is leading to “labor shortages” and customer service issues is the Class I railroads refusal to address fatigue and quality of life. In 2009 when the Rail Safety Improvement Act (RSIA) was signed into law there was a section addressing Risk reduction. A subset of that was Fatigue Mitigation Programs. The FRA only recently (end of 2020) submitted their “purposed rule change” regarding Fatigue Mitigation. Representative Peter DeVazio wrote a letter on April 6, 2022 to the FRA asking why this has been on the back burner for over a decade. Now that the rail carriers have implemented PSR and inhumane attendance policies this issue has only become more of a problem. With less regular jobs (local jobs that have set start times) and more on call 24/7 365 jobs (extraboards and Pools) the railroads have gone back to pre RSIA fatigue issues. Technology has helped in some aspects but fatalities are still very much an issue in this industry. Not only that, but human factor incidents are ever increasing. People are tired of being exhausted, treated like animals, and having no personal time. The railroads also fail to mention that we do not have sick time like most jobs. This is due to the RLA (Railroad Labor Act) and the carriers successes in the courts to make sure we do not get paid sick time. Honestly I would be happy with unpaid sick time. But no, the railroads expect that you work 24/7 and if you get sick to stay within the attendance policies. Let's use BNSF's HiViz policy as an example. If I get sick for 5 days (lets say Monday to Friday) that would cost me 12 of my 30 points. The only way I can get those points back is to work/be available 14 days in a row and then I would only receive 4 points back. So, to get 12 points back I would have to work/be available for 1 and a half Months! What job do you know works like that? Do we not live in the United States of America “the home of the free”? I sure don't feel very free working in the railroad industry. Shame on the rail carriers, Congress and the regulatory departments for allowing such a horrible environment. It is clear why the Class I railroads are struggling to find labor. Would you want to do that or would you send your children into that type of environment? It's such an easy fix yet greed and politics are always in the way of doing what is right and best for all. It is within the power of the STB to fix many of these issue and/or put pressure on the FRA to fix these issues. Labor is not “lazy” or “they don't want to work” they just want some personal time to relax and enjoy family life. What is wrong with that? Every person who doesn't work for a railroad tells me I should quit or “your union should strike”. I must say I thought the railroad would be a life long career, whether in TY&E or management, but it is so corrupt and broken I don't see a good future in the industry. Maybe automation will be the “fix all” but the culture is broken at the Class I railroads and why would anyone do this to themselves for 30 plus years? I am aware the STB does not care about my

personal employment choices, however if I, who wanted to run trains from the age of 7 and started railroading at 19/20 and I am now 35, am tired of this who will do these necessary jobs in the future? I must say I am thinking a great deal of changing careers thanks to the attitudes/practices of Ms. Katie Farmer and BNSF as a whole.

Ms. Farmer stated, in the YouTube video mentioned above, that culture is really important and that “you have to really like where you work” (minute marker 26:44). She also stated to Railway Age in November 2020 “BNSF employees should expect to be treated with dignity and respect. That is foundational. Diversity and inclusion is foundational to what we do. It’s part of our recruiting efforts. It is not only foundational to what we do; it’s really been key to our success”. Does 2 days off a month sound like “dignity” or “respect”? 15 years in and I am honestly more unhappy, as are most of my colleagues, thanks to BNSF’s HiViz attendance policy, safety/fatigue practices (BNSF pulled out of the safety agreements at the beginning of 2022), and no contract for 2+ years. The carriers says they appreciate what their employees have done through the pandemic but their actions say otherwise. What was our thank you for working non stop through a global pandemic? Less time off and no “good faith” efforts when it comes to safety or contracts. Since HiViz was implemented (February 1, 2022) BNSF has seen well over 900 employees leave (Not on leave of absence as BNSF has put some of those resignations under). Many of whom had over 10 years and were some of the hardest working employees I know. This seems to be the Class I’s way of creating an “emergency” to get 1 man crews. Again, all to reduce operating ratios. 1 man crews are far more dangerous at Class I’s than a shoreline. First and foremost is we are away from home for longer periods of time and now have little to no time off. This is a recipe for disaster.

The loss of so many employees is far worse than any “strike” or “work stoppage” would have done. The word is out. Class I Railroads are horrible employers and horrible to their employees (3 of the 4 Class I’s are in the Top 10 of worst employers according the Money Magazine). With their goal of 1 man crews, in addition to unmanageable attendance/fatigue policies, the problem will only get worse. You can only hit a dog so many times before it bites. People are tired of poor leadership and poor treatment. Why be like this? This is all a symptom of a larger problem in the industry. Greed and WallStreet. The railroads are the backbone of the United States GDP/supply chain and should not be regulated by WallStreet.

Ms Farmer stated on the YouTube video at 29:00 that customers are #1 followed by employees #2. If either of those thing were true statements the STB would not be having this hearing and another hearing on reciprocating switching. BNSF, UPRR,

CSXT and NS have created some of the worst cultures possible (and they only get worse) and this has led to moral at an all time low. Sadly this will not change without outside intervention. With all due respect to the STB, I have little faith that the STB, FRA or Congress will do anything in a timely manner to fix these ever increasing issues that effect communities, customers, employees and the nation at large. Too much money is involved and the only way it will change is if it fails. Federal judges have never allowed a “major dispute” to occur in 30 years despite Judge Mark. T. Pittman saying the BNSF HiViz policy was “Harsh”. This leads labor to feel like slaves (we abolished that in 1865 let’s not revisit it please) with no relief in site. Unfortunately the damage is done in many customer and employees minds. The railroads have shown all their cards and, even with a dramatic change of direction, resentment has set in and word has spread. Why the federal government has allowed it to get to this point is beyond me. I urge the STB to be “harsh” in their dealings with the Class I railroads as the Class I railroads have been “harsh” with their customers and employees.

With all that said I do still hope the STB, FRA and other regulatory agencies will stand up for what is right and hold the national rail carriers accountable for their poor behavior/business practices. Ultimately customers and labor are what make the railroad money, not MBA’s and economic degrees. These are only a few of the reasons the Class I’s are struggling to provide adequate customer service and retain labor. I know that others have submitted letters with those issues in great detail and encourage all the members on the STB to take them into consideration. I do enjoy what I do for a living and what it does for people as a whole; I just don’t know if its worth it anymore. Thank you for your time and consideration on these matters.

Sincerely yours,

Eric Gruber

Locomotive Engineer and 2nd Vice Local Chairman BLET Local 758

Web Links: <https://www.railwayage.com/freight/class-i/first/?RAchannel=home>

<https://www.youtube.com/watch?v=2INPdv-zBtI>



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington DC 20515

Peter A. DeFazio
Chairman

Katherine W. Dedrick
Staff Director

Sam Graves
Ranking Member

Paul J. Sass
Republican Staff Director

April 6, 2022

Administrator Amit Bose
Federal Railroad Administration
U.S. Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

Dear Administrator Bose:

We write to implore your agency to finalize an outstanding mandate from 2008 to address the condition of railroad worker fatigue and its negative effects on safety.

After decades of studying the issue, the FRA has a clear understanding of the safety risks posed by fatigue: fatigue symptoms include falling asleep, slower reaction time, attention loss, performance impairment, and increase error. A number of individual, environmental, and organizational factors can contribute to the likelihood of fatigue, such as general health and medical conditions as well as scheduling and other practices that affect opportunities for workers to obtain sufficient quality and quantity of sleep.

Fatigue isn't just an inconvenience; FRA research has established that the probability of rail accidents increases as fatigue increases. Yet the problem persists: between 2000 and 2020, the National Transportation Safety Board conducted 11 major investigations of accidents involving railroads in which fatigue was identified as the probable or a contributing cause.

Despite the known risks associated with fatigue, many railroad workers are unable to obtain adequate rest. This includes operating crewmembers who are protected by federal hours-of-service limitations but still struggle to obtain the necessary quality and quantity of rest. While workers have a responsibility to make decisions that allow them to access proper rest, planning for such opportunities is nearly impossible due to erratic train lineups, regularly being on call 24/7, and having just a few hours' notice to report for work.

To make matters worse, the Class I carriers have substantially reduced the size of their workforces since implementing precision scheduled railroading (PSR) at the behest of Wall Street investors. Unions representing railroad workers and individual workers have sounded the alarm on rail worker fatigue, which they believe is worsened by the deployment of PSR and the resulting push to do more work with nearly one-third fewer people on the job.

Compounding this are attendance policies for operating crewmembers at some of the Class I railroads that, on the face of it, allow workers to take time off for unexpected events or when feeling ill or fatigued but, in practice, may then punish workers for doing so. Such policies are not designed to encourage workers to make safety-based decisions about their readiness to operate ever-longer, ever-heavier trains. Rather, these policies could incentivize employees to show up to work fatigued in order to avoid reprimand or termination. They also ignore the unfortunate reality that crewmembers already have unpredictable and unreliable schedules, which makes this line of work difficult for many, even before policies that further restrict their lives and abilities to obtain proper rest.

Some claim that such attendance policies better assist carriers in running their railroads by reliably having crews on deck when they are needed. Our committee recently heard testimony from various shipper groups about how the lack of operating crews has negatively impacted rail service. While we are glad the railroad industry seems to recognize a shortage of crews can harm service, we can't help but to point out that at the end of 2021, the Class I railroads employed nearly one-third fewer train and engine staff compared to 2014, before PSR began to take hold. Now, the Class I railroads find they have cut too much and discuss their difficulties in recalling the workers they furloughed, retaining workers who have begun leaving mid-career, and recruiting new workers. Such attendance policies are not effective recruitment tools, especially when the national workforce has sent a clear signal that the quality of life is an important consideration in employment choices.

The prescription for solving operational troubles, self-imposed or otherwise, cannot degrade safety by increasing fatigue. Thankfully, in 2008, Congress stepped in to help address fatigue by requiring Class I railroads, railroad carriers providing intercity or commuter rail passenger transportation, and railroad carriers that have inadequate safety performance, to develop fatigue management plans to reduce the fatigue experienced by safety-related railroad employees and to reduce the likelihood of accidents, incidents, injuries, and fatalities caused by fatigue. Such plans were required to be part of carriers' comprehensive railroad safety risk reduction programs—a recognition by Congress that mitigating worker fatigue is key to reducing safety risks.

The Notice of Proposed Rulemaking that the Federal Railroad Administration issued in December 2020 required railroads to identify and evaluate fatigue-related railroad safety hazards in their systems, determine the degree of risk associated with each hazard, and implement mitigation strategies to reduce the fatigue that safety-related employees experience and reduce the risk of accidents, incidents, injuries, and fatalities where fatigue is a contributing factor. We believe that attendance policies that not only contribute to fatigue but also penalize workers for taking off when fatigued or ill simply cannot co-exist with any serious fatigue risk management program.

The Congressional mandate to mitigate fatigue among crewmembers and other safety-related workers is now a decade late. Crewmembers and other craft workers have raised their concerns about being excessively exhausted at work, which is worsened by PSR. These workers cannot wait any longer, and neither can the communities through which trains travel.

To mitigate attendance policies that contribute to fatigue and help ensure all safety-related workers are rested and prepared to do the job safely, we respectfully urge your agency to issue the

Administrator Amit Bose

April 6, 2022

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fatigue risk management program final rule without delay, require its swift implementation, and meaningfully enforce it to ensure that the 2008 bipartisan Congressional mandate is met.

Sincerely,

PETER A. DeFAZIO
Chair



DONALD M. PAYNE, JR.
Chair
Subcommittee on Railroads, Pipelines,
and Hazardous Materials

