Moore, Cliff

From:	Nate Kaplan <nkaplan@gorail.org>
Sent:	Tuesday, November 27, 2018 4:25 PM
To:	Mendez, Carmen; Moore, Cliff; Cortez, Ana
Subject:	GoRail Follow Up
Attachments:	STB MultiSigner Letter_all signers.pdf; Balanced Regulation Issue Paper.pdf

Council Member Mendez, Cliff, and Ana:

It was a real pleasure meeting each of you this morning. And thank you for letting me share some insight on what the freight rail industry is focused on for 2019, and explain the serious challenges faced if the US Surface Transportation Board (STB) decides to re-regulate freight railroad routes and rates, aka *Forced Access*.

To recap, Congress has objected to Forced Access several times in the past because it is known that this regulatory overreach will hinder freight rail's economic growth and efficiency in turn harming the logistics chain and freight mobility in Washington and across the country. Nearly 600 organizations and elected officials across the country have written or signed-on to letters to Congress opposing Forced Access, and we would love to have the City of Yakima's support since a vote by the 5-member STB Commission will likely occur early next year. Here's more background on the policy:

- Here is a link to UPS's opposition to Forced Access; and here is a Point/Counter-Point from GoRail's president
- A short video from Association of American Railroads explaining the policy's operational impacts
- Link to the actual legal rule-making notice in the federal register (Published in August, 2016): https://www.federalregister.gov/documents/2016/08/03/2016-17980/petition-for-rulemaking-to-adopt-revised-competitive-switching-rules-reciprocal-switching.
- Group letter we sent last year opposing Forced Access with approximately 500 signers from across the country – about 100 additional letters have been sent since (attached)
- Balanced Regulation 1-pager (attached)

As discussed, I prepared the attached draft letters for your consideration opposing Forced Access addressed to Washington's congressional delegation (and CC'ing our two senators Senator Patty Murray, 154 Russell SOB, Washington DC 20510; Senator Maria Cantwell 511 Hart SOB, Washington DC 20510). Please feel free to edit these letters however you'd like, but I thought this would be a good start.

Please always let me know if there's anything I can do to help you and the City now or in the future. I'll be connecting you with BNSF on a separate email regarding the at-grade crossing.

Thanks again!
Nate

p.s – Follow us @GoRail for fun and accurate info about transportation and infrastructure!

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Nate Kaplan
West Coast State Director
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November 16, 2017

The Honorable John Thune
Chairman, Committee on Commerce, Science and Transportation
United States Senate
Washington, DC 20510

The Honorable Bill Nelson
Ranking Member, Committee on Commerce, Science and Transportation
United State Senate
Washington, DC 20510

The Honorable Bill Shuster
Chairman, Committee on Transportation and Infrastructure
United States House of Representatives
Washington, DC 20515

The Honorable Peter DeFazio
Ranking Member, Committee on Transportation and Infrastructure
United States House of Representatives
Washington, DC 20515

Dear Chairman Thune, Ranking Member Nelson, Chairman Shuster and Ranking Member DeFazio:

The U.S. Surface Transportation Board (STB) continues to consider new regulations on freight railroads that stand to harm our economy, consumers and thousands of farms, factories, mines and other businesses that rely on freight rail. The proposed regulations represent a dramatic step backward from the balanced regulatory system that is working today by providing a regulatory benefit to some shippers at the expense of the efficiency of the entire network. These new regulations would undermine the ability of railroads to reinvest capital in the rail network thus imperiling local rail service for most shippers and communities.

At a time when the nation is looking to leverage private investment in infrastructure more than ever and is counting on efficient and safe transportation to facilitate economic growth, Congress should ensure that regulators leave railroads free to invest and innovate to better serve customers and the nation.

We represent communities and companies across the country that know well the public benefits of private freight rail investment. Freight railroads are the only transportation mode that pays for its own infrastructure with almost no government support. This saves taxpayers money while also keeping freight off already crowded and underfunded highway infrastructure. And, every ton of freight moving by rail rather than by highway means less fuel was consumed for the move and fewer pollutants were emitted.

Most importantly, the massive private investments made by freight railroads connect local farms, companies and mines to markets across the country and world. In 2014 alone, private railroad investments generated $274 billion in economic activity and supported 1.5 million jobs nationwide. This mean jobs for our companies and a powerful catalyst for economic development in our communities.

Contrary to the assertions of interest groups promoting these unnecessary new federal regulations, the proposals would be extremely damaging to rail-served communities and businesses. The proposed new regulations would force railroads to open their privately-owned networks to competitors by turning over traffic to other railroads, potentially at below-market rates and without any showing of competitive abuse. The proposals undermine existing free market competition and replace it with a regulatory scheme that runs directly counter to the balanced and effective regulatory framework set by Congress in the Staggers Rail Act of 1980, which ushered in a freight rail renaissance in America.

This is a classic case of regulatory overreach. Congress did not ask the STB to take any of these steps when it reauthorized the Board in 2015 and, in fact, these proposals have been previously rejected by Congress 16 times, and for good reason. They would limit railroads' ability to earn enough capital to reinvest in their networks, making the national freight rail system less efficient, less safe and less productive.

At a time when the country is considering massive infrastructure investments to spur economic growth, freight railroads provide a shining example of the power of private investment. We need to support freight railroads' ability to invest to continue to relieve pressure on the highway system and to support the still-recovering economy. In that context, these actions by the STB make no sense. Please preserve the existing smart, balanced regulatory system that protects shippers while allowing railroads to invest.

Sincerely,

Monroe Jones
President
Birmingham Rail & Loco. Co., Inc. (AL)

Billy Ainsworth
President & CEO
Progress Rail (AL)

Corbett Bennington
Director of Planning
City of Anniston (AL)

Josh Curtis
Governmental Affairs Director
Arkansas Association of Counties

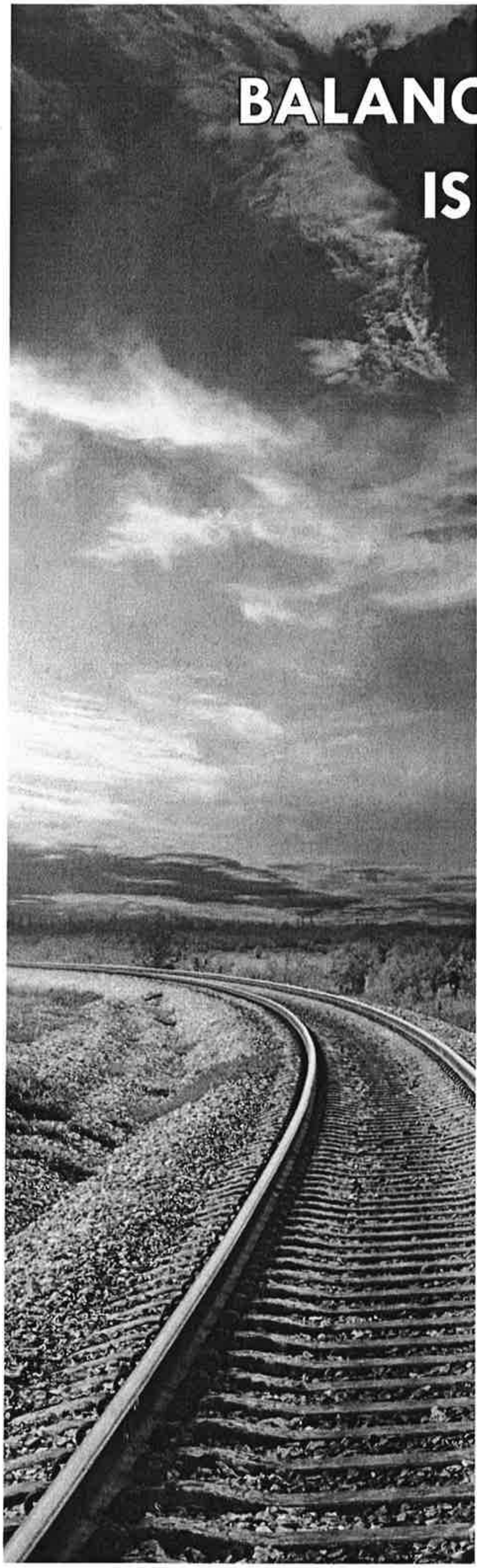
Allen Blythe
President
Ferrovia Services, LLC (AL)

Johnathan Dismang
Senator
Arkansas General Assembly

Knox Kershaw
CEO
Knox Kershaw, Inc. (AL)

Michelle Gray
Represenative
Arkansas General Assembly

+ 19 pages
of signatures



BALANCED REGULATION IS WORKING

Prior to 1980, the nation's rail infrastructure was crumbling.

Today, U.S. freight railroads are the most efficient and productive in the world. Just 35 years ago, however, railroads were on the brink of collapse because outdated and overly stringent government regulation had crippled their ability to operate effectively and profitably.

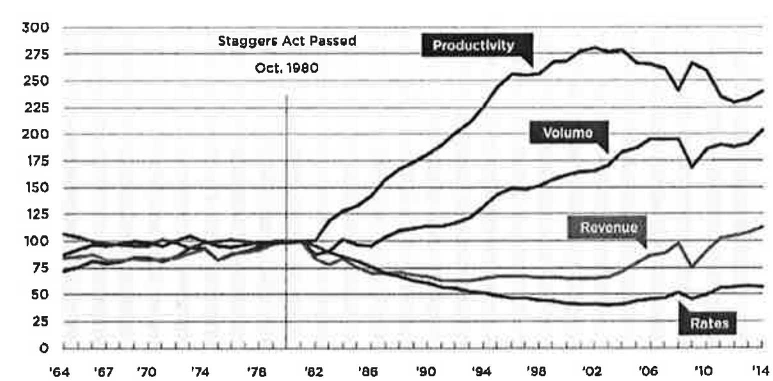
- More than 20 percent of the country's railroad miles were operated by railroads in bankruptcy.
- Rail rates were rising faster than inflation, and the rail market share for freight shriveled as more and more shippers turned to trucks.

The Staggers Act created smart, balanced regulations.

In 1980, Congress passed the Staggers Rail Act, creating a balanced regulatory system that still exists today. Shippers are protected against unreasonable railroad conduct while railroads can largely decide for themselves how to manage their assets and price their services.

- Improved profitability has allowed freight railroads to pour $600 billion of their own funds back into their systems to create a network that is second to none in the world.
- Average inflation-adjusted rail rates are down 43 percent since 1980, saving rail customers, and ultimately U.S. consumers, hundreds of billions of dollars over this period.
- Railroads are safer; the train accident rate in 2014 was the lowest in history and down 80 percent since Staggers was passed.
- Overall industry productivity was flat for many years prior to Staggers, but is up 139 percent since then.
- Hundreds of short line and regional railroads formed since Staggers, preserving rail service and rail jobs that otherwise would have been lost.

U.S. FREIGHT RAILROAD PERFORMANCE SINCE STAGGERS



GORAIL

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ASSOCIATION OF AMERICAN RAILROADS

November 13, 2018

Dear Newly Elected Members of Congress:

Congratulations on your recent election to Congress. As you transition from campaigning to governing, the nation's private freight railroad industry – the linchpin of our integrated national infrastructure system – wants to provide key facts surrounding our business and outline some key policy positions.

Congress will examine the nation's infrastructure next year, including through surface transportation reauthorization, needed by the end of fiscal year 2020. Freight railroads, which provide safe and efficient transportation for nearly every industrial, wholesale, retail, and resource-based sector of the economy, are central to this discussion. We play a crucial role in maintaining Americans' quality of life: moving the fertilizers used to grow crops, cars that move workers and families, materials to build homes and businesses, and chemicals used to purify drinking water.

In 2017 alone, the sector generated roughly $219 billion in economic activity while supporting 1.1 million jobs. Our industry is fueled by private investment, averaging $27 billion in recent years. We stand in stark contrast to publicly funded infrastructure systems such as highways, which face a backlog of $740 billion in repairs, or the infrastructure crises plaguing our country's transit systems.

Facts about the freight rail industry, which operates on a 140,000-mile network it owns and maintains:

- **Safe**: Based on federal data for 2017 across key measures – including train accident rate and employee safety – recent years have been the safest in the industry's nearly 200-year history. Last year marked the lowest rate of track-caused accidents ever, while the overall train accident rate is down 23% since 2008. The industry transports critical hazardous materials – including plastics, fertilizers, and other chemicals – to their destination without release due to accident 99.999% of the time. All the while, railroads train 20,000 first responders annually and make the AskRail mobile application available to first responders and law enforcement officials who need to access information on rail contents traversing their territory.

- **Future-focused**: Private freight carriers are implementing Positive Train Control (PTC), which will help stop a train before certain types of human-caused accidents occur. A host of innovations, such as unmanned drones and a nationwide network of wayside detectors using technology like radar and ultrasound, allow railroads to evaluate infrastructure conditions and inspect equipment with greater precision and frequency. Technologies increasingly enable the industry to identify problems before they arise, ultimately improving the safety and efficiency of the rail system.

- **Economically critical**: One job in the rail sector supports eight others across the economy, as the industry is tethered to essential job creators – logistics, warehousing, farming, and manufacturing – through reliable and affordable transportation. Adjusted for inflation, average U.S. freight rail rates were 46% lower in 2017 than in 1981.

- **Environmentally friendly**: The most sustainable way to move goods on land, a freight train moves a ton of freight 479 miles on one gallon of fuel on average. Moving goods by rail instead of truck reduces greenhouse gas emissions by an average of 75%.

- **Trade enabler**: Global commerce is tied to 42% of rail traffic and 50,000 domestic rail jobs, worth $5.5 billion in annual wages and benefits. Railroads haul roughly 33% of U.S. exports, allowing U.S. industries to compete abroad. Together with trucks and barges, freight trains help move an average 54 tons of goods per American each year.

- **Committed to its workforce**: In 2017, private freight railroads employed roughly 170,000 people – 82% of which are unionized – earning $125,400 per year on average in total compensation. Through collective bargaining, the industry works with labor to forge healthcare, retirement, and compensation packages ranked in the top 5% of U.S. industries.

Policy recommendations:

- **Sensible economic regulation**: Congress partially deregulated the private freight railroad industry in 1980 after years of discord, allowing the industry more freedom to make routing and pricing decisions dictated by market conditions. Strong gains in private investment have followed, correlating with marked improvements in safety, service, and competitive rail rates. The Surface Transportation Board (STB), the independent agency with oversight of rail economic dealings granted by Congress – including mediation and adjudication with rail shippers – remains critical in ensuring the health and viability of the freight rail network. The STB must maintain the current regulatory framework, which balances the needs of both railroads and shippers, and not implement wholesale changes that would compromise the ability of railroads to earn the revenue needed to reinvest in the network and meet customer demand. Congress, which reauthorized the STB in 2015 and avoided major policy changes in doing so, should maintain proper oversight to ensure its critical directive is not circumvented.

- **User-funded infrastructure**: Commercial trucking is the biggest customer of the private freight rail industry and its biggest competitor. Ample research shows large trucks fail to pay for the damage they inflict on roads, bridges, and highways. This underpayment puts the rail sector – which fully covers its costs, reduces emissions, and lessens traffic – at a competitive disadvantage, but also contributes significantly to the insolvency of the Highway Trust Fund, which has required $143 billion in general taxpayer funds in the last 10 years. Federal infrastructure policy should remedy this fundamental imbalance by ensuring users of infrastructure pay for their use, which could be done through a host of mechanisms, such as a Vehicles Miles Traveled (VMT) fee. This could be applied to commercial vehicles to account for distance traveled and the weight of freight-carrying trucks.

- **Pro-innovation policy**: Freight railroads increasingly test and deploy new technologies to bolster safety and efficiency. Ideal oversight in this area should be federal to avoid a patchwork of state directives – thus hindering interstate commerce – and should position railroads on equal footing with their transportation peers. Regulations from the U.S. Department of Transportation and laws from Congress should favor technological improvements and center on demonstrated outcomes – such as improving safety in a specific area. Lawmakers should avoid one-size-fits-all policies that hinder modernization destined to improve safety, including policies that mandate specific operating models.

We thank you for your time and consideration and look forward to future discussions.

Sincerely,

Ian Jefferies
Senior Vice President of Government Affairs and incoming (Jan. 2019) President and CEO
Association American of Railroads