NATIONAL RAILROAD POLICY: WHICH WAY IS UP?

HEARINGS

BEFORE THE

SUBCOMMITTEE ON ECONOMIC GROWTH AND STABILIZATION

OF THE

JOINT ECONOMIC COMMITTEE

CONGRESS OF THE UNITED STATES

NINETY-FIFTH CONGRESS

SECOND SESSION

PART 1

JUNE 27, JULY 24, 26, AND 28, 1978

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NATIONAL RAILROAD POLICY: WHICH WAY IS UP?

TUESDAY, JUNE 27, 1978

CONGRESS OF THE UNITED STATES,
SUBCOMMITTEE ON ECONOMIC GROWTH AND
STABILIZATION OF THE JOINT ECONOMIC COMMITTEE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:10 a.m., in room 305, Federal Plaza, New York, N.Y., Hon. George McGovern (member of the subcommittee) presiding.

Present: Senator McGovern.

Also present: Philip McMartin, Brett Fromson, and M. Catherine Miller, professional staff members; and Robin Carpenter, member, Senator McGovern's staff.

Senator MCGOVERN. I think we can proceed with today's hearing under the auspices of the Subcommittee on Economic Growth and Stabilization of the Joint Economic Committee. We have scheduled four witnesses today; the Honorable Toby Moffett, a U.S. Representative in Congress from Connecticut; Mr. Al Chesser, from the United Transportation Union; Mr. Edward Jordan, chairman, Consolidated Rail Corp.; Mr. Robert Reebie, chairman, Reebie Associates, Greenwich, Conn., and a fifth witness, who is a tentative witness, Mr. Norton Simon, chairman, California Transportation Commission.

I regret that Mr. Simon, who had indicated to us all along that his duties in transportation in California, particularly in light of Proposition 13, might prevent him from being with us, cannot be with us today. I have a copy of his statement, which I will ask to have made part of the record. It is a thoughtful and penetrating kind of statement that we expect from Mr. Simon, who perhaps as much as any other private citizen in this country has attempted to probe very deeply into the complexities of the rail problem.

[The statement of Mr. Simon follows:]

STATEMENT OF NORTON SIMON, CHAIRMAN, CALIFORNIA TRANSPORTATION COMMISSION

Senator, you requested my views on what should be done about America's railroads. I favor legislation to discourage railroads being mixed in holding companies or owning other properties not related to transportation. These involvements are a great handicap to proper and economical utilization of the transportation facilities that exist. Giving the Securities and Exchange Commission authority over all marketing or railroad securities and financial reporting, and eliminating any remaining involvement of the ICC in this area. Ultimately and most importantly establishing a single national railroad corporation, publicly owned by shareholders, integrated for efficiency and able to compete in the capital market.

The situation in the railroad industry was appalling even before the last rash of bankruptcies brought the matter to Congress' attention. The establishment of ConRail and Amtrak have simply accelerated the drain on the public treasury. At the time the issue was under active consideration, I met with some forty Senators, and the general consensus, if I am not mistaken, was the need for passage of a bill appropriating funds, about 1 million dollars, for an immediate study of the problems inherent in the current situation, and in setting up a national railroad corporation patterned, with some similarity, on the American Telephone Company—a single efficient, national network, publicly owned. Politics in the Interstate Commerce Commission killed that attempt. Later, with the help of Congressman Moss, there was an attempt to pass legislation advocated by the SEC to take away the exemption that the railroads enjoyed from portions of the Securities regulations that guaranteed proper public disclosure. The display of politics between the Interstate Commerce Commission, Senator Hartke and the lobbyists of some of the railroads and others was inexcusable.

Now, in the very few years since that time, the U.S. Government has become involved and has literally wasted several billion dollars with all kinds of "freak," hidden, and inadequate (while still excessive) subsidies and special arrangements—because of a lack of an in-depth study of the issue. At this time I would estimate that a reasonable study could be made for a sum of not more than 5 million dollars. It should be undertaken immediately by proper people who have no financial or other interests, either direct or indirect, in the outcome.

It doesn't require a railroad expert to know that we are seeing more wrecks than ever, all over the country these days. The wrecks are because of bad track conditions, bad equipment conditions, and poor regulation by ICC and other agencies. Well meaning attempts to put "bandaid" reliefs in place have cost hundreds of millions of dollars while solving nothing and often actually aggravating the condition. Waste in railroads translates directly into deferred maintenance, and this, in turn, translates into wrecks. Much of the waste is occasioned by the interchange duplication of equipment and facilities between railroads, separate accounting division of rates, division law cases, bad routing, and the enormous amount of management effort applied to outside businesses owned by railroads. There is a natural temptation to build the other businesses at the expense of the railroads when the railroads, themselves, are losing ground and money—all of these areas represent waste. It is truly a national shame to have tracks in excellent condition on some railroads, such as the Santa Fe and the Union Pacific, only to have the equipment of these same roads battered up, slowed down, and destroyed by wrecks on the less-than-adequate tracks of bankrupt and near bankrupt roads which are, like it or not, part of a national system. Ultimately and logically we will come to a single national railroad system in this country—the only question is whether it will be a publicly owned corporation like ATT, whose results are freely evaluated in the market place, or a government-owned corporation, like the Post Office.

A national railroad, publicly owned by stockholders, can be achieved—and probably without as much problems as one might think. Many railroad companies would be very glad to shed their railroads and go on with their other businesses. No doubt some would prefer staying with railroads and some would have to be brought-to-terms in the best interest of the country. But there is no doubt that some formula can be worked out that would create less subsidy for the railroads, possible improvement in some passenger transportation, and much greater and less costly usage of freight facilities. It is likely that considerable financial strength for the corporation could be provided from the disposition of land grant properties which were given to railroads, originally, to support railroad development. It is time for these properties, vast acreages of which are languishing under inattentive management, to be used for the purpose Congress intended. While many railroads would complain bitterly about the disposition of these lands, it is common practice for these same railroads to literally give away millions each year in property to customers, banks, friends and the like through their so called "Industrial Development Departments." These giveaways are direct violations of the Elkins Act, and existing federal law which is rarely enforced.

To expect in any brief testimony to even begin to describe the problem or suggest a complete method of implementation to achieve an equitable integration of railroads is beyond reason. One thing is a certainty—it is becoming more self-evident, and should have been seen even before the Penn Central bank-

ruptcy—we are currently on a determined course of wrecking the railroad system in this country by not intelligently dealing with objective facts.

A relatively simple study of the history of railroads in Europe, particularly Great Britain would clearly point out what we are headed for: a national system born out of necessity. Hopefully, it will not be a "nationalized system." The mergers of the last several years have largely been aborted. The level of subsidy to the trucking industry (much of the subsidy hidden), and the kind of regulation and handling of the railroads is something that no amount of quick legislation is going to solve. Intelligent and objective study is a must if reasonable success is going to be achieved—and there is no doubt that is obtainable. Over the years, well meaning attempts to work out implementation concepts with staff of interested Senators and Congressmen have been futile. It appears to me, from the inquiry I have made to date, there is really no staff expertise in the Senate, Congress, or even in the various Executive Departments who have the time or financial expertise to do more than look for a superficial solution. We have already had too many attempts at these. It will take an adequately financed and well organized study to do the job. Five million dollars, or whatever the study might cost to properly expore the properties of the railroads and identify a total merger formula—will save billions. The feeble political attempts to date have cost us tens of billions.

While the proposed study goes forward, as an immediate step all railroads financial matters should be placed totally under the jurisdiction of the SEC. It is time to end the financial sleight-of-hand condoned by the ICC. Apparently, it is not generally known throughout Congressional staffs that the SEC has already obtained a consent decree from one major railroad concerning their lack of adequate financial information. The SEC has expressed their intention to have additional hearings with other railroads about the same inadequacies. Unfortunately these hearings will probably touch upon only a minor portion of the problems, but it will be an important step. Certainly the manner in which ICC has handled railroad financial requirements has avoided, for no substantive reason, many of the normal requirements that SEC would have justifiably required for the protection and confidence of the investing public.

As I conclude this testimony, may I point out that I feel I have done about all that one concerned private citizen can be expected to do to eliminate this need. The only direct interest I have is as Chairman of the California Transportation Commission—but I would point out that in this testimony I speak only for myself, not for the commission. I have been a knowledgeable investor for many years, seen the inside of railroad board rooms for 22 years as a director of Burlington Northern, Inc. (in which I have disposed of my financial interests), and have lived through the mergers of four railroads into the Burlington Northern. I have founded and managed one of the nations large corporations, and seen the practices that exist as a shipper. I hope this background will suggest that there is merit in my conclusions.

Senator McGOVERN. I was just advised that Mr. Edward Jordan, Chairman of ConRail, will not be with us. I will have more to say about that later on. Let me just say for the moment that I am very disappointed in Mr. Jordan's last-minute cancellation.

I personally regard it as one of a series of steps that we have seen in ConRail demonstrating their lack of accountability to the Congress of the United States and to the American public.

Mr. Jordan will be represented here today by Mr. Sweeney, and we will see that Mr. Jordan's prepared statement is made a part of the record. But I can only say that I regard this last-minute cancellation, after assurances that Mr. Jordan would be with us today, as one in a long line of efforts and demonstrations on the part of ConRail, that they do not properly recognize their accountability to the Congress that has so generously subsidized the operations of ConRail. I think it helps to dramatize the types of problems we are up against in facing this operation.

I will have more to say about that as the hearing progresses. At the present time I would like to ask Mr. Robert Reebie to come to the witness table.

I see he is here. Mr. Sweeney is representing Mr. Jordan, and we are advised Mr. Chesser is on his way and will be here momentarily. Later this forenoon, Representative Moffett will arrive to deliver his statement.

Before turning to you, Mr. Reebie, I have a brief opening statement that I would like to make. I want to say to each of the witnesses that I have read these prepared statements. They are well done. The prepared statement by Mr. Reebie is really a textbook of the problems of the rail industry. It is a most thoughtful analysis of the problems that we face. While I have asked each of the witnesses to try to limit their opening presentations here this morning to about 10 minutes, I do want to assure you, Mr. Reebie, and other witnesses, that the entire prepared statement will be made a part of this hearing record as though read. I hope every one of my colleagues in the Congress of the United States will read those statements and the other testimony, because it sheds an enormous amount of light on the problem that we face if we are going to salvage our rail industry.

OPENING STATEMENT OF SENATOR MCGOVERN, PRESIDING

The accelerating deterioration of vast segments of the Nation's rail system demand immediate efforts to produce something we have never had despite overwhelming need: a comprehensive and consistent national railroad policy.

I am convinced that if Congress and the administration fail to act, we will have deliberately consigned Government to continued ineffectual tinkering at a cost of untold billions of taxpayer dollars while the crippling illness of the railroads in the Northeast and Midwest spreads throughout other major components of the national system.

With a comprehensive policy and evenhanded programs to carry it out, the full potential of one of our most energy-efficient transportation modes can be reached. It can be reached at a time when the Nation faces inescapable energy shortages, alarming inflationary pressures, and rapidly mounting public insistence on justifiable reductions or shifts in public expenditures.

We have long been at the point where emergency, "Band-Aid" responses to the railroad crisis must end and be replaced with an effective overall approach that will provide meaningful guidance and judicious support in the years ahead. The taxpayer revolt sweeping the Nation is a clear mandate that nothing less than this kind of careful overhaul will suffice.

Despite the well-meaning intentions of its sponsors, the adequacy of the Railroad Revitalization and Regulatory Reform Act of 1976 is increasingly being called into question as industry deterioration continues. What was meant to be a comprehensive solution may fall short because of the frustrating actions of the Interstate Commerce Commission and failure of key provisions of the legislation to furnish assistance or stimulate industry change where needed most. Although broad in scope, this legislation is in company with other congressional initia-

tives which have failed to properly define the role of the Federal Government in the operation and maintenance of the Nation's rail system.

Fundamental problems confronting the country's railroads are exemplified by the circumstances besetting the seven bankrupt lines comprising the ConRail system of the Northeast. Even though more than $2 billion of taxpayer funds have ben funneled into ConRail, the line has failed to provide convincing evidence that it will reach the goals established for it, even if billions of additional Federal dollars are appropriated. Beyond this, ConRail faces charges that payroll fraud, made possible by an antiquated wage distribution system typical of most railroads, may have drained tens of millions of dollars out of the line. Whether right or wrong, the allegations of payroll fraud in ConRail have served to convince a growing segment of the public that the Nation's railroad industry may be rolling unchecked toward disaster.

This perception is reinforced by data disclosing the huge unmet financial needs of the industry. Last year net railway operating income declined to $347 million, the lowest level since 1932, while its rate of return on investment amounted to only 1.28 percent. The pathetic condition of the industry as a whole is cause for general alarm, to say the least.

The outmoded regulatory requirements and operating methods besetting ConRail are shared by virtually all railroads in the Nation. Characteristic of this burden are required accounting practices that actually fail to tell railroads whether they are making or losing money, creaking 75-year-old revenue routing divisions that make operating in the black impossible, work rules that provide a full day's pay to train crews for less than a full day's work.

We have a national railroad system that runs on 20th century technology absuredly controlled by 19th century policies and procedures. The role of the Federal Government must be to develop policies to unravel this morass and provide incentives to achieve sound management and labor practices that will allow railroads to function competitively, profitably and at the lowest possible cost while protecting the interests of workers and the public.

In essence, this is the policy challenge facing Congress and the administration. It is my hope that the hearings which get underway today will make a significant contribution to the effort the Government must make to find a realistic solution. The vitality of the nation's economy will be significantly affected by the degree to which success is achieved in this effort.

Now, our first witness, as I indicated earlier, is Mr. Robert S. Reebie, chairman of Reebie Associates, Inc., Greenwich, Conn., who is recognized as an authority in labor management and the problems of the industry.

Mr. Reebie, the microphone is yours.

STATEMENT OF ROBERT S. REEBIE, CHAIRMAN, REEBIE ASSOCIATES, INC., GREENWICH, CONN.

Senator, it is my understanding that the purpose of this hearing is to determine the ability of railroads to serve the shipping public, their

Mr. REEBIE. Thank you.

ability to generate the capital and jobs needed to replace, modernize, and expand their facilities, and their ability to do so with an economic efficiency which consumes a minimum of this great and freedom-loving Nation's resources of worker talent and material resources.

A number of governmental studies, in which I have participated, have endeavored to identify the problems and/or opportunities which must be addressed if the railroads are to improve their performance in meeting these three basic criteria. Indeed, several basic studies which examine these subjects in detail have been rendered to the Federal Railroad Administration over the past year and should be published shortly.

Today I will endeavor to communicate to you the findings of these studies and programs, with the hope that they will ring true and that they will assist you in your task to form sound policies concerning governmental actions in the field of transportation in general, and the railroads in particular.

Today the railroads are still a vital part of our economy as they haul approximately 36 percent of the Nation's ton-miles, and the economy would largely come to a halt within several days if railroad service was suspended.

For such a vital service the Nation must answer two questions. First: Is the railroad industry producing a surplus of income over expenses so that it will have adequate capital with which to wage progress and finance the future?

Your comments agree with mine. The answer is clearly "No." Even for most of the more profitable railroads.

The second question: Is the railroad industry holding or increasing the competitiveness of its service-price package vis-a-vis other modes?

Here again the answer is a definite "No," especially in the carriage of merchandise freight.

The market share continues to decline with indications that the downward trend may become precipitous. However, it is my belief that the deterioration can be arrested and a revitalization begun through acceptance of the recommendations I present below. In fact, I believe that a dedicated 10-year program can improve service quality, reduce railroad unit costs 16 percent and generate cash flows adequate to finance a viable future for our Nation's railroads.

Indeed, if regulation is modified to allow the railroads to correct loss traffic, and if an economically wise Congress applies user charges to all modes for facilities provided with public funds, then the Nation will benefit from an increase of railroad market share above 50 percent.

This loss of market share is caused because many shipper/receiver customers find that much railroad service is no longer competitive for higher value merchandise traffic. In fact, teams of shipper/receiver customers are now meeting frequently with railroad management and labor leaders to highlight railroad failures in four main areas. The first is that the supply of proper, empty equipment at the proper time is often inadequate. The second is reliable schedules for the movement of loads. The third is care of the goods in transit. And the fourth is charges that are too high for the quality of service rendered.

Today I often hear it said that the railroads are economically better suited than other modes only for the carriage of bulk commodities like coal, ore, grain, chemicals, and neobulk commodities.

However, such an assessment appears inaccurate. First, it fails to recognize the importance of merchandise traffic to the railroad system.

When merchandise traffic that is carried in various car types is included, like automobiles in rack cars, merchandise traffic of most railroads provides well over two-thirds of their revenues. As major railroads, like ConRail, lose their merchandise traffic, one wonders whether the loss will leave enough traffic to support much of the Nation's railroad system.

It is understandable that the general public has had difficulty in identifying a course of action that would be proper for Government and effective in reversing the downward trend of the Nation's vital rail system. I believe that this difficulty results from the recurrence of a wide variety of network restructuring, nationalizing, and rebuilding recommendations which are based upon good intentions, but which lack the foundation of adequate analysis and a sound understanding of many economic inadequacies of current railroad operations, marketing, and profit management. Yet it is these inadequacies that deny the Nation the full potential benefits of the basic railroad concept.

A sample of the recommendations which I believe are inappropriate and which are confusing legislators—and which are described in some detail in my prepared statement—would include nationalization of the national railroad main line rights-of-way or abandonment of most of the branch lines as the only solution to that problem.

Another nostrum is electrification of main lines or nationalization of the railroads in total.

The point I wish to make is that rebuilding or reorganizing railroads along traditional operating patterns will not arrest the deterioration of the system, regardless of the amount of taxpayer funds expended.

Amtrak already provides such ample illustration of this view, that I can only trust that ConRail will respond and provide the analytical leadership necessary to start down a different pathway.

Now it is the individual car movements of merchandise freight that represent the major economic problems and opportunities for railroad operations. Therefore, my prepared statement focuses in detail upon these complex operations rather than the simpler, more efficient movements that characterize railroad movements of bulk commodities like coal, or intermodal shipments like piggyback.

To understand the basic problem of large railroads, it is necessary that we first understand how carload services are provided. General merchandise freight can be summarized as a long series of batch operations. The complex details of a typical movement are outlined in the summary. For now, let me simply describe railroad merchandise freight operations generally as a series of batch move-sort-move operating patterns that will remind some of a "Tinkers-to-Evers-to-Chance" bucket brigade type of operation.

These costly sorts and waits in terminals are of value, but only to the extent they gain benefits of moving multiple cars in trains over

inexpensive rails. Therefore, the objective of systems analysis is to find the optimum balance of advantages and disadvantages for interrelated traffic lanes.

Quantification of the effects of the above operating patterns presents us with a clear picture of the causes of slow and unreliable rail service and uncompensating level of rail rates for merchandise traffic.

Analysis in my prepared statement displays that the greatest chance for improvement in railroad operating economics involves reducing the unit costs of rail car equipment. As the largest element of cost under the exclusive control of the management, it can be reduced simultaneously with improvements in car supply, elapsed shipment time and schedule reliability as well as a reduction in terminal costs.

Any observer of the railroad industry will note the railroads suffer from the inefficient urban networks of tracks and yards which were originally laid out in the late 1800's and early 1900's.

The multiple urban yards of individual railroads, and the historical labor jurisdictions, often require many yard-to-yard train batch movements and yard handlings between the shipper and the outbound train at the origin and between the inbound train and the receiver at the destination.

Where labor unions and governmental regulations would not erect unreasonable barriers, operating changes might include more actions of the type which have recently received support from the Federal Railroad Administration. But to realize a major reduction in terminal handling expense, there is a need in many larger cities to relocate the current trackage, relocate certain industries to efficiently serve industrial areas, and centralize yards. Yet, I believe that such major physical rationalization projects can only be accomplished by governmental action. Further, I believe that such railroad terminal development projects can bring as much development to individual communities and to the Nation as do ports and airports. Therefore, I recommend that Government undertake such railroad terminal projects where they are needed and accepted by the vitally interested parties.

My recommendation also recognizes that an undertaking probably could not receive adequate support if it benefited only the railroads and their customers. Fortunately, I believe the program can also provide needed benefits to our older major cities.

In urban problems that are well known, it can create economically worthwhile unskilled, semiskilled, and skilled jobs in the cities themselves.

Senator McGovern. I notice you sent that proposal to Mr. Brock Adams in a letter some months ago. I was curious if you ever got a reply.

Mr. Reebie. I don't know if the response from the FRA was due to that letter alone, Senator. But the FRA has indicated considerable interest. They asked us to make a brief study of a Canadian city which has done some of this kind of thing, and it was my hope that it would provide lessons for this program to be used by the FRA to propose urban relocation programs of the type I described.

Senator McGovern. You said it was sort of a comprehensive effort to not only rebuild the terminals of the system but to do it in such a way as to bring about a constructive urban development in many of our urban areas.

Mr. REEBIE. You are exactly correct. It not only provided jobs; it improved the environment. The important thing is this can be done, I believe, in a way which will not place an exceptional burden on the taxpayer, because the projects can largely pay for themselves through increased tax bases in the belts developed around the city and by user charges on the railroads for the new facilities they would enjoy.

An analyst of the railroad industry will soon recognize the complex economic relationships between the myriad of different output services provided by a major railroad and the myriad of functions that must be performed in a major railroad. Recognition of this complexity brings recognition of the inadequacy of simplified answers to the "railroad problem."

It is generally accepted that the first step toward resolution of a complex problem is to analyze both the individuality and the interrelationships of segments of the problem. Quite obviously, the use of broad cost averages has proven to be inadequate for the identification and resolution of many railroad problems, especially its own batch operating problems and governmental regulations.

Thus, analysts of the railroad industry are surprised that few railroads have addressed the problem of routinely determining the costs and profitability of specific origin-destination traffic lane flows by commercial service and equipment type.

Now the standard cost center techniques, already proven in simpler industries, and the capabilities of modern computers make such statements possible. In fact, prototype programs have proven that realistic service/equipment traffic lane P/L statements can be produced on a routine basis.

It is my belief that traffic segment P/L statements represent the most effective tool with which railroad management can increase its own understanding of its business and thus voluntarily rationalize the industry's operations and organization.

Then management will be more able to explain its needs to labor, to government, to stockholders and to the shipping public.

Now it is important that a number of railroads are beginning to move towards the above type of costing and profitability statements for internal purposes. I would call on the subcommittee to commend the ICC for its recent actions in which it has recognized that its current costing programs do not permit it to meet the mandate of Congress for the most accurate cost and rate data and that they can only meet that mandate by adopting cost center concepts, which they are now moving towards.

I mentioned earlier the problems created by the amount of long-life investment in the railroad industry.

One problem is that long-life investment obscures a terminal cancer until disaster is at hand. I recommend that two approaches be used to resolve this matter. The first is that the traffic lane P/L statements already mentioned be recognized as a necessary early warning device which can alert management to cancerous problems. Then the early warning information can be used to resolve problems within management's jurisdiction or can be communicated to outside agencies as a means of gaining their cooperation when needed.

However, the costing used in these statements must permit the measurements of levels of profit that are appropriate to available management decisions.

Here two points may be made, and the first one is applicable to many areas of our economy, Senator. First is the need to develop more realistic costs for capital than are developed along the traditional concepts of physical life depreciation which fail to give adequate attention to today's real considerations of monetary deflation and technical obsolescence.

Thus, there arises a need to change the calculation of profits so that the effects of obsolescence and inflation are calculated prior to the calculation of profits. In some industrialized countries this approach has already been implemented with the adoption of writeoff periods of approximately 10 years for the aggregate of all investment.

Thus, I recommend that a new research effort be organized. It would develop sound costing practices and promote their acceptance by the governmental agencies involved.

There are many management decisions where alternative courses of action are better evaluated with the use of marginal or partial costs. However, that is not always clear in the rates that are quoted by railroads. Therefore, I recommend that in order that the railroads comply with the 4–R act to publish rates that contribute to a going concern, that any rate which is based upon making only a contribution above marginal costs be so labeled as a temporary rate and be assigned a reevaluation date for the earliest time at which it can be predicted the marginal cost will no longer be valid.

With such notice, shippers would be made aware that their plans should rely only on that rate for the period specified.

Now I come to perhaps the two most important parts of understanding railroad economics.

The complexity of railroad batch movement operations calls for systems analysis to plan efficient operations by determining the most economic train sizes and routes for the batch movement of cars. Systems analysis of this type has been proven in manufacturing industries where it is used to control inventory costs and it offers lessons for reducing railroad costs.

In railroad operations where the production unit is the train, the inventory is represented by the freight car equipment expense and the production start up expenses represented by the train crew expenses. In such an analysis, as shown above, it is necessary to begin by utilizing full economic values for the equipment inventory rather than the historical "book-kept" accounting costs.

The use of this realistic higher value for equipment will indicate an advantage for shorter, more frequent trains that produce fewer waiting times.

I also commented that shorter, more frequent trains bring more advantages as well. But let us go to the railroad start up costs of the train, which are primarily the crew costs, which are now fixed for the length and haul of the train, regardless of its size.

High crew expenses call for long trains. These long trains incur many problems of services quality and high costs which are discussed in my prepared statement. Yet, smaller crew expense would make shorter trains more economic, bringing a wide range of benefits which I have also outlined.

Thus, systems analysis of railroad operations shows that the current expense of four-man train crews represents the most serious barrier to the improvements of the Nation's railroad system.

Just as a locked door represents a major barrier which can be opened with a small key, so can railroad operating problems represent a major problem which can be resolved with a reasonable change in train crews. The successful operation of trains with only two-man crews without a caboose and making use of modern technology has been used for years in the United States by the Florida East Coast Railway, and in Europe where trains are operated with one-man as well as two-man crews.

Note should be made that the Florida East Coast now runs trains much smaller than the national average, has increased the number of train crews on both line haul and switch trains, gives reasonable service, turns its freight cars around rapidly, makes money, and has rebuilt its track facilities.

Thus, I find it necessary to address a railroad subject which I believe must now be addressed in the interest of the Nation as a whole. I refer to the productivity of certain portions of key railroad crafts which now restrict the productivity of the entire railroad industry.

Now let me say that I have always heard favorable comments about the integrity of railroad executives. And I know they spend long hours at their tasks. Therefore, I can only surmise they are pursuing their resistance to change in the interest they are preserving the jobs of their worker members as best they know how.

And I am sure that key union executives have been surprised as economic facts have been explained to them over the past years by teams of shipper executives. Namely, that it is primarily the work rules that set in motion the chain reaction of poor car supply, poor dock-to-dock service, and uncompetitive rates. Yet, it is just this chain reaction that causes the loss of much traffic, causes many abandonments, and raises the possibility of even a greater loss of union railroad jobs.

Further, I found that some work train crews are hard at work for a full 8- to 12-hour day, for which they are paid on a normal basis of straight time and overtime. Therefore, one must ask: Why have a limited number of railroad operating brotherhoods been able to perpetuate obsolete work agreements for so much longer than other unions in other industries?

Bypassing a few comments in the prepared statement about the pressure that industry can place upon government in the situation of a nationwide rail strike, I believe that the most important reason is that the Nation's economy could not stand a nationwide rail strike of more than a few days. Because of these facts the monopoly rail unions hold the Nation in a stranglehold that must be addressed in areas that have been discussed both in my prepared statement and in studies we have submitted to the Federal Railroad Association.

Thus, I must recommend a joint industry/government project for the study of this issue and the development and publication of the study findings on "National Railroad Policy: Which Way Is Up?"

Indeed, we must call upon Mr. Chesser, who I think will come shortly——

Senator McGOVERN. His plane landed some time ago. He is fast on his way here.

Mr. REEBIE. And Mr. Sytsma, both of whom I know well. We must encourage them to get together in more of a CIO than a craft union and arrange for two-man crews to operate shorter, more frequent, more direct and more numerous trains on the basis of hourly pay for a fair day's work. But this hourly pay basis should be without the wage rate surcharges that have eliminated any economic benefit to the small size crew agreements that have been negotiated for a few bankrupt railroads or for FRA intermodal demonstration projects.

But to make such a request of the UTU and BLE leaders, however, would place them in an exceptionally difficult personal position unless their worker members had been given adequate data which clearly displayed that the interterminal train crew work rules are depriving other rail unions of jobs while depriving the Nation of more economic transportation.

Thus, I also recommend a joint industry/government project for the study of this issue and the development and publication of the study findings.

Senator McGOVERN. Can I stop you there at that point, because I do want to save some time to question you more in depth on some of the things that you raised.

Before I do that, I have a letter from Senator Javits, who is a member of the Joint Economic Committee, expressing his regrets that he is not able to be here. As it points out in the letter, we have a number of critical issues coming out of this Joint Economic Committee, and it is necessary for him to be in the Senate today. He is represented here by Mr. Peter Avalon an executive assistant in the Senator's New York office.

We are happy to welcome Mr. Javits' assistant.

[The prepared statement of Mr. Reebie, together with appendixes, follows:]

PREPARED STATEMENT OF ROBERT S. REEBIE

INTENT OF MY STATEMENT

It is my understanding that the purpose of this hearing is to determine the ability of railroads to serve the shipping public, their ability to generate the capital and jobs needed to replace, modernize and expand their facilities, and their ability to do so with an economic efficiency which consumes a minimum of this great and freedom loving nation's resources of worker talent and material resources.

A number of governmental studies, in which I have participated, have endeavored to identify the problems and/or opportunities which must be addressed if the railroads are to improve their performance in meeting these three basic criteria. Indeed, several basic studies which examine these subjects in detail have been rendered to the Federal Railroad Administration over the past year and should be published shortly.

Today I will endeavor to communicate to you the findings of these studies and programs, with the hope that they will ring true and that they will assist you in your task to form sound policies concerning governmental actions in the field of transportation in general, and the railroads in particular.

THE U.S. RAILROADS IN 1978

A vital national resource that is deteriorating

As the first major industry in U.S. history, the nation's railroad's played a major role in the development of our country for a century. As late as 1929, they still carried almost 75 percent of the nation's freight ton-miles, including most of

the merchandise freight as well as bulk commodities. Yet in 1976, only half a century later, when total freight ton-miles had increased 256 percent, railroad traffic had increased only 75 percent. This represented a shrinkage in market share to less than 37 percent, with much greater loss in merchandise freight. All too frequently these losses went to other modes in situations where they were inherently less efficient, but whose management and labor operate more efficiently and who benefit from subsidies for which they reimburse only a portion of the taxpayer's investment and expense, if any at all.

At this early point it should be stated that the nation is still favored with a private enterprise railroad freight system that still is unsurpassed elsewhere in the world. It is the gradual deterioration of this system which alarms the shipping public. However, it is my belief that the deterioration can be arrested and a revitalization begun through acceptance of the recommendations I present below. In fact, I believe that a dedicated 10 year program can improve service quality, reduce railroad unit costs 16 percent, and generate cash flows adequate to finance a viable future for our nation's railroads. Indeed, if regulation is modified to allow the railroads to correct loss traffic, and if an economically wise Congress applies user charges to all modes for facilities provided with public funds, then the nation will benefit from an increase of railroad market shares above 50 percent.

A this point, it also should be stressed that the rialroad industry is not homogeneous in its make-up. Thus it cannot easily be summarized in terms of traffic volume, management, labor productivity, or profitability. For instance, the statistics of traffic volume, displayed in Table 1, show the differences that occur even between such broad categories as regions.

TABLE 1.—RAILROAD VOLUME STATISTICS

	East	South	West	Total	Percent market share
	Thousand tons				
1929	697, 894	174, 202	466, 905	1, 339, 091	n/a
1947	776, 044	229, 454	532, 048	1, 537, 546	56. 1
1955	631, 707	246, 228	518, 404	1, 396, 339	40. 9
1965	578, 215	297, 550	511, 658	1, 387, 423	33. 3
1970	557 994	351, 142	575, 784	1, 484, 919	31. 1
1976	452, 808	362, 533	591, 407	1, 406, 748	28. 4
	Million ton-miles				
1929	231, 420	55, 163	160, 783	447, 322	74. 9
1947	294, 967	88, 243	271, 518	654, 728	65. 3
1955	256, 701	90, 444	276, 469	623, 615	49. 5
1965	259, 477	116, 836	321, 564	697, 878	43. 3
1970	254, 467	140, 034	370, 309	764, 809	39. 7
1976	216, 267	151, 076	424, 070	791, 413	36. 2

Source: "Yearbook of Railroad Facts 1977," AAR, pp. 25, 28, 29, and 36.

Other differences in the profitability of individual carriers occur within a region. Here, it is easy to credit the more profitable railroads with historical advantages of growth regions, long and uncomplicated routes, dense flows of bulk commodities, or of economically unjustified but favorable divisions of connecting line revenues. While such advantages have eased the task of management to create the capital needed to maintain main line and main yard facilities, one should also note the differences among railroads in their management commitment to profit, to their reinvestment in centralized, modern facilities, and to their achievement of high labor productivity.

Deterioration of profits and market share.—Yet the differences in railroad situations are, more often than not, merely a measure of the rate with which they are deteriorating. Only a few are producing satisfactory, regenerative levels of cash flow profitability which is the major criteria for survival of a private enterprise. But even these profitable railroads are losing ground in the second area of consideration, market share. Whether little of this loss of merchandise traffic is caused locally by the more efficient railroads or more is caused by service failures on interline traffic handled at the origin or destination by less efficient connecting lines, the result is still a deterioration of the over-all system.

Deterioration of railroad service quality.—This loss of market share is caused because many shipper/receiver customers find that much railroad service is no longer competitive for higher value merchandise traffic. In fact, teams of shipper/receiver customers are now meeting frequently with railroad management and labor leaders to highlight railroad failures in four main areas:

1. Supply of proper, empty equipment at the proper time is often inadequate.
2. Reliable schedules for the movement of loads are needed to correct for service which today can vary from 4 to 11 days over the same route.
3. Care of the goods in transit.
4. Charges that are too high for the quality of servvice rendered, especially for shorter distance moves.

The need to focus on merchandise traffic.—Today, I often hear it said that the railroads are economically better suited than other modes only for the carriage of bulk commodities like coal, ore, grain, chemicals, etc. and neo-bulk commodities like lumber, building materials, paper, etc. Each of these commodities, it is said, is either of low value or is not involved in the direct producer-to-user/consumer pipeline that is required for merchandise traffic in our current hand-to-mouth, short-order economy in which a low inventory, logistics efficiency is necessary for many manufacturing and commercial transportation customers.

However, such an assessment appears inaccurate. First, it fails to recognize the importance of merchandise traffic to the railroad system. As used in this statement, merchandise traffic will refer to all goods (including perishables, manufactures, etc.) other than neo-bulk. Such traffic carried in rectangular equipment like plain boxcars, equipped boxcars, refrigerator cars, and piggyback trailers provides over 40 percent of railroad revenues. When other merchandise traffic that is carried in other car types is included, like automobiles in rack cars, merchandise traffic of most railroads provides well over ⅔ of their revenues. As major railroads, like Conrail, lose their merchandise traffic, one wonders whether the loss will leave enough traffic to support much of the nation's railroad system.

Simplified solutions cannot reverse the deterioration

It is understandable that the general public has had difficulty in identifying a course of action that would be proper for government and effective in reversing the downward trend of the nation's vital rail system. I believe that this difficulty results from the recurrence of a wide variety of "network restructuring, nationalizing, and rebuilding" recommendations which are based upon good intentions but which lack the foundation of adequate analysis and a sound understanding of many economic inadequacies of current railroad operations, marketing, and profit management. Yet it is these inadequacies that deny the nation the full potential benefits of the basic railroad concept.

A sample of the recommendations which I believe are inappropriate, and which are confusing legislators would include the following:

1. Nationalization of the railroad main line rights-of-way so that they can be upgraded and made available to competing users. This recommendation fails to consider the following matters:

Except for the bankrupt railroads, most high density main line rights-of-way are being maintained in adequate repair for safe, economic operation. This is true despite publicized accidents of dangerous chemicals shipments whose derailment or explosion is frequently the result of car equipment problems, not rail derailment problems which occur mostly on low density main lines and on branch lines (see FRA study by R. Harris).

Where main line and branch line rights-of-way have not been adequately maintained, the situation is merely a symptom of more basic problems (like car movement and utilization, train crew work rules, or regulations) which prevent a cash flow adequate for maintenance. Rebuilding the rights-of-way would not address the major problems.

Eighty-eight percent of the nation's rights-of-way (185,200 mi.) are single tracks and only 12 percent (23,900 mi.) provide two or more tracks.

Unlike airways, waterways, and highways that offer flexible entrance/exit access and offer flexible, safe passing in the same or opposing directions, all railroad tracks, and especially single tracks, are inflexible production lines. On rails, it is difficult to control the operations of different users who may wish to carry different commodities, with different equipment at different speeds. Not only would such traffic control be difficult, if not impractical, it would involve the controlling agency in commercial decisions, which certainly is not the proper province of government.

A number of governmental studies have indicated that the separation of right-of-way operations from rail transportation operations will raise railroad costs as each party pursues its own interest.

While the investment to acquire just the main lines has been estimated at 30 to 100 billion dollars, such an expenditure would bring no benefit. No estimates are available for the cost of raising the base network to a multi-track, flexible right-of-way. Nor are any estimates available concerning the volume of traffic that would be handled or whether any economic benefits would be gained.

Better solutions to the problem are available. The current owners of parallel rights-of-way can utilize traffic lane P/L statements and asset costing to rationalize a more economic track system voluntarily through negotiated trackage rights, route swaps, etc. Then the economically viable lines can support any private or government loans needed to upgrade the tracks before adequate funds could be generated internally. Similarly, when a line needs major rerouting or expansion to handle profitable traffic, as in the West Coast and California-Texas corridors, "head-end" financing by government can be repaid user charges.

2. A second simplification is that abandonment offers the proper resolution of most branch lines problems:

The abandonment of many branch lines can have adverse effects which often are unforeseen by the traditional, simplified, analytical procedures still used by some railroads. Only when a railroad has established procedures that display the current costs, revenues, and profitability of all its origin-to-destination traffic flows will it be in a position to evaluate abandonment against other alternatives. Only when such an analysis has been performed, will the data be widely accepted as adequately valid to gain support for the following actions from labor, shippers, or taxpayer representatives.

Consider revisions in operating procedures which would be safe and feasible for the particular branch service even if infeasible for the railroad as a whole. Such procedures might include operating small locomotives with one or two man crews. These operating concepts would follow procedures now utilized by new shortline railroads that have taken over services which the Class I railroads were forced to abandon.

Revise the rate upward to a level commensurate with full profitability under the most efficient, feasible operating patterns. Such a level is required to avoid internal cross subsidization of economically weak traffic lanes by economically viable traffic lanes. This could result in the loss of traffic on the economic traffic lanes to other modes because of the need to generate excess profit for the cross subsidization. Further, as in France where higher rates are charged for service on branch lines to cover the higher costs, shippers may be willing to pay the higher costs because of other favorable economics of their branch line location.

When shippers on branch lines cannot afford the railroad's full economic charges, the railroad can provide its cost data as a means of assisting the shippers to request a subsidy. Such a subsidy would be sought from the legislative representative of the jurisdiction which would deem such a subsidy in the interests of constituent taxpayers.

When the railroad can display that it is no longer realizing a full economic return on locomotive and car assets which it could better employ elsewhere and a marginal cash flow return on branch line assets and opearting expenses, then the railroad can abandon its service after a two year notice.

When none of the above solutions obtain, at its own discretion the railroad can offer a "marginal contribution rate" which must specify a termination date. Such date would be the earliest date at which the carrier forecasts that its "marginal costs" could exceed the "marginal rate" and thus eliminate any contribution to cash flow. Should conditions develop such that operations can be continued with a contribution to cash, then the railroad can extend his termination date.

3. Another nostrum is the electrification of main lines?

Electrification would require large investment while bringing only modest power savings while increasing other costs. Yet it would absorb funds needed to generate major savings and service improvements through the development of lighter, more fuel efficient locomotive designs, the relocation of urban trackage, the centralization of classification yards, the building of efficient, network intermodal terminals, or the retraining and relocation of workers

unneeded in the operating crafts to meet expanded needs in other crafts, like construction crafts.

4. Nationalization of the operating railroads:

One need only look at the nationalized railroads of foreign countries, our own Amtrak system, or the U.S. Postal Service to learn that politically controlled agencies have difficulty in countering strong advocates of services that are uneconomic or investment and jobs that are not needed.

The point to be made is that rebuilding or restructuring of the railroads along traditional operating patterns will not arrest the deterioration of the system, regardless of the amount of taxpayer funds expended. Amtrak provides ample illustration of this view.

In 1929, the railroads carried 77 percent of the intercity passenger mile traffic. Since that time, highways, the bus, the private automobile, the propeller airplane, and finally the jet plane have offered such a high level of service and such a schedule independence that the rails could only compete on a price basis. By 1970, the passenger miles had shrunk to less than 6 percent where it has remained relatively constant.

With little attention paid to profit as the criterion for survival, Amtrak has not put enough stress upon the reduction of unit costs to economic levels. Locomotives and cars were built along traditional heavy, fuel inefficient, and high investment designs. In fact so much known technology was disregarded that many locomotives have never been able to operate safely at their design speeds. And many cars now cost $700,000 each while others are now being rebuilt at a cost of over $1,000,000 each after only seven years. Indeed, little basic change was made in the operating procedures and labor practices of by-gone years.

Yet, the equipment is shiny, and it rides almost as well as the 1930 vintage cars. But without any attention to economic principles, in order to find its economic place in the sun, the restructured Amtrak organization must ask for ever increasing funds to support a service on many routes which is not sufficiently competitive to attract worthwhile ridership even when fares are subsidized and passenger trains hold priority over freight trains. In fact, I believe that Amtrak represents the type of governmental expenditure that is driving many taxpayers to revolt.

Understanding railroad batch "Move-Sort-Move" operations

As mentioned above, the individual car movements of merchandise freight represent the major economic problems/opportunities of railroad operations. Therefore my statement will focus upon these complex operations rather than the simpler, more efficient direct movements of loaded and empty cars between origins and destinations that characterize unit train shipments of bulk commodities, most intermodal "piggyback" shipments, and a limited number of interplant shipments of very large manufacturing companies.

The typical performance of rail carload services provided general merchandise freight can be summarized as a long series of batch operations.

1. First an empty car waits in a origin ward for movement by a "local switch train," or a "way work train" which performs much the same functions over an extended route. Such trains are operated when enough work is accumulated to make the switch run economic. This wait can range from a few hours to several days, depending on the volume handled on the switch runs and tracks serving the origin shipper. Next the car is moved to the shipper where it waits for loading, is loaded, and then again waits for movement back to the origin yard.

2. If the shipment is originating in a big city, it may now wait in the origin yard for movement to another yard from which the outbound "line-haul train" departs. Once again the car must wait until enough traffic is classified (i.e. sorted by outbound direction) and accumulated to build an "inter-yard puller train" of economic size. If the line-haul train is operated by another railroad than the one on which the shipment originated, an inter-change "inter-yard puller train" will move the car to the line-haul railroad's line-haul train departure yard, but only when enough volume is usually accumulated to schedule a train of economic size.

All too often, one to three inter-yard movements and yard waits (in addition to the first "switch run" and origin yard wait) are required to move a car between the shipper and the outbound train. This is especially true in the older, larger cities of the East like Philadelphia.

3. Next the car is moved toward its destination terminal by an inter-terminal haul train when enough cars have been accumulated for a train of economic size.

If insufficient traffic is handled on a daily basis from the shipment's origin city to its destination city by the line-haul railroad, the car probably will be moved

by its first line-haul train only as far as an intermediate, inter-train terminal to which train load volumes can be dispatched on a scheduled basis. Here the carload again must be classified and then wait for the accumulation of an economic trainload volume toward its destination. "Run-through" line-haul trains increasingly run directly from one railroad's track to another railroad's tracks as they move traffic between the major terminals of each railroad. However, much line-haul traffic is also interchanged from one railroad's intermediate terminal to another railroad's intermediate terminal by puller trains of the type already described above.

All too often, railroad line-haul operations involve several intra-railroad or inter-railroad movements via sequential line-haul trains and intermediate terminals.

4. At the destination city, a series of inter-terminal puller train movements and yard sort and wait operations may be required in reverse of Item 2, above to move the loaded car from the inbound train line-haul to the yard from which delivery will be made to the consignee.

5. At the destination yard the loaded car waits until it is moved to the consignee by a local switch train. Then it waits while it is unloaded and until it is recovered from the consignee by a later switch train.

6. Finally, the empty may be moved by the local switch train directly from the consignee to the next shipper, or it may be moved through all the steps in Items 2, 3, and 4 above before it has completed its cycle to the next shipper.

Perhaps the above description of railroad merchandise freight as a series of batch move-sort-move operating patterns will remind some of a "Tinkers-to-Evers-to-Chance" bucket brigade type of operation. In fact most merchandise traffic experiences far more yardings than the national averages of 9 yardings per load-to-load cycle. These costly sorts and waits are of value only to the extent that they gain the benefits of moving multiple cars in trains over inexpensive rails which involve only small amounts of movement resistance. Therefore, the objective of systems is to find the optimum balance of advantages and disadvantages of interrelated traffic lanes.

The effects of historical railroad operating patterns

Quantification of the effects of the above operating patterns presents us with a clear picture of the causes of slow and unreliable rail service and uncompensating level of rail rates for merchandise traffic.

Slow and unreliable rail service.—Waiting delays account for approximately ⅔ of the time spent by loaded and empty freight cars in terminal yards as shown in Table 2 below:

TABLE 2.—*Percent of revenue cycle*

Segment:	
Carrier terminals	
Origin/Destination	28.4
Intermediate	33.4
	61.8
Customer docks	
Loading	11.5
Unloading	12.1
	23.6
Movement	
Loaded	7.9
Empty	6.7
	14.6
Total	100.0

SOURCE: Reeble Associates, DOT–FRA Report No. OE–73–1.

A sizeable portion of this time is caused when inbound trains arrive late, thereby causing a car to increase its scheduled wait time as it must now wait to be included in the next batch being moved by a train in the desired direction. Obviously the length of a car's shipper-to-consignee movement schedule, and the risk of unscheduled delays both increase with the number of trains and terminals involved. This risk of late arrival delays has increased as the loss of short distance hauls to highway competition has increased the average length of haul and as the

loss of passenger business appears to have reduced the discipline of railroad transportation operations.

The time spent by both loaded and empty cars in yards awaiting switch, puller, and line-haul train movement, and to a lesser extent at customer docks awaiting loading and unloading, is responsible for the poor utilization of these major equipment resources. Indeed, the average revenue trips per year have been declining for general service cars while rising for special service hopper cars moved in unit trains that by-pass yards.

TABLE 3.—REVENUE TRIPS PER YEAR

Year	Box	Flat	Gondola	Hopper			ToFC	All types
				Open	Covered	Special		
1969	17.4	13.0	19.8	25.2	17.6	37.2	56.1	19.8
1976	11.9	9.3	16.5	23.3	15.7	42.7	47.3	16.9
Ratio 1976/1969	68	72	83	91	89	115	84	85

Source: Association of American Railroads.

High equipment costs and revenue requirements.—In addition to the decreasing utilization of its equipment, the railroads are faced with a rapid increase in the prices of railroad cars over the past seven years. This increase has been due somewhat to technological and capacity improvements, but mostly to the general deflation in the value of the dollar.

TABLE 4.—PURCHASE PRICES OF EQUIPMENT

	General service			Hopper		All types	Capacity tons
	Box	Flat	Gondola	Open	Covered		
1969	11,733	13,759	13,754	12,558	15,201	15,607	65.8
1976	30,923	27,040	26,856	25,495	27,497	27,893	73.5
Percent increase	164	97	95	103	81	79	11

Source: "Railway Age" and Association of American Railroads.

When current accounted costs are replaced with full economic costs so as to reflect the revenue required for railroads to cover today's new equipment prices and to generate ROI profits adequate to compete for investment funds, we recognize the vital economic importance of improving the utilization of the nation's investment in vehicle ownership. This is true even with the exceptionally good performance of today's typical operating practices that is pictured below.

TABLE 5.—PERCENT EXPENSE OF MAJOR FUNCTIONS

Boxcar shipment	Current industry accounted expenses	Full economic expenses	
		400 mi	1,000 mi
Vehicle ownership	16	32	27
Terminals:			
Ownership	2	3	3
Operation	19	18	15
Subtotal	21	21	18
Right-of-way ownership	15	13	17
Train operations:			
Train crew	12	5	8
Other (loco, fuel)	18	13	16
Subtotal	30	18	24
Overhead	18	16	14
Total	100	100	100

Source: Reebie Associates, DOT–FRA/OPPD–76/2.11, National Intermodal Network Feasibility Study.

The above example displays what various studies have identified, namely that the greatest chance for improvement in railroad operating economics involves reducing the unit costs of rail car equipment. As the largest element of cost under the exclusive control of the management, it can be reduced simultaneously with improvements in car supply, elapsed shipment time, and schedule reliability as well as a reduction in terminal costs. Essentially, the problem is similar to that of inventory planning and control in manufacturing and distribution industries where advanced techniques have been developed. Thus, various railroad studies have recommended consideration of the establishment of car inventory and distribution procedures which focus upon systems analysis of P/L statements of specific origin-to-destination traffic lane flows. While development of these management planning and control procedures will be discussed below as being within the prerogatives of government, their application must rest with the managements of individual railroads.

CAUSES AND SOLUTIONS OF HISTORICAL RAILROAD OPERATING PATTERNS

In this brief statement, I will discuss only a few of the historical causes of the railroad problem; causes that are not widely discussed or that are not widely viewed as my studies and experience causes me to view them.

Terminal operating patterns

Any observer of the railroad industry will note that the nation's railroads suffer from the inefficient urban networks of tracks and yards which were originally laid out in the late 1800's and early 1900's. Subsequent additions of spur tracks and yards were "tacked on" without redesign of the original network. Finally, as some industries have departed, often the remaining industries are served with sparsely used tracks and yards which are no longer economic to operate.

The multiple urban yards of individual railroads, and the historical labor jurisdictions, often require many yard-to-yard train batch movements and yard handlings between the shipper and the outbound train at the origin, and between the inbound train and receiver at the destination. As discussed earlier, this "Tinkers-to-Evers-to-Chance" bucket bridgade series of train batch moves becomes even more complex when interchanges are required between the railroads on whose tracks the shipper/receiver customers are located and the railroads which operate the outbound/inbound trains which serve the desired intercity routes.

Voluntary railroad solutions.—Quite obviously terminal car handling costs are higher than would be the case if fewer handlings occurred in each load-to-load revenue cycle. Some reduction could be realized through the introduction of traffic lane profit and loss statements which would focus attention upon unprofitable operations and thus encourage the railroads serving each terminal city to rationalize their operations for greater operating efficiency voluntarily in their own interest. Where such P/L analysis indicates that changes in operating patterns would be beneficial, and where labor unions and governmental regulations would not erect unreasonable barriers, operating changes might include more actions of the type which have recently received support from the FRA:

Trackage rights over urban spurs;
Swapping urban spurs;
Swapping entire terminal operations;
Operating joint terminals; and
Merging railroads.

But to realize a major reduction in terminal handling expense, there is a need in many larger cities to relocate the current trackage, relocate certain industries to efficiently served industrial areas, and centralize yards. Yet I believe that such major physical railroad rationalization projects can only be accomplished by a governmental action. Further, I believe that such railroad terminal development projects can bring as much benefit to individual communities and to the nation as do ports and airports. Therefore I recommend that government undertake such railroad terminal projects where they are needed and accepted by the vitally interested parties.

In my October 11, 1977 letter to Mr. Adams, the Secretary of Transportation, a copy of which is attached hereto as Appendix A, I proposed that the FRA undertake the evaluation of such projects in a few test cities. The projects would have the following objectives concerning railroads:

Relocate scattered industries into concentrated commercial areas with efficient switch tracks and room for expansion.

Build efficient centralized yards from which all switch runs would operate.

Relocate connecting track networks to clear sizable real estate tracts.

Build connecting track networks with dual lines which will permit flexible, efficient operations of competing railroads with smaller, more numerous trains and crews operating in parallel patterns (rather than the traditional operations of larger trains and crews operating in series).

Build intermodal terminals of the size and type that can be operated efficiently and accommodate the eight-fold increase in traffic now projected for new bi-modal equipment.

As a result of this recommendation, the FRA authorized a brief study of a similar project that was successfully accomplished in Ottawa, Canada. The report of that study, rendered in January, 1978, provided a number of lessons that would prove helpful to similar projects in the United States.

My recommendation also recognized that such a major undertaking probably could not receive adequate support if it benefited only the railroads and their customers. Fortunately I believe that the program can also provide needed benefits to our older major cities:

Create economically worthwhile unskilled, semi-skilled, and skilled jobs in the cities themselves.

Rebuild the belts of property which surround the centers of our major cities with economically viable and attractive communities.

Finance the projects without additional burdens on the individual taxpayer. Repayment of bonds would come partly from a rejuvenated tax base and partly from user charges.

The problems of terminal facilities in our older cities have been mentioned first, because of the long historical origin and their basic nature. Further, the recommended solution addresses a major consideration in the expenditure of public funds for transportation; namely that the portion of taxpayer funds used to benefit a commercial transportation mode should be fully repaid through user charges as the only way for the nation to meet its transportation needs with a minimum expenditure of the nation's labor and material resources. However, their resolution will take so long that other problems/opportunities whose resolution can be more readily accomplished will now be discussed.

Complexity of the Railroad Industry

An analyst of the railroad industry will soon recognize the complex economic relationships between the myriad of different output services provided by a major railroad and the myriad of functions that must be performed in a major railroad. Recognition of this complexity brings recognition of the inadequacy of simplified answers to the "railroad problem." The complexity occurs because railroad operations include many functions that usually are not all present in other transportation modes or industries:

First is the wide variety of output services produced by any major railroad. The different commodities, in different packaging, in different equipment, in different volumes, at different distances, over different routes between different origins and destinations represent the most complex output mix of any industry.

Next are the complex relationships between traffic routing, car blocking, train sizes and other economic factors like terminal handlings, equipment utilization, and service quality. These relationships are highly sensitive to the variation in volumes to be handled as a multitude of origin-to-destination movements are aggregated and disaggregated again and again in order to take advantage of the economic advantages of moving individual cars in train load batches.

Another complexity results from the need to interchange approximately 50 percent of originated traffic with a connecting road prior to delivery of the traffic. In fact this interline traffic may be interchanged several times as it moves across the country because of the ability of shippers to route the traffic through a wide range of interchange points. This results in a wide multiplicity of interchange routes which seriously complicates car-blocking and movement operations.

A major problem of the railroad industry is the large amount of long term investment that is required. This fact is especially important in an era of three major changes. First is the constant change in the volume and mix of the demand for transportation, change that can eliminate the need for a service. Second is the increasing rate of technological innovation,

both within and without the railroad industry, innovation which can render equipment economically obsolete before it is physically worn out. Third is a continuing high rate of inflation which can double the prices of new equipment in ten years.

These three situations cause the traditional accounting concept of depreciation to be misleading to railroad managements, stockholders, labor, and governmental taxing, regulatory, and legislative bodies. Each is misled in terms of the amount of pre-tax cash flow that is required to replace or modernize the equipment and facilities needed to serve the shipping public.

The need for profit/loss statements by individual service.—It is generally accepted that the first step toward resolution of complex problems is to analyze both the individuality and the interrelationships of segments of the problem. Quite obviously the use of broad cost averages has proven to be inadequate for the identification and resolution of many railroad problems, especially its own batch operating problems. Thus analysts of the railroad industry are surprised that few railroads have addressed the problem of routinely determining the costs and profitability of specific origin-destination traffic lane flows by commercial service and equipment type.

However, the very complexity which required routine P/L statements has also prevented the development of such statements until recently. Now the standard cost center techniques, already proven in simpler industries, and the capabilities of modern computers make such statements possible. In fact, prototype programs have proven that realistic Service/equipment Traffic Lane P/L Statements can be produced on a routine basis.

In a letter to Mr. Coleman (see Appendix B) when he was Secretary of Transportation, I proposed that the FRA support the refinement and adoption of such statements. It was, and still is, my belief that traffic segment P/L statements represent the most effective tool with which railroad management can increase its own understanding of its business. Then management will be more able to explain its needs to labor, to government, to stockholders, and to the shipping public. These statements identify profit/loss problems and many of the underlying causes which deserve management attention.

Low equipment utilization; high empty mileage; and high equipment investment expense.

Excessive terminal handlings and/or expense; excessive train expense; and high/low maintenance expense.

Uneconomic price structures; low price levels; and uneconomic revenue divisions.

Excessive track capacity; unprofitable branch lines; and excessive overhead expenses.

Fortunately, much of the needed activity and expense data already exists in the computer files of many railroads and only needs to be extracted and correlated with computer costing programs. Further, experience with carriers in other transport modes shows that the discipline of pulling the individual data systems together for P/L statements forces a cross-check of their accuracy and relates them in a meaningful way.

A number of railroads are beginning to move toward the above type of costing and P/L statements for internal purposes. And a recent Request For Proposals by the ICC indicates that it now recognizes that it can meet the mandate of Congress for the "most accurate cost and revenue data" only by adopting "standard cost center" concepts. Yet by limiting the reporting of such cost center activity and expense data to "cost center categories," the ICC can avoid two problems of undue railroad accounting expense and undue disclosure of proprietary information.

Where a lack of private enterprise information and understanding provide barriers to change that can be beneficial to the nation, I believe that the development of programs to overcome these barriers is a proper role of government. But I believe this to be true only so long as the information, or procedures to develop it, are offered as a service to the private sector to use as they see fit, rather than as a basis for directive governmental programs. Certainly the work of the U.S. Department of Agriculture presents a valid precedent for the provision of valuable planning assistance of this type of the farming industry over many years. Indeed it is my personal conviction that the FRA is most effective in assisting the railroad industry when it concentrates upon increasing economic intelligence and understanding through analytical projects and the unedited publication of the findings.

Therefore I recommend that Congress give more support to economic research of railroad operating patterns than to the restructuring of the inter-city rail structure. Indeed, industrial engineering is needed as much as civil and mechanical engineering.

The importance of provable traffic lane costing and profit analysis can hardly be over estimated. Nor can the importance of pushing economic understandings downward in the organization and outward into the field be over estimated. This is because valid costs can be utilized to insure that rule-of-thumb productivity goals truly represent economic efficiency. Such costs also can serve as a common language to relate and knit together, on a factual basis, the diverse viewpoints of specialized functional departments within a railroad. Perhaps most important, measurement of performance on a basis of cost and profit economics, versus productivity statistics, can raise a railroad's middle management personnel into a cadre of trained and motivated cost center and profit center businessmen.

In fact it is my belief that the development of such an organization of businessmen will provide the greatest assurance that the railroad industry will be able to "manage change" as is needed for the railroads to realize their economic potential for public service.

The need for realistic economic costing.—I mentioned earlier the problems created by the large amount of long-life investment in the railroad industry. One problem is that such investment obscures a "terminal cancer" until disaster is at hand. I recommend that two approaches be used to resolve this matter.

The first is that the traffic lane P/L statements already mentioned be recognized as a necessary "early warning" device which can alert management to "cancerous" problems. Then the "early warning" information can be used to resolve problems within management's jurisdiction, or it can be communicated to outside agencies as a means of gaining their cooperation when needed.

However, the costing used in the statements must permit the measurement of the levels of profit that are appropriate to available decision alternatives. Here three points need be made:

1. The costing procedures should start with the allocation of all accounted direct and indirect ICC Form R–1 expenses to the individual segments of traffic. The procedure would utilize proven costing concepts for the allocation of common and overhead expenses to reflect as realistic a relationship of cause and effect as is possible.

The proof of the procedure would be that an extension of the fully allocated individual unit costs to the entire mix of traffic would equal the period's R–1 expenses.

Next it is important to recognize that the above procedure was of value only to prove the costing concepts. Indeed the unit costs developed thereby are meaningless for decision making until they are either revised to "full economic costs" or reduced to an appropriate level of "marginal costs."

2. Step two is to develop more realistic costs for capital than are developed along the traditional concepts of "physical life depreciation" but which fail to give adequate attention to today's more realistic considerations of "monetary deflation" and "technical obsolescence."

The current governmental approaches to the support of capital investment through tax deferrals or credits (or through proposed payments to companies without tax obligations) are based upon a statement of profits which are considered as fair game by consumers, regulatory agencies, and labor interests who have not focused upon long term economic realities. As profits appear to rise because they are displayed in the larger figures of deflated dollars, these interests claim a larger share because the gradual deterioration of railroad facilities is not evident to them.

Thus there rises a need to change the calculation of profits so that the effects of obsolescence and inflation are calculated prior to the calculation of profits. In some industrialized countries, this approach has been implemented through the adoption of arbitrary write-off periods of approximately ten years for the aggregate of all investment.

While most railroad marketing departments now use replacement prices and discounted cash flow techniques for costing equipment, this is not true for the costing used by railroad operating departments as they evaluate alternative operating patterns. Since none of the current capital costing practices appears to meet all the needs of the railroads for costing of freight, locomotive and mainte-

nance equipment and facilities to reflect inflation (as in betterment accounting of track maintenance), I recommend that a new research effort be organized. It would develop sound capital costing practices and promote acceptance by the governmental agencies involved.

3. There are many management decisions wherein alternate courses of action are better evaluated with the use of "marginal" or "partial" costs. Such costs should still be developed under the above traffic lane costing concepts which accumulate the unit standard costs associated with the cycle movement of a car through the required cost centers (i.e., terminal, right-of-way, train, clerical, etc.). However, the accumulation might omit the cash flow required for expenses which are not directly related to the movement of the specific traffic and which are covered by the revenues from other traffic. Or they might omit the cash flow necessary to replace the facilities and equipment being utilized for the service. Since today's inflation and obsolescence often render Fully Allocated Form R–1 costs meaningless, I believe that any cost below a Full Economic cost should be considered as a "marginal" or "partial" cost.

From the governmental view, the use of costs is of major importance in the evaluation of the profitability of a rate for a traffic lane flow. In the 4R Act, the Congress asked for costing that displayed whether a rate contributed to the "going concern" value of a railroad. While such a contribution would result whenever the rate exceeded the marginal cost appropriate to the particular situation at the time of the movement, it might no longer make a contribution when the situation changes.

Therefore, I recommend that any rate which is based upon making only a contribution over marginal cost be labeled a "temporary rate" and be assigned a "re-evaluation date" for the earliest time at which it can be predicted that the marginal costs will no longer be valid. Such a time could be the date when the underlying facilities or equipment might need replacement, or when the cross-subsiding traffic might terminate. With such notice, shippers would be made aware that their plans should rely on that rate only for the period specified.

The need for systems analysis of railroad operations.—The complexity of railroad batch movement operating economics calls for systems analysis to plan for efficient operations by determining the most economic train sizes and routes for the batch movements of cars. Systems analysis of this type has been proven in manufacturing industries where it is used to control costs, and it offers lessons for reducing railroad costs.

The reduction of total costs in manufacturing industries relates both to the value of the inventory and to the start-up expenses of each batch production run. Thus, consideration is given to the Economic Lot Quantity of production batches, or ELQ. A low inventory value and high start-up expense indicates a high production quantity. A high inventory value and low start-up expense leads to smaller production quantities.

In railroad operations, where the production unit is the train, the inventory is represented by the freight car equipment expense and the production start up expense is represented by the terminal and train crew expenses. Therefore the object of systems analysis in railroad operations is to determine the most economic production quantity, i.e., the most economic train size for handling each traffic flow.

In such an analysis, as shown above, it is necessary to begin by utilizing full economic values for the equipment inventory rather than historical "book-kept" accounted costs. The use of this realistic, higher value for car equipment will indicate an advantage for shorter, more frequent trains that reduce car waiting times.

But each shorter train does not need to serve as many traffic lane flows as longer, higher volume trains. As such it will bypass many intermediate terminals and thereby reduce terminal expense as well as equipment expense. And shorter more numerous trains may well facilitate bargaining with labor for smaller, but more numerous crew consists. These short, more frequent, more direct train concepts appear worthy of evaluation.

Further, shorter trains have been shown to be of benefit in a wide variety of ways, especially in the east where distances are short. Service quality is improved as door-to-door schedules are shortened, schedule reliability is improved as train delays are reduced, and cargo care is improved as lading shocks are reduced through fewer terminal handlings and lower train slack forces. Locomotive investment costs are reduced as fewer locomotives are needed because

shorter, more frequent trains permit higher locomotive utilization. Indeed, the full list of benefits is even longer.

In manufacturing industries, the second key consideration in determining the most economic production batch size is the "start up" expense which is fixed regardless of the batch size. When the tooling and machine set-up expense is high, a large batch size is called for. But when these start-up costs are low, then a smaller batch becomes more economic.

In railroading, the start-up cost of a train is primarily represented by the crew costs which are now fixed for the length of haul for the train, regardless of its size. High crew expenses call for long trains. These long trains incur the problems of service quality and the high costs of terminal handlings and car equipment delays which I have previously discussed. Yet smaller crew expense would make shorter trains more economic, bringing the wide range of benefits which I have also outlined.

Thus, systems analysis of railroad operations shows that the current expense of 4-man train crews represents the most serious barrier to the improvement of the nation's railway system. Just as a locked door presents a major barrier which can be opened with a small key, so current railroad operating patterns represent a major problem which can be resolved with a reasonable change in train crew work rules.

The successful operations of trains with two man crews, without a caboose and making full use of modern technology, has been demonstrated for years by the Florida East Coast Railroad and in Europe where express trains are operated safely with one or two man crews. In those cases, the new technology which has been employed to eliminate the need for additional trainmen involves diesel locomotives, more reliable freight car wheel bearings, hot box detectors, signal and interlocker systems, radio, location passing detection systems, computerized wheel reports, etc. Note should also be made that the Florida East Coast Railroad now runs trains much smaller than the national average, has increased the number of train crews on both line haul and switch trains, gives reliable service, turns its freight cars around rapidly, makes money, and has rebuilt its tracks (see Appendix C).

The vital need to increase railroad productivity

Thus I find it necessary to address a railroad subject which has stymied railroad managements, which the DOT, the USRA, and the transportation committees of the Congress have avoided, but which I believe now must be addressed in the interest of the nation as a whole. Not only do I say this in the context of the railroads, but also because the railroad issue mirrors similar issues in other industries, issues which this Joint Committee on National Economics can avoid only at the peril of the nation. I refer to the lack of productivity of certain portions of key railroad crafts which now restricts the productivity of the entire railroad industry.

1. One of the major economic lessons of history is that control of the land has usually rested with the people who were more productive in its use. It is these people who generated the resources to resist invaders, or the people who eventually overthrew aggressors who gained temporary control but who lacked the drive and wisdom to sponsor greater productivity for an extended period.

2. Another economic lesson comes to us from our own early frontier days when families were virtually an economic unit by themselves. If a family was productive, they generally were well fed, warmly clothed and had comfortable housing against the weather. Then it was clear that we lived only as well as we produced.

3. Today, in our complex society, all too often we lose sight of these truths, and we each focus more upon getting a larger share of the nation's wealth for ourselves than upon the constant replenishment and expansion of that wealth. In such a complex and confused climate, even though a fairer distribution of our well-being appears in order, segments of our society too often are pitted against other segments in a destructive type of internecine warfare.

The result in recent years is that we have been spending more than we create. As such we are either cannibalizing the capital facilities and funds we inherited from our forefathers or we are piling intolerable debts on our children.

Such practices could well be questioned on a basis of morality, but their continuance in non-emergency times also risks the loss of our precious individual freedoms from more disciplined forces from without. We must either choose between guns or butter (as the Russians have chosen both military and commercial guns),

or we must increase our productivity to the point where we produce guns, butter, and a surplus profit of capital with which to wage progress in the reduction of inflation and the creation of jobs.

4. As we have sought employment for everyone desiring to work, all too often we have spread the existing work rather than identifying new jobs that are economically worthwhile. And we have forgotten that it is the responsibility of each individual and corporate citizen to finance his own needs through the provision of services deemed of value in the open market. As such, it is the responsibility of these citizens to adjust to change so as to continue to be productive. Employers who benefit from change have an obligation to assist their employee citizens to make needed vocational changes, but for a limited time only. Beyond this time, say a year for younger employees and longer periods for elderly employees, any further assistance must become a consideration of society in general.

In the railroad situation, obsolete facilities, obsolete management practices, obsolete labor agreements, and obsolete regulation have reduced the railroad industry's productivity to a low level for too large a portion of its service. It is this portion that is pulling the entire industry downward. In short, the quality of so much of its service is so poor, and its prices are so inflated that it is losing merchandise traffic at a perilous rate.

So let us review the complex railroad labor situation in the hope that the review will point toward a revitalization of our vital railroad resources, as well as toward answers that appear needed throughout other areas of our nation's economy.

Productivity of railroad operating labor.—Now, let me say that I have always heard favorable comments about the integrity of railroad labor executives. And I know that they spend long hours at their tasks. Therefore, I can only surmise that they are pursuing their resistance to change in the belief that they are preserving the jobs of their worker members as best they know how.

I am sure that these key union executives have been surprised as the economic facts have been explained to them over the past year by teams of shipper executives, namely that it is primarily the work rules that set in motion the chain reaction of poor car supply, poor dock-to-dock service, and uncompetitive rates. Yet, it is just this chain reaction that causes the loss of much traffic, causes many abandonments, and raises the possibility of an even faster loss of railroad jobs in the coming decade than in recent years.

Further, in riding switch trains and working way trains, I have found that some train crews are hard at work for a full 8 to 12 hour day and the workers are paid on a straight time and overtime basis that is standard throughout industry. Certainly the over generalization charge of "featherbedding" cannot be applied to these crews, expecially when they must accomplish their outdoor car handling tasks on call, at odd hours, or in rainy and snowy weather.

Therefore, one must ask "why have a limited number of railroad operating brotherhoods been able to perpetuate obsolete work agreements for so much longer than other unions in other industries?" While our recent reports to the FRA outlined the causes in detail, I will comment on only two today.

First, the original work agreements appeared logical at the time they were established, even if the underlying factors no longer pertain. One example was the government's establishment of train crew pay on a dual basis. The concept of a day's pay for 100 miles or for 8 hours' work brought the pay of line haul train engineers within 3 percent of the pay of local engineers in 1921 when the railroads were under federal control. However, with today's faster trains, line haul train engineers can earn several 100-mile days of pay in less than a day, and their earnings exceed that of local and work train engineers by 50 percent.

Second, because the nation's economy could not stand a nationwide rail strike of more than a few days, these monopoly rail unions hold the nation in a negotiating stranglehold. An example of this situation is the immense pressure put on the Congress and the Administration by the automobile manufacturers and the food industry when a rail strike threatens serious disruption of their important activities. While this hearing does not permit a discussion of the details of possible solutions to this vital issue, as was covered in the recent FRA studies, I recommend that the issue become a primary focus of this Committee's future deliberations on "National Railroad Policy: Which Way Is Up?"

There is much to be considered concerning the adverse attitudes and climate of railroad management-labor relations which Mr. Chesser, our next speaker,

has stressed as the major barrier to improvement of railroad relations. We all recognize that a negative psychological atmosphere can prevent logical agreements. But, if Mr. Chesser will apply as much emphasis to publishing an understanding of basic railroad economics and then addressing the elimination of outmoded work rules which cause so much of the railroad problems, it is even more likely that logical, economic agreements can be negotiated.

Indeed, we must call upon Mr. Chesser of the United Transportation Union (UTU) and Mr. Sytsma of the Brotherhood of Locomotive Engineers (BLE) to get together and arrange for two man crews to operate shorter, more frequent, more direct, and more numerous trains on the basis of hourly pay for a fair day's work. But his hourly pay basis should be without the wage surcharges that have eliminated any economic benefit to the small size crew agreements that have been negotiated for a few bankrupt railroads or for FRA intermodal demonstration projects.

To make such a request of the UTU and BLE leaders, however, would place them in an exceptionally difficult personal position unless their worker members have been given adequate data which clearly displays that the inter-terminal train crew work rules are depriving other rail unions of jobs while depriving the nation of more economic transportation.

Thus, I recommend a joint industry/government project for the study of this issue and the development and publication of the study findings. Such a study appears to be required before railroad management can clearly display to their employees, as well as their union agents, that inter-terminal work rules represent a primary cause of the railroad malaise. Once again, it appears important to clearly identify the economic facts of specific traffic lane flows:

1. The specific steps through which a typical car is supplied to a shipper and through which the loaded car is moved from origin to destination.
2. Typical site-specific standard costs (both full economic and marginal) for each step and the summation (both full economic and marginal) of those costs for all specific cost elements: Terminal handling; train movement; right-of-way provision; car equipment; clerical; and claims.
3. The railroad charges for the shipment, and a comparison of similar charges from competing carriers and competing modes.
4. The door-to-door service time and reliability of the railroad, and a comparison of similar service quality measurements for other competing modes.
5. A projection of the effect on jobs of all railroad employees of the introduction of two man crews for shorter trains of all categories.

More economic and less political regulation

So much public attention has been focused upon regulatory matters, that I only wish to make two points at this time. They recognize that in an earlier day when traffic demand was rising, the railroads enjoyed such economic advantages that loss operations could be overcome with highly profitable operations. Today, this is no longer the case. Competition is increasing, shifts in traffic may make the remaining rail operations uneconomic, increases in traffic can increase operating complexity, and obsolescence and inflation increase a railroad's needs for capital in a time when it has difficulty creating its own capital. Indeed, the need for private enterprse to create capital resources has taken a back seat to other public interests in recent years. Yet these capital resources are needed to finance the innovation and expansion of the efficient, productive facilities which will be needed for the U.S. economy to provide an improved quality of life while underwriting the jobs of U.S. labor.

Social services must be fully paid.—For many years, heavy burdens have been placed upon the private enterprise railroad industry to provide uneconomic public services without adequate revenues for the public transportation services, and without receipt of public payment for non-transportation social services. The result has been a gradual deterioration of the ability of the railroads to realize their full potential to serve the public interest with transportation services wherein the railroad concept is economically superior to other modes. Today the nation can no longer tolerate the regulatory forcing of railroads to carry traffic at a loss. Such losses and inefficient operations must be identified and their causes understood. Then internal methods must be sought to make them profitable through increases in operating efficiencies. Failing this, rates must be raised as high as the market will allow, but with notice that a service which provides only a marginal contribution will be provided only as long as the underlying facilities last or the supporting traffic continues. Should government direct

that a marginal operation be maintained as a social service, then data must be developed which will support a public subsidy which will provide a full, competitive ROI for the railroad operations.

The need for regulatory acceptance of basic economics.—The laws of economics are inexorable and are not to be denied, regardless of the time span needed for them to work their will. While the investment of basic industries, like the railroads, can obscure their demise for a long time, the day of reckoning cannot be forever put off. Rate control for commuter services cannot be forever suppressed below economic levels any more than rents for residential apartments can remain depressed. In the long run, uneconomic rate regulation will cannibalize the private enterprise investment until it must be replaced with governmental equipment and facilities provided by the tax payer as has happened in both commuter and housing activities.

While the power to regulate maximum rates carries with it the power to replace an industry's private enterprise with a socialized capital structure, a word of caution concerning public operation is in order. Even here the laws of economics will eventually have their day, as in Europe where the burden of carrying labor intensive, loss operations has now proven to be so intolerable that the governmental systems are planning to drastically reduce losing services.

The need for management programs

Various recent studies of the week railroads indicated that they could not be made viable by restructuring operations alone. Indeed, a wide variety of additional management programs would also be required in areas like marketing, financial planning and organization. Such programs were included in the same recent FRA report to which I have referred earlier in this statement. I call attention to their importance, but have omitted them from this statement because they do not appear to be a prominent concern of Congress.

APPENDIX A

REEBIE ASSOCIATES,
CONSULTANTS TO MANAGEMENT,
GREENWICH, CONN., *October 11, 1977.*

MR. BROCK ADAMS,
Secretary, Department of Transportation,
Washington, D.C.

DEAR BROCK: I am writing to suggest a partial, but realistic, solution to three nationwide problems: unemployment, urban decay, and railroad obsolescence.

To reactivate the U.S. economy, we need only to draw upon the lessons of history. When the U.S. economy was in its 1930 depression, national defense programs provided an impetus to its reactivation. In the 1950's, the government established a national road building program which activated the post war economy in a variety of industries. In the 1960's the government established its outer space research programs which realized similar results. Now, the nation needs one or more basic programs which can realize specific objectives and also send activating ripple effects throughout the economy.

One such program could be directed at revitalizing the nation's energy efficient railroads with programs that also address the nation's urban employment and renewal needs.

The problems

1. The nation's railroads suffer from the inefficient urban terminal networks of tracks and yards which were originally laid out in the late 1800's and early 1900's. Subsequent additions of spur tracks and yards were "tracked on" without redesign of the original network. Finally, as some industries have departed, the remaining industries are served with sparsely used tracks and yards which no longer are economic to operate.

2. Around the active, central office areas of these cities lie belts of real estate whose industry has largely departed, and whose commercial and residential areas are decaying. As such, these belt areas have lost their capability of producing tax revenues or providing attractive living and recreational facilities.

3. Living in these cities are people who are destitute for lack of jobs, people whose welfare needs create a burden for the city, and people who turn to crime as a means of activity, entertainment, or survival. There is a critical need for

jobs for unskilled and semi-skilled residents of these cities, jobs that are truly economic because the outputs will be worth the expenditures.

A partial, but worthwhile, solution

1. Redesign the urban rail facilities to permit efficient and profitable railroad operations with rates and service quality which will attract industry.
   Relocate scattered industries into concentrated commercial areas with efficient switch tracks and room for expansion.
   Build efficient centralized yards from which all switch runs would operate.
   Relocate connecting track networks to clear sizable real estate tracts.
   Build connecting track networks with dual lines which will permit flexible, efficient operations of competing railroads with smaller, more numerous trains and crews operating in parallel patterns (rather than the traditional operations of larger trains and crews operating in series).
2. Plan to use the real estate tracts to build viable and attractive communities which regenerate tax revenues.
   Manufacturing and distribution operations.
   Residential and retail store buildings.
   Educational, cultural, and recreational activities.
3. Create unskilled, semi-skilled, and skilled jobs.
   Initial construction.
   Manufacturing and distribuiton operations.
   Community activities.
   Related services.
4. Finance the above programs without additional burdens upon the taxpayers.
   Revenue bonds to be repaid from regenerated tax revenues and from user charges for rail yards.
   Current unemployment welfare funds and employment training funds.

I would sincerely appreciate your comments upon this suggestion. If enough interest is indicated from those whom I have written, the first step would be a modest study to investigate the potential for such programs in selected cities like Detroit, Chicago, Cleveland and Philadelphia.

Sincerely yours,

ROBERT S. REEBIE.

APPENDIX B

REEBIE ASSOCIATES,
Consultants to Management,
Greenwich, Conn., November 28, 1975.

Hon. WILLIAM T. COLEMAN, Jr.,
Secretary,
Department of Transportation,
Washington, D.C.

DEAR SECRETARY COLEMAN: It was a pleasure to read recent accounts in the press of your stated desires to influence a rationalization of the nation's railroads.

As one who has been active in the railroad industry for many years, I am writing to request an interview with you to present a concept which can greatly help the railroad industry rationalize itself, resolve its financial difficulties, and realize its true potential for public service and a viable level of profits in a period of increasing competition and inflation.

In fact, the absence of such a concept appears to be at the root of many railroad problems such as low equipment utilization, high empty mileage, excessive terminal handlings and expense, excess line haul capacity, uneconomic revenue divisions, uneconomic pricing, and unprofitable branch line and passenger operations. Yet with this concept, many of these problems can be resolved because of the light it sheds upon them, a light which often shows that imagined conflicts of interests between carriers are truly matters of mutual interest among connecting, and even competing, railroads.

Very simply, this concept enables rail, water, and air carriers to develop realistic profit and loss statements for each important segment of their business without massive additional accounting. We believe that the validity of this concept lies in the fact that we have recently assisted private airline, shipline and railroad clients to develop realistic P&L statements (1) by service type (ie., TOFC versus carload ,etc.), (2) by equipment type (i.e., box car versus hopper car, etc.), (3) by origin-to-destination traffic lane, and (4) by market/

terminal area. These statements, which have withstood the test of critical review by line operating managements, now give these modes, with their complex fixed costs, the same management tools that have proven to be so valuable to the trucking industry.

The results have shown a wide range of economic results, from great profitability to abysmal loss. Also shown were the underlying causes of profit or loss. As such, these P&L statements both point the way to resolution of railroad service and financial problems and establish priorities for resolution, whether by an individual carrier management or by cooperation among two or more carriers. Finally, these statements provide a method of documenting the reasonableness of proposals needing regulatory approval.

With the aforementioned P&L statements, rail carriers often can work together to realize the economic advantages that are inherent within the railroad concept. They can swap lines, give trackage rights, operate joint facilities, change prices, revise divisions, merge, etc., so as to overcome the inflexibilities of rail operations which currently involve so much additional handling, poor service, low equipment utilization and high expense as traffic is exchanged again and again (especially in terminal areas) between individual, Balkanized railroads. P&L statements by traffic segment offer the greatest tool for rationalizing the railroad industry into a limited number of competitive national systems. They can do this by clearly displaying to railroad management and directors the disadvantages of current route structures and the potential advantages of revised route structures. Similarly, these P&L statements should greatly strengthen management's hand in displaying the desirability of change to railway labor and to state and national regulatory agencies.

The concept recognizes that the primary responsibility for providing attractive levels of service at sustaining levels of profitability rests with the management of private resources employed by each carrier. It also recognizes that private management generally can realize a much greater effect on carrier service quality and economic viability than either external economic conditions or external governmental agencies, provided that the following conditions prevail:

1. That carrier management has the information tools with which to measure profitability and market share for each segment of its business.

2. That regulatory agencies permit competitive managements the freedom to price their services and to operate with a wide range of flexibility limited only as necessary to protect the public by insuring safety, avoiding discrimination and fraud, etc.

3. That any regulatory requirement for a public service which is deemed to be vital by a legislative body, yet which cannot achieve a full sustaining level of profitability, be fully compensated by an additional subsidy to the users, voted by the same legislative taxing authorities, such that the subsidized service not burden any other carrier service which must be offered under competitive circumstances.

These P&L statements by traffic segment can help railroad managements overcome the oft-heard criticism that they have not been as effective in rationalizing the use of their resources as have been their competing highway carrier managements. However, such criticism has failed to recognize that the management problems are more complex than those of the simpler trucking industry, or indeed those of any other major industry. First, there is the wide range of service outputs in which different commodities, with different commercial distribution patterns, are shipped in different volumes, in different packages, in different equipment, from different origins, to different destinations, at different distances. Next, railroads suffer the difficulties of dispersed operations in outdoor weather conditions. Railroads also suffer the pricing pressures of a high investment industry with fierce intra-industry competition. And finally, railroads operate under unusual external pressures of separate, highly organized labor forces and of governmental regulations which are often ill-conceived.

Earlier above, I stated that railroad managements, when armed with realistic P&L statements by traffic segment, can do much to rationalize and manage their individual operations so as to realize sustaining levels of profit. They can do this through the following steps:

Delegating responsibility for profit downward into the organization and outward into the field.

Raising local managers from the status of simple operating men to that of profit center businessmen, thereby developing a cadre of profit managers.

This utilizes the untapped mental resources and knowledge of local personnel in the pursuit of profit.

Providing an input of local level viewpoints as a cross-check to the centralized viewpoint of the corporate marketing, equipment, facilities, transportation, labor relations, and public relations staff personnel, thereby obtaining more profitable decisions.

Focusing attention upon the utilization of resources and capacity which is so critical in a high investment, highly competitive industry.

Making more profitable decisions concerning the selective directional solicitation of traffic via carload or intermodal.

As stated earlier, our confidence that realistic and useful P&L statements can be of major value to the entire industry evolves from the fact that P&L statements of the type outlined above have recently been developed for the nation's largest intermodal TOFC/COFC operation as well as for the more complex carload operations of a smaller railroad. These statements relied upon:

The type of data that is already available in the data banks and reports of most major railroads. Where all the needed data is not available, we believe that the additional information can be readily developed.

A well-tested and accepted costing model, for railroad and intermodal services, which applies costing concepts that have been proven by a wide variety of manufacturers and by profitable air, water, and highway carriers. Basic to this concept is (1) a method for developing and applying expense factors to the operation being analyzed, and (2) the allocation of expenses of both capacity that is utilized and capacity that is not utilized to the revenue traffics that must be responsible for the expenses involved.

The above concepts can be applied either to the development of Profit and Loss Statements for a past accounting period (month, quarter, year) or to the development of Profit and Loss Projections for a future period.

In this matter, it is important to recognize that profit analysis should not be judged on the basis of whether or not it portrays "pure truth," for it cannot. It should be judged instead on whether or not it leads management, at all levels, to take those actions appropriate to the achievement of maximum profits at levels of ROI adequate to sustain and expand the service where it is economically feasible. In short, the analysis should be adequately logical and understandable that it will create understanding of the basis for the profit or loss situation which prevails, or which a future plan would develop. Only with such understandings can a carrier management know when to expand a profitable situation or how to correct a loss situation.

I sincerely believe that realistic profitability statements, by segments of the business for which reasonable profit responsibility can be assigned, will become the most important tool by which a railroad management maximizes the profit potential of its system. I also believe that such P&L statements can become the most significant tool by which the railroad industry rationalizes its own route structure. Because of the critical state of the railroad industry, I believe that this concept should be accepted and applied by each U.S. railroad within the very near future. As a first step in gaining this acceptance, I would like to discuss with you our recent role in developing Profit and Loss Statements for railroads. I look forward to the opportunity of meeting with you.

Best personal regards,

ROBERT S. REEBIE.

APPENDIX C

[From Railway Age, May 8, 1978]

FEC: FLORIDA'S PRODUCTIVITY SHOWCASE

(By Luther S. Miller, Editor)

Asked to account for the extraordinary success of the Florida East Coast Railway in keeping costs and rates down and profits high, the average railroader is apt to reply with a single word: "Labor."

It is true that FEC, which operates under its own updated work rules (e.g., two-man rather than three- or five-man train crews, an eight-hour rather than a 100-mile day), has by far the lowest labor costs of any major railroad anywhere in the world. FEC spends only 30 cents out of every revenue dollar on labor costs (including fringes and payroll taxes). By comparison, the best labor ratio among

carriers that operate under nationally negotiated work rules is the 42 percent posted by the Southern. The industry average is around 53 percent—and some northeastern railroads, including Conrail, are paying out between 60 percent and 65 percent of revenues in labor costs.

But that, insists FEC President Winfred L. Thornton, tells only part of the story.

"Certainly, labor has made it possible," observed Thornton during a recent inspection trip over FEC's superbly-maintained main line between Jacksonville and Miami. "But the real savings is in car utilization.

"The industry gets 59 miles per day per car. Southern railroads get about 53 miles. On the FEC we get 88 miles—and remember, this is a terminating railroad. Every car we handle we terminate. You can appreciate that it would be an even better situation for a bridge carrier than just handled cars and did not have the delays of loading and unloading.

"The utilization of equipment—turning it around faster and getting it off the railroad—is really where the saving is. That's the real money. And it comes from running short, frequent trains.

"If the industry got that kind of equipment utilization, think how many less billions of dollars of debt it would have; how much less it would be paying out in interest; how much greater availability of equipment it would have for shippers—who sometimes can't ship on the railroad at all because they can't get the equipment."

The word is "productivity."—On the FEC, as on every well-managed railroad, the sacred word in management councils is "productivity"—and by nearly every known measure, FEC is far ahead of the field (see charts).

Operating efficiency? The single most important measure of efficiency is the transportation ratio, and it is here that the FEC shines like a beacon in a troubled sea. On the FEC last year, the ratio of transportation expenses to operating revenues was 26.7 percent; the industry average was 39.2 percent.

On the other hand, FEC's operating ratio in 1977 (74.2 percent), while it was comfortably below the industry average (81.5 percent), was still higher than that of a number of other well-managed roads—and for the best of reasons: FEC plows an unusually large portion of its available cash into improving its track. In 1977, FEC's maintenance-of-way ratio was 29.3 percent; for all Class I railroads, the m/w ratio last year was 17.3 percent. As a result of this kind of reinvestment, the condition of FEC's track today is the envy of chief engineers all over the land. As of March 1, the railroad had 397 miles of welded rail and 229.6 miles of concrete ties in place. Automatic protection devices had been installed at 576 of the road's 694 public grade crossings.

If the FEC had been content to be only "average" in track maintenance in 1977, it would have posted a considerably higher net income than the $6.5 million it did report. Even so, Thornton points out with some pride, the railroad was able to carry down 10 percent of gross to net.

An unbroken record.—No dividends. Because the FEC does pour so much of its earnings back into the railroad, and because FEC wants to keep its debt low (funded debt was $17.4 million at the close of 1977 vs $45.5 million in 1963, the year the strikes began), the railroad maintains its unbroken record of never having paid a dividend in nearly 90 years of corporate existence. ("Mr. Ball," explains one FEC officer, "doesn't want to start paying a dividend until he can do so on a very firm and consistent basis." The allusion is to FEC Chairman Edward Ball, who at the age of 90 still works five days a week and half a day on Saturday. A touch of flu kept him home on the day of the recent inspection trip. In his absence, FEC's directors and a handful of invited guests were shown the railroad by President Thornton, Senior Vice President Ray Wyckoff, and other officers.)

Ripple effects.—The drastically altered labor situation that FEC won by standing firm against union demands during nearly 14 years of strikes has caused ripple effects all over the railroad. Nowhere is the effect more dramatically evident than out on the road, where FEC now runs 10 or 11 through freights a day in each direction, more than double the pre-strike number. (It used to take up to 15 men and a caboose to get an FEC freight from Bowden Yard in Jacksonville down to Miami. Now it may take only two men—no caboose—working an eight-hour day plus perhaps three hours of overtime.)

Shorter trains operated with greater frequency have put the FEC in a far better competitive situation than most railroads enjoy. FEC can, in fact, compete so well with motor carriers that common-carrier truckers are among its best

customers. Last year, FEC piggybacked 41,000 common-carrier highway trailers. TOFC/COFC loadings accounted for 27 percent of all FEC traffic in 1977, compared with 7 percent for the railroad industry as a whole. One reason for FEC's success with Plan I piggyback, says Thornton, is that the railroad gets empty trailers back to their owners, fast. "The truckers aren't just talking about getting a load out there—they want the empties back," emphasizes Thornton. "They couldn't afford to run their business like the railroads run theirs."

High service, low rates.—FEC is not only a high-service railroad; it is also a low-rate railroad.

"We flagged out on several Ex Parte increases, particularly in intrastate traffic," says Thornton. "When you can hold your costs down, you can hold your rates down, and you've got things going for you. The idea of continually raising rates I think is disastrous. We cannot continue to raise rates and be competitive. Private carriage is what's going to take the business away from both the truck lines and the railroads."

Can other railroads follow?—FEC has never been shy about suggesting that the railroad industry should try to follow the difficult path it has blazed, and look less to the federal government for bail-out money.

"There's no reason," says Thornton, "why the industry couldn't do exactly what we have done. I am not advocating necessarily that they do it the way we did it, by a confrontation with labor—difficulties that lasted 12 to 14 years, with all the sabotage and violence that we had. I believe the railroads must convince the workers—and I think they would perhaps be easier to convince than the labor leaders—of the potential growth that is within the industry, of the greater job security that is possible for workers, if they were to change the work rules.

"All we're talking about is maybe 9 percent of the work force. They would have to change the rules with respect to four things: the eight-hour vs the 100-mile day; running through terminals; yard and road work separation; and such arbitrary things as starting-time rules.

"There might be an initial impact, but ultimately I'm convinced that you wouldn't have fewer employees—you'd just run more trains.

"This is not a supposition of what could be done. You can look at the FEC and see what has been done.

"What you get in the way of increased car utilization doesn't take any money away from the union. It takes it away from the banker, maybe, and puts it back into the industry. Look at the money that's made available to work on the track—that makes jobs. Look at the money that's made available for maintaining cars—that makes jobs. The additional trains that you can run will generate additional traffic. Instead of being an industry that's on a toboggan downhill, you could become a growth industry; instead of employment dropping from 1½ million, which is what it was when I started in the industry, to less than half a million, which is what it is today, we might see the trend going in the other direction."

A road-by-road approach.—Short of taking a long and bitter strike, how can other railroads get started on the path that has led the FEC to productivity, profits, and particularly in the conservative press to glory?

"This might be heresy in some quarters, but I think individual negotiations between individual railroads and their unions would be better than national negotiations," says Thornton. (Heresy is nothing new for the FEC, which withdrew from the Association of American Railroads a decade ago when industry sentiment seemed to be tilting toward binding arbitration. At least one FEC officer thinks the industry should be grateful that the FEC has not rejoined the club: "This way, we can be the industry's conscience.")

Thornton continues: "The Milwaukee move on reducing crew consist [RA, April 10, p. 10] is a move in the right direction, but I just don't think they got the best deal they could have got.

"When you have negotiations involving the whole industry, then you're inviting intervention by the government. But if you do it railroad by railroad, and you shut one down, it wouldn't hurt anything."

Thornton adds: "The laws are such that they favor labor. In the first year of the FEC strike the employees received unemployment benefits. After that, they would arrange to put an employee back on Railroad Retirement for a month, then cut him off and put another one on, and thus they were able to extend unemployment benefits for two years."

This line of thought leads Thornton to a bolder proposal, though he concedes it is probably not politically realistic: "In all equity, the unions ought to be put

under antitrust. If the unions recognized that they would come under antitrust laws, they would come in and negotiate."

The FEC lesson.—What can the rest of the industry learn from the FEC experience? An officer of a midwestern road who has studied the FEC closely puts it this way:

"The Florida East Coast demonstrated how much you can do if you allow yourself not to be constrained by the way things have been done. You see all kinds of things done unconventionally on the FEC, at all levels—in the mechanical department, in operations, in the yards. One reason for this is that they brought in 'inexperienced' people who did the natural things instead of embracing the institutionalized verities that were there before them. Conventional wisdom went out the window, where it so often belongs.

"The people who work in the FEC are safer, because a much better work environment has been created. Their jobs are more secure, because the company has gained operating flexibility that is attracting new business.

"The appropriate audience for touring the FEC is not railroad presidents, but railroad union leaders. They ought to go out and look at the way things are done on the FEC."

Senator McGovern. It is evident to you, Mr. Reebie, and me that a "bandaid" approach is no longer going to do the job in helping the national rail system. I would like if you could, for the record, highlight what you regard are the key barriers or constraints on essential changes in the industry. What are going to be the toughest problems, the toughest obstacles we are going to have to overcome in this industry to stimulate some of the changes that you see as being necessary?

Mr. Reebie. Senator, the prepared statement I have I think identifies about six major problems. The first one is to increase understanding of the economics of railroad operations, how they operate and where opportunities exist. That understanding is needed by the railroads themselves and by the outside interests with whom they have to work.

The second point I made was we have to have some revision of the terminal facilities in order to reduce the number of yard-to-yard handlings required in some of our older cities.

The third is that——

Senator McGovern. Some of those facilities are as much as 100 years old?

Mr. Reebie. Yes. Some of these were built in the Civil War or before. And all you have to do is look at the can-of-worms kind of network we have in cities like Philadelphia and recognize why it is unprofitable for ConRail to serve some of its biggest industries in those cities.

The third thing is for the railroad to try and rationalize some of these problems themselves, without a rebuilding of the facilities, by providing trackage rights, route swaps, terminal swaps and so on. This is the kind of activity which the Federal Railroad Administration is now encouraging in the Midwest and, in my view, is entirely appropriate.

The fourth thing is to address the labor problems which force the railroads to run long, inefficient trains.

The fifth thing is that the regulatory agencies can no longer be allowed to force onto the railroads the provision of social services at a loss to the railroads. That was appropriate in the days when the railroads were monopolies and they could make up for the losses in social services through their control of other traffic. Today that no longer is possible because competition takes away the more profitable traffic.

Therefore, instead of the ICC or other regulatory agencies being able to require railroads to continue loss operations, it is my view that any such action should be undertaken only by the legislative bodies who represent the taxpayers who would benefit from a subsidy to continue social services that cannot support themselves at the fare box.

Senator McGovern. In that connection, Mr. Reebie, where you referred to the congressional obligation, Mr. Simon makes this observation. I would be interested in your comment.

He says:

> It appears to me, from the inquiry I have made to date, there is really no staff expertise in the Senate, Congress, or even in the various executive departments who have the time or financial expertise to do more than look for a superficial solution. We have already had too many attempts at these. It will take an adequately financed and well organized study to do the job. Five million dollars, or whatever the study might cost to explore the properties of the railroads and identify a total merger formula—will save billions. The feeble political attempts to date have cost us tens of billions.

I am not really asking you to comment on Mr. Simon's statement of a merger, the ICC pattern, but perhaps why we don't have the confidence in the Congress to look at this problem as expertly as it should be.

Mr. Reebie. I think Mr. Simon is addressing the same problem I put as No. 1 on my list, the need to understand as a basis for action. The term "action without education" can be rather troublesome in that manner as well.

It is my belief that we probably have done a great many studies in this Nation. But, unfortunately, some of those studies tend to get bottled up from time to time by various agencies. What we really need is a culling of those studies to where we get down to the facts that are in them and to have that culling publicized without the kind of editing that frequently occurs in the administrative as well as the legislative side of Government.

It is my feeling that there is need for this analytical, creative function. And I believe that the Nation has an ample precedent for this in the way in which our Department of Agriculture for many years developed understandings of how to produce better crops and provided the understandings to farmers on a basis that they could implement voluntarily.

And so it is my agreement, basically, with what Mr. Simon has said, that we do need more economic analysis in the transportation agencies of the administration, and perhaps in the Congress as well. But that information should primarily be provided to the industry for its use in voluntary actions. Because my feeling is that such information will encourage the actions that are needed under the private enterprise and open market system, which we still have.

Senator McGovern. I just wanted to say, both to you and to Mr. Simon and other witnesses, that I think we recognize the limitations on our professional competence in this area. But we do intend in the course of these hearings to make them as analytical as possible.

We are going to resume these hearings in Washington in July and again in the Midwest and other parts of the country. We are going to be seeking out the investment people we can find in all areas of

the rail industry so that we can put together a body of expert opinion.

It may be that that will leave needs for a further study and further analysis, both in the executive branch and in Congress. But I thought this would be a good opportunity for me to say we are not looking for any quick "bandaid" solution this summer. This is the beginning of what we hope will be a more substantive and thoughtful analysis of the problem.

Are there any other specific Government policies that you suggest, Mr. Reebie, to arrest the deterioration of the national rail system? Any specific steps that you have that you want to just underscore here this morning?

Mr. REEBIE. Yes; your questions have enabled me to make a point about Government regulation that I consider critical.

The second point is the fact that the power to control rates is the power to destroy or the power to nationalize. All we have to do is to look at the way rate regulations holding down the revenues involved in commuter service prevented the railroads from providing adequate equipment. Thus the service deteriorated to where the public, which was calling for the service, had the money provided by governmental agencies in the lump sum that was then necessary.

The same thing has happened in rent control where the holddown on rents has eventually meant an inadequate supply of rental dwellings.

I think we see the same thing happening in electric power in the Nation and other areas. It is my belief that the power to control rates has, perhaps in years gone by, been misused by our transportation regulatory agencies. That power to hold down rates, such as to hold down revenues for branch line transportation just to cover the marginal cost, is one of the basic problems that must be corrected.

Senator MCGOVERN. Mr. Reebie, I have been in the Congress now for some 24 years. If my memory is right, in every one of those years we have had a boxcar shortage, particularly out in my part of the country. Every time a train comes in for service, there are pictures of grain being piled on the ground backed up at the elevator and no cars. Sometimes a great search is started to locate the cars.

Last year, I understand, was the most severe car shortage we have experienced in history. Why is this?

Mr. REEBIE. That is a subject that I feel somewhat at home on. When I built the marketing department back at the New York Central many years ago, in the early 1960's, I found we were losing about $7 million a year on our handling of grain. So we applied to that some ignorance and some determination to find answers. And what we found out was grain was grown seasonally, and that the picker-shellers were compressing the harvesting time of where this peak handling of grain was becoming even worse. And we found out there were no answers by which the railroad could provide adequate equipment to haul grain at harvest time.

Frustrated in trying to find an answer there, we turned 180 degrees around and found that the consumption of grain was steady. We eat wheat, bread, and pie crust pretty much year round, and we fed chickens pretty much the same—year round. And we tend to export grain

pretty much the same the year round. Thus consumption is pretty much level as a pool table.

So we decided to change the pricing structure in such a way that we would encourage the storage, which must occur when you have seasonal production, to be handled as close to the production area as possible.

Looking at the futures market and the merchandising of grain, with the best grainman I could lay my hands on at that time, we found out that the communication and the grain preservation technology of today would allow the futures market to function with multiple deliveries. So we started the uphill fight to change the whole distribution of grain to something that is truly economic.

To make a long story short, by doing our homework we created the greatest change in railroad pricing in 100 years and ran it right through the ICC, against an amount of opposition, I might say, without an investigation, much less a suspension.

Within a short period of time the farmer was getting, I recall, something like 4 cents more a bushel for his corn. The consumer was paying about 9 cents less a bushel for their corn. And we had begun to turn the operation for the railroad from a loss into a profit.

The key to the whole thing, Senator, is that when you must have seasonal storage, it should be done as close to the place where the seasonality occurs. Therefore, we could then move away from using boxcars, which are a miserable animal to load and unload with grain and which were used so they could be used for other freight at other times of the year, to efficient hopper cars that shuttled on a year-round basis from country storage elevators to places where the grain was consumed.

We have done just the reverse in fertilizer, where production is year round in factories but consumption on the farms is seasonal, in the spring and the fall. So by understanding the basic economics and doing the kind of creative staff work that Mr. Simon referred to, we found answers which have yet to be fully implemented but which I think represent, the answer to the problem you raised.

Senator McGovern. If we could go now to another problem I alluded to just earlier, you point out in your prepared statement that we have in most of our major cities a problem of urban decay, high crime, unemployment and, in many cases, that is the worst around the rail areas, around the rail terminal areas.

Could you elaborate just a little more on what you have in mind in the way of a combination of revitalizing the terminals and at the same time providing urban renewal, the upgrading of the real estate property, the provision of additional jobs, both skilled and unskilled, and also how you would propose to finance all of this? And if this is a way both to revitalize the rails and the cities at the same time to deal with urban decay and unemployment, I think it is an extremely valuable proposal. It has to be given extreme consideration.

Mr. Reebie. One day, Senator, I flew from New York to Washington and en route I tried to find some railroad yards and intermodal terminals. Because I knew where they were as I left the New York-New Jersey area, and Baltimore, I could find them, but only after some searching because they were small and highly dispersed.

I then looked at the port facilities, which were tremendous, which were modern, well laid out and efficient. And then I looked again at the airports and found even more of the same kind of thing.

What I am suggesting is it is high time we recognized that these valuable resources, the national railroads, should receive the same kind of treatment.

I say in the prepared statement that we should relocate scattered industries into concentrated commercial areas with efficient switch tracks, and thus would not require as much relocation as one might imagine. Then we should build efficient centralized yards from which all switch runs would operate. After all, this is what some railroads did—I forgot exactly when, but around 1960. In Buffalo, N.Y., they built a central yard which got rid of 13 smaller yards.

Senator McGovern. Wouldn't that run directly counter to the present movement of industries, away from the cities and into the suburban areas?

Mr. Reebie. I would hope it would do just that.

Relocate connecting track networks to clear sizable real estate tracts for redevelopment on a sound tax basis and build correcting tracks with dual lines which would permit smaller, more numerous trains and crews, of competing railroads, operating in parallel patterns rather than larger trains and crews operating in series.

I mentioned Philadelphia, but all you have to do is look at Detroit, where all tracks cross at grade and you see long trains waiting for one another, and you understand the problem rather quickly.

Finally, to build intermodal terminals of the size and kind that can be operated efficiently and accommodate the eightfold increase which we now forecast with our new intermodal equipment.

As a result of this recommendation we did take a look at the project in Canada. We have learned of more in the United States. And we found out from those projects that we must recognize that the relocation has to be moved forward in such a way that multiple benefits are realized.

I think what you can do is create economically worthwhile, unskilled jobs as the construction goes forward and semiskilled and skilled jobs in the cities as you attract the industry back to this belt around the center city. We can rebuild the belts of property which surround the center of cities into economically viable and attractive communities. All you have to do is look to the West Side of Chicago and see the opportunity for development there.

Fortunately, I think we can finance the project without great additional burden on the taxpayer. The upfront money can be provided with revenue bonds which can be paid off through a wider tax base and with user charges against the railroads who would use these facilities.

I might say this is perhaps one area in which public ownership of localized facilities might be in order. But I think it brings forward a lesson, Senator. The taxpayer funds used to benefit a commercial transportation mode should be fully repaid through user charges as the only way in which the Nation can allocate its transportation traffic so as to meet its transportation needs with a minimum ex-

penditure of the Nation's labor and material resources, and as the only way we can get an economic transportation system.

Mr. SWEENEY. I wonder if I might comment on that.

ConRail, primarily under the auspices of the Government staff, had a meeting roughly about 2 weeks ago in Philadelphia with the participants being the cities' mayors as well as the Department of HUD and Transportation.

That meeting was the culmination of about a 6-month planning effort to be initiated, I think, by us and by John Gunther of the U.S. Conference of Mayors, the idea being to bring some implementation to the ideas Mr. Reebie has brought forth here.

We have gotten commitments from the Secretary of Commerce to utilize substantial EOA funding for some of the projects that are involved as well as substantial commitments from the mayors themselves for urban renewal funding for similar ideas, with the railroad portion of the funding coming from the freeing up of valuable lands that it owns for developmental purposes and be able to make its contribution to the rest of the development by those cash generations.

I think Mr. Reebie has been talking about this for some time, and I think he will be pleased to know it has been having some result.

Senator MCGOVERN. Mr. Chesser, do you want to take your place over here at the table?

While Mr. Chesser is getting his papers ready, I think we will turn to the ConRail concern here and we will give you a little time to get your thoughts collected, Mr. Chesser.

Mr. Sweeney, I want to say, first of all, that nothing I say here today represents any personal animosity to you. I understand you are not here as the chief operating officer, the chief management authority of ConRail. You are here because of Mr. Jordan's unfortunate absence.

But there are some observations I want to make about ConRail that I suspect are shared by a number of my colleagues in the Congress.

If you care to make a general comment about those things when I am through, you will certainly have the privilege to do so. Meanwhile, I want to make Mr. Jordan's letter to me this morning a part of the record. Maybe I should just read it:

JUNE 27, 1978.

DEAR SENATOR MCGOVERN: The attached press release confirms that ConRail has witnessed a significant event. The departure of ConRail's President, Mr. Richard D. Spence, requires that the responsibilities he discharged be given immediate attention in the interim in which a successor will be selected, either by myself or by other ConRail officials.

I am sure you will understand why this will prevent my attendance at your hearing this morning. Mr. John L. Sweeney, vice president for Government Affairs, and Mr. Ronald M. Dietrich, vice president for law, will represent me in any capacity that you deem appropriate. Mr. Sweeney will read my statement, if you so wish, and either he or Mr. Dietrich is authorized to respond to any questions which you may have.

I very much appreciated your courtesy in our telephone conversation last Wednesday, and your reassurance that the mission of the hearings was as outlined in your original invitation, not as erroneously reported in the press. Thus, I am disappointed that this sudden emergency precludes my presence.

Sincerely,

EDWARD G. JORDAN.

Senator McGovern. I would like to make the press release that accompanied the letter that I just read and the prepared statement of Mr. Jordan a part of the record. I don't see any point in reading the testimony. It will be available as part of the record.

[The press release and the prepared statement of Mr. Jordan follow:]

CONRAIL PRESS RELEASE

June 26, 1978

The Board of Directors of Consolidated Rail Corporation anounced today that Richard D. Spence is leaving his position as President and Chief Operating Officer effective immediately.

A search for a successor is being initiated.

PREPARED STATEMENT OF EDWARD G. JORDAN, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, CONSOLIDATED RAIL CORPORATION

Senator McGovern, I would like to begin my comments on the rail industry by reading from a report prepared by a special committee appointed by the President:

"The major factor in the present distressed condition of the railroads is the low volume of their traffic. A contributing factor is the depressed character of many of their rates. Competitive modes of transportation are partially responsible for the former and almost wholly responsible for the latter. To the extent that the inroads made upon railroad traffic and revenues by other modes of transportation are not due to natural advantages which the latter possess, but are attributable to artificial advantages accruing to their competitors as a result of governmental favoritism in any respect, the railroads have a right to object. Such favoritism now exists in pronounced degree in the important matters of regulation, taxation and subsidies."

The special committee was appointed by President Franklin D. Roosevelt; the report was written in response to a charge of "consider the transportation problem and recommend legislation; it was issued in 1938.

More recently, and prior to the creation of ConRail, the United States Railway Association in both its Preliminary and Final System Plans said:

"The Association believes that with the proper expenditure of funds, a good management, more flexibility in pricing its services, and relief from debilitating losses from unprofitable branch lines and passenger services, we can forecast a profit for ConRail that would be about equal to the average rate of profitability for the major solvent railroads in the nation. Even these carriers, however, earn only a marginal return on the investment required and the gross volume of business conducted; ConRail can do no better."

USRA added:

"Whether this result can be brought about, however, will depend on many other factors outside the planning process. . . .

"The economics of the industry cannot be changed overnight . . . Others will have to share in the creation of an environment favorable to an economically viable rail system for the nation. . . ."

Ultimately, economic viability for all transportation is a function of a realistic recognition of the necessity for the industry, and those who use it, to pay its costs and permit it to obtain a reasonable profit.

The basic problems confronting railroads, then, are not new to us today. Much has been said about what needs to be done; substantially less than that has been accomplished.

Therefore, in reflecting on the message which I believe is of greatest value to the Subcommittee—and to a vital national resource, the railroad industry, there are two specific points deserving specific focus:

First, there is ample evidence that fundamental changes are not occurring in the economic environment of the rail industry—and there is equally ample evidence that the basic problems of the industry remain much as in 1938; and

Second, that ConRail has made real progress in rebuilding the physical components of the rail system it inherited—but it also continues to be faced with

revenue, service and cost problems which, while larger in scale, are nonetheless symptomatic of the entire industry.

The overall health of the rail industry is poor, its profits clearly cannot sustain the continued replenishment of needed capital. A recent study shows that cash flow in the industry represents only 70 percent of capital expenditures vs. 189 percent for manufacturing generally. The net working capital for the rail industry was only $340 million in 1976 and the situation worsened in 1977. Ratios of coverage of fixed charges for the "strong" southern and western railroads was 3.16 in 1973 and dropped to 2.85 in 1976. And the ICC reports that, without considering ConRail, deferred maintenance and delayed capital improvements in the industry totaled over $4 billion at the end of 1976.

Profits does seem to be an increasingly distrusted word today—and the rail industry does seem to be on a course that will minimize it. But the lack of profit—of return on investment—will increasingly pose a real economic burden on the nation. For the rail industry's investment needs are immense. I have previously cited the ICC's estimate that deferred maintenance in the industry exceeds $4 billion. In addition, the industry's future new equipment and fixed plant capital needs have been estimated conservatively as $35.6 billion (excluding ConRail) for the next 10 years.

The industry's rate of return on net investment offers little encouragement for securing such capital. In 1974 the industry's net investment was $28.8 billion and its return on that investment was $778 million. By 1977, the figures were $27.6 billion for net investment, a slight reduction. But the return on that investment was $343 million, less than half of what it had been four years earlier.

The most obvious factor in the rail industry's economic plight is the simple fact that revenues continue to decline relative to costs. This results from the inroads of competitor modes of transportation having less restrictive regulation, from the consistent lag of rail rate increases compared to the impact of inflation and from regulatory inhibitions on rail rate initiatives based on equating supply and demand. The impact of the revenue problem is particularly severe in the rail industry because of its capital plant requirements and operating characteristics.

Nonetheless, there are some relatively healthy railroads. But the uneven level of financial return within the industry indicates the impact which industry-wide regulation has in suppressing the ability of individual railroads to design operations, costs, services and revenues to best meet their needs and to serve their shippers most advantageously. Regulatory actions which thus stifle the dynamics of the marketplace are not protecting the public. Rather they will inevitably expose the public to having only the choice between the inherent inefficiencies of a deteriorated rail system unable to serve the economy's needs or the unimaginable burden of a publicly maintained and operated rail system insulated from the corrective pressures of the marketplace. This is the dilemma from which the public has every right to expect to be protected. And avoiding that dilemma basically means that the railroads—and all forms of transportation—must be given a freer hand in establishing levels of service and rates on a basis related to the costs involved and the value of the service to the shipper.

Let me cite an example: There is a severe boxcar shortage throughout the United States. In the case of ConRail, boxcars represent 24 percent of our total freight car assets. They produce 27 percent of our freight revenue. But... they generate just one percent of the total freight contribution to meeting long-term variable costs. And that one percent is mainly due to only a few of the commodities moving in boxcars.

So, one must conclude that it is basically uneconomic at this time for ConRail to purchase new general service boxcars to help alleviate the shortage. How can one justify investing $30,000 in a car which, under present regulatory conditions, will never pay for itself?

At ConRail a program is being developed to attack this problem. It involves substantially increasing backhaul traffic in boxcars, which can increase revenues, eliminate empty car mileage, and in so doing significantly increase contribution to meeting long-term variable costs. But special rates on backhaul traffic will be required to meet and beat competition from other modes. And the decision as to whether such rates can be established is dependent—not on ConRail's economic judgments—but on those of other railroads, trucks and of the ICC.

It was concern over the impact of ICC regulation which led to Congress' enactment of the "regulatory reforms" of Titles II and III of the Railroad Revitalization and Regulatory Reform Act of 1976. While these reforms were enacted amidst high hopes that they would eliminate the most serious regulation-induced costs and inefficiencies in the railroad industry, experience to date strongly suggests that these goals have not been achieved, nor is there much to suggest that further progress will be made.

Thus the revenue question, in all its variants, is primary. Some intra-industry action can be taken—such as changes in revenue divisions which are of particular interest to ConRail. But such approaches to redistributing the wealth, while obviously necessary, will not change the industry's profit picture. In total, the "wealth" is not there. The real answer lies in creating added strength for the entire industry by attacking root causes of basic problems which have provoked its decades-long decline.

The problem of redundant railroad plant structure offers another opportunity for positive action. I know of no experienced observer, who does not feel that we have far too much railrad plant in the United States to be efficient and productive. One of the areas where Government assistance—including regulatory reform—could be most effective would be in providing incentives for eliminating redundancy in this overbuilt system while maintaining essential services. Any plant rationalization should go hand-in-hand with necessary protection for labor. That same philosophy, in regard to labor, should prevail for industry changes being sought to improve operational productivity.

The accuracy of the challenge enumerated in the 1938 report is perhaps best marked by what has happened in the 40 years that it has stood unanswered. It seems quite certain that the trends of those years indicate the rail industry 10 years from now is going to be far different from what it is now: Will it be a stronger, leaner, economically viable industry which reflects the demands of the marketplace for service and efficiency? Or will it be a government directed system designed to maintain the problem at public expense?

Some glimpse of the answer to those questions will undoubtedly be seen in ConRail over the next few years.

ConRail is now 27 months into its mission. I'd like to offer a capsule assessment of how far we've come and where we are:

Thus far, ConRail has made progress toward its basic goal of stabilizing rail service in the Northeast. But that progress has not been as fast as we or others would like.

The substantial physical work ConRail has performed in the last 27 months—in rehabilitating and restoring plant and equipment—has had less impact than expected because of the large proportion of marginal plant and equipment which is continuing to deteriorate and to hamper ConRail operations. As compared to the Final System Plan, ConRail has rehabilitated more track, repaired and acquired more cars and more locomotives than was projected. Moreover, ConRail started even further back than expected with fewer cars, more deteriorated equipment and a lower revenue base. In addition, there has been the impact of two severe winters and a record coal strike.

The overall problem of improving performance and achieving adequate service levels has turned out to be more complex, more difficult and more costly than first contemplated.

In the face of all of this—i.e., the tremendous impact of the negatives—we believe that the potential to make significant progress has been established. And even in our most pessimistic moods, we are convinced that ConRail is the most appropriate vehicle for moving forward in the attack on the rail problem in the Northeast quadrant of the country.

But, we also know that such a prediction is fragile in view of the many imponderables about us. ConRail cannot succeed by its efforts alone. The external factors I've noted underscore the unknowns that are ahead for ConRail and the entire rail industry.

Thus, not only ConRail, but all concerned with railroading must be concerned with the manner in which basic problems in the industry are so routinely perpetuated.

In a real sense, ConRail's creation has provided time for all aspects of the rail industry to regroup and to reexamine its pervasive problems. ConRail's mission is to attack those problems in a very specific context and to solve them; and also,

hopefully, to demonstrate what needs to be done to restore the health of railroading in the United States.

In regard to those factors over which ConRail has control over its own destiny—upgrading its physical capability, improving its service, marketing its product with new strategies which utilize the limited capital we have to work with in the most constructive economic manner—ConRail believes it can measure up to the task. But in the context of changing the way in which it is doing business, ConRail must also seek a significant change in the manner in which outside forces impact its destiny, and the destiny of the rest of the industry.

The economic trends in our industry permit no other course, and we should all take heed of the warning signals those trends are sending.

Senator McGOVERN. Let me just make some other comments.

I think, unlike other railroads, the massive investment of the taxpayer dollar of ConRail imposes a clear responsibility to adequately inform Congress and appropriate Federal agencies concerning the nature and intent of problems confronting the system. I can say that as a longtime member of the Committee on Agriculture and on the Committee of Foreign Relations, when problems develop with foreign policy, the heads of those agencies will inform the appropriate congressional committees as soon as possible.

Also, I have an article that appeared in the Wall Street Journal today. I see Mr. Spence's departure as chief operating officer of ConRail is mentioned. Without objection, I would like this article, which is a little more complete than the press release I just made part of the record.

It was not stated whether Mr. Spence resigned or whether he was dismissed. The reason, as mentioned, was with respect to operating employee dissatisfaction. This hardly constitutes responsibility to Congress. The responsibility of the regulatory agencies for Congress was to supply $2 billion to sustain ConRail 2 years ago.

[The article follows:]

[From the Wall Street Journal, June 27, 1978]

CONRAIL SAYS PRESIDENT IS LEAVING HIS POSTS

PHILADELPHIA.—Consolidated Rail Corp. said that Richard D. Spence, 53 years old, "is leaving his position as president and chief operating officer effective immediately" and that it will search for a successor.

Spokesmen for the congressionally sponsored railroad declined to elaborate on Conrail's terse announcement, and Mr. Spence and other top Conrail officials couldn't be reached for comment.

Mr. Spence, who before joining Conrail in 1975 served as vice president, operations, for Southern Pacific Transportation Co., had overall responsibility for Conrail's day-to-day rail operations. However, long-range planning and general corporate policy are in the hands of Conrail's chairman and chief executive officer, Edward G. Jordan, a 58-year-old former insurance executive.

Little is known about the personal relations between Messrs. Jordan and Spence, but there has been a great deal of conflict between some lower level operating and planning employees. Generally, the operating employees complain of what they consider excessive meddling by officials who report to Mr. Jordan, many of whom don't have rail backgrounds.

Lately the news from Conrail has been uniformly grim. The railroad sustained a net loss of $366.6 million in 1977, and for the first quarter of this year it reported a loss of $216 million.

Moreover, Conrail, which is funded with $2.03 billion of federal money, has asked the government to kick in another $1.28 billion to support the railroad in its quest for profitability.

A spokesman for the association said he was unaware of any overt pressure from the agency for Mr. Spence's resignation. However, he added, a recent Railway Association report on Conrail's performance "obviously was a factor." That report, sharply critical of the railroad, vowed that the association will push for "increased communication" with Conrail's directors on issues including "the effectiveness of Conrail's management. . . ."

Senator McGovern. Here we have the largest single rail system in the country propped up by a massive and unending investment, and it suddenly announces the departure of the man responsible for daily operations. In a similar incident ConRail, without explanation, fired R. P. Wille, assistant vice president for auditing, last February, shortly after the emergence of the W–2 payroll problem that we have heard about for some time.

In January 1977, a full year before ConRail found itself with 15,000 undeliverable W–2 tax forms on its hands, the Department of Transportation determined that ConRail's predecessor, Penn Central, was spending about 40 percent more than other railroads in terms of labor/cost/revenue ratios. A month later the DOT met with the U.S. Railway Association to ask whether the association had examined ConRail's labor costs to ascertain if this labor/cost/revenue ratio still prevailed. Last November, an ICC financial analyst concluded that ConRail was spending 50 percent more than other railroads to perform a given amount of track maintenance and repair work.

The Senate Appropriations Committee, which was considering a $300 million appropriation for ConRail, was not informed of ConRail's payroll problem until I found out about it earlier this month and one day before the mark-up in the legislation. It was only then ConRail submitted an agenda, a totally unidentified four-page statement to the committee, explaining the problem, and nothing of the briefest reference to a Federal Grand Jury investigation which had been underway for months as a result of ConRail's refusal to provide the Interstate Commerce Commission with documents pertaining to the payroll problem.

In fact, up to this point ConRail officials were making outright denials to my staff that they were even aware of any investigation or any payroll problems in the ConRail system.

One can hardly call these circumstances a flattering portrait of ConRail accountability to Congress and to the American people.

We need an explanation of why, according to ConRail's own statements, you deny the continuing existence of a payroll problem after DOT, ICC, the Justice Department, and the U.S. Railroad Association were aware of this possibilty.

Equally, if not as important. ConRail failed to notify the Congress long after its discovery. I would also like to know if Congress continues to use this payroll distribution system. If not, what alternative method is being used.

As I indicated here earlier, we have had what seems to be a serious demonstration by ConRail of lack of accountability, the sudden cancellation of Mr. Jordan's appearance here today. I realize it is necessary to elect a successor to Mr. Spence. But it might be useful for the top management officer, so heavily subsidized by the taxpayer, to attend a public hearing and explain what happened. That might be a

good place to begin, educating the Congress and the public as to the reasons for these abrupt changes in management.

The payroll problems and other things I think both the Congress and the American people are generally concerned about. As I said, Mr. Sweeney, I don't want to be unfair or unkind to you personally. You are at liberty to make any response that you wish here this morning.

Please proceed, Mr. Sweeney.

STATEMENT OF JOHN L. SWEENEY, VICE PRESIDENT FOR GOVERNMENT AFFAIRS, CONSOLIDATED RAIL CORPORATION, ACCOMPANIED BY RONALD M. DIETRICH, VICE PRESIDENT FOR LAW

Mr. SWEENEY. Thank you, Senator.

I would like to address several points that you raised. The first, I guess, is that we consider ourselves fully accountable to the Congress and we believe we have discharged that responsibility.

In the last 4 months Mr. Jordan personally, as well as a number of other witnesses, including myself, have testified before both Houses of Congress on almost countless occasions. Needless to say, we consider our primary accountability to be to the committee, which has the authorizing legislation.

Mr. Jordan appeared before both the House and Senate Commerce Committees. He subjected himself to the most broad and varied questionings. He has appeared before both Appropriations Committees which handled the ConRail appropriations. He answered whatever questions were offered there.

We have received countless inquiries from those committees on subsequent days, a total of 170 questions for the Senate Appropriations Transportation Subcommittee, a statement that reached about a half inch in height when it was submitted.

I was not informed until the day before, which is apparently the time that you all began to understand it, that there was a so-called ConRail payroll problem. First of all, it is not a payroll problem. It is a problem of undistributed W–2 forms.

The railroads that preceded ConRail, of which there were six, as you know, had a system under which the W–2 forms were handed out with the paycheck in January. And so years and years could go by without ever firming up the right address for the employee who was receiving his check.

It was a bad system internally. There was no requirement we receive back from him an updated address.

When the finance department decided last summer to revise that system, there was no way except by this process to begin an updating of addresses. That is why we had the 14,000 undelivered W–2 forms. All but 600 of those have now been delivered. We have yet to find the first instance of fraud. If anything, what we may find is we have a number of employees who are either unaware of their Federal, State, and local tax responsibilities, or in some cases—and we don't make this as any assertion, but it can be the case—are ignoring those responsibilities.

But we have not yet found a phantom on the payroll.

Senator MCGOVERN. I don't challenge for a moment the statements that you made that your first obligation to the Congress is to the au-

thorizing committees rather than to this subcommittee and the Joint Economic Committee, although I might add the responsibility of the Joint Economic Committee is to look at all of the major economic problems before the country and perhaps try to see them in a more integrated way than is possible with some of the single authorizing committees.

I think, as Mr. Reebie pointed out here a moment ago, there is an overlap in the problems of the rail industry as it relates to unemployment and inflation and overall economic conditions.

But the point I make to you is even if we were to grant this—and I don't grant this on the evidence I have seen so far, that there is no hanky-panky in the way pay is being distributed in ConRail and other parts of the rail industry—why wasn't the Congress informed of this earlier. Why didn't you go to the Commerce Committee and the Appropriations Committee with this information? Why also did officials of ConRail tell my staff just a short time ago they were not aware of any problem of that kind and that no investigation was in progress when in fact the Justice Department and the Federal grand jury were in operation at that time?

Mr. SWEENEY. Senator, I believe that question was answered by that official, who is an—I am not going to say junior or senior—attorney in ConRail, who was not expected to know that such an investigation was done in Congress. I did not know until the letter came from Congress.

Senator MCGOVERN. This is one of the problems of having you here rather than Mr. Jordan, because we really need to talk to the top man.

Mr. SWEENEY. He would not know, either.

Senator MCGOVERN. He would not be aware of an investigation at this time?

Mr. SWEENEY. This was not an investigation, as far as we were concerned. We had 14,000 undelivered W–2's.

Senator MCGOVERN. Didn't you know the Department of Justice was looking into that problem?

Mr. SWEENEY. Several of our attorneys knew.

Senator MCGOVERN. Just the legal division?

Mr. SWEENEY. The legal division and the finance department. It was not a high-level problem of any kind.

There are a number of reasons I think you would understand. I would like to expand on the responsibility of ConRail.

I doubt there is any railroad in the country—I'm not absolutely certain, with the possible exception of Amtrak—that is even remotely under the day-to-day scrutiny that ConRail is. We have a team of resident ICC auditors and a team of GAO auditors, a unit responsible to the Congress, that has done for the Congress numerous reports on questions raised by the Congress, such as validity of our response on the Poughkeepsie Bridge and various others.

Our people did not regard this as anything other than a processing problem. How could we take 14,000 undelivered W–2 forms and get them out to the people who had to have them in order to file their income taxes?

While that problem was going on an ICC investigator noticed it and asked for the data. The ICC people said, "Hey, we need this

information to fulfill our responsibilities under the law. We said that we were not going to take the time to reproduce 14,000 items for you."

Unhappy with that response, it is our assumption he went down to the Federal grand jury and alerted them about an inquiry. We are unaware what happened.

I think Mr. Dietrich, who is here, may know a little bit more about it than I.

Mr. DIETRICH. I don't think so. The only thing I would add is this type of investigation of ConRail, as in any corporation, is conducted by an audit staff, which necessarily has to be operating without the cognizance of most of the people in the organization. As Mr. Sweeney pointed out, not everyone would know what was going on in this situation in response to the questions of your staff. The attorney who happens to be on my staff was totally unaware of it.

ConRail has cooperated completely with the attorney's office. And we are going forward.

Mr. SWEENEY. They are cooperating fully with the House subcommittee, which has asked for all the data that is available. And we are submitting it to them.

Senator MCGOVERN. Mr. Sweeney, as one who has not sat through as many of these investigations as my colleagues, have, I still find it puzzling that an organization that discovered 4,000 employees for whom they didn't even have addresses and then 10,000 W–2 forms that came back in the mail that were undeliverable, it would strike me that such a situation would raise some serious concern regarding the possibility of wrongdoing and the suggestion that phantom employees and other possibilities that should have been brought quickly to the attention of the Congress exist.

The members of your organization that my staff talked with over a month ago were H. H. Parret, legal counsel on labor law, and Mr. Joe Palmer, the chief labor negotiator, who said they had no knowledge of this problem at all or any aspect of it.

I am not questioning their statement. It is a serious problem. We have to be serious on the service. It is one that Congress should have known about earlier than it did.

I would like to proceed now with Mr. Chesser's statement.

Mr. Al Chesser is president of the United Transportation Union and an important labor executive of many years; we are happy to welcome you to this subcommittee.

STATEMENT OF AL H. CHESSER, PRESIDENT, UNITED TRANSPORTATION UNION

Mr. CHESSER. Thank you, Senator.

The future of the railroad industry, I think, has been studied by most everybody in Congress. I think it probably has been studied by more sponsored seminars than any other subject. But never to a conclusion.

We have talked about all the problems in the railroad industry and transportation. And somehow or other at the conclusion they get lost. I think the future of the railroad industry in this country simply translates to nationalization or a continuation of private ownership, if railroad management and Government desire it to be so.

We are doing business as usual. By "as usual," I mean 50 years ago, at least. Not many changes.

Now, as I speak, I would like for the record to show that this is a large industry. It is impossible to speak on specifics of each individual railroad. They are not all comparable.

I submit that there is a great deal of difference in management on some railroads as compared to others.

If my remarks are taken to be an indictment of the entire industry, then I submit that that is wrong and not intended. But I speak in general terms of the entire industry.

I think that it would be a mistake to talk about the future of this industry if the subcommittee did not really analyze the problems of the past, the mistakes of the past and those mistakes that are prevailing today.

In this industry we have always had, to some degree, varying on different railroads, the very problem of labor-management relations. The record can speak for itself.

There is somehow still the old idea, conceived in the South and spread throughout the country, that we operate under a master-slave plantation sort of labor-management relationship in this industry. It's like back in the Gould and Harriman days, when one vice president tipped his hat to another and an employee was fired if he forgot to.

Those kinds of relationships can absolutely bankrupt an industry. Any industry. Not only the railroad industry.

We have had the past few years, 5 possibly, an improvement in labor-management relations through a program that was brought about by my own union because conditions had become so unbearable. We certainly don't like to see our industry mired in the mud.

Let me make this statement: I take no pleasure in pointing out the problems of this industry and what I think are problems of management and those in the media and others. Car and equipment suppliers seem to think when a labor leader in the railroad industry speaks out about the real problems, that he indicts management because it is a fight between labor and management.

That is an absolute fallacy. Let me say to you that is this union that I speak for—and I can speak on behalf of the entire railroad labor movement—we would be fools to say to you this morning, Senator, or to your subcommittee, or to the Congress, that railroad management should be indicted or sent to the penitentiary; that the only people with halos around their heads are in labor; that all of these ills are here for them; or that labor is trying to break the industry through requests and demands.

Stop and think. Don't let those people be foolish all their lives. We want a viable industry. I say to you that railroad labor by proof, by documented evidence, has done more for this industry in the last 10 years than any segment of management. The record is there to look at.

In the U.S. Congress, by passage of certain legislation and other acts taken by labor, I would like for the subcommittee—well, we will come to the subcommittee. I would like any other body of the Government to get into a real investigation and look for the American people, because they are entitled to know.

No more of this propaganda. Yes, we have inefficient management. That is one of the main things that is wrong with these railroads today.

I take no solace whatsoever in seeing the president, a vice president, a trainmaster, a superintendent, dismissed from the industry. What good does that do us? None at all. They are human beings. They have families.

I say it is the practices they came up under. They have been living under them for 50 years and more. And we are trying to do business under those practices today. And it will just not work any longer.

Competition among departments within the railroad industry is rampant. The subcommittee should look at this. The personnel department and operating departments, where there is very little communication, where a personnel department sits down with railroad labor, makes agreements, passes them on to an operating department, and that operating department executes them.

And in most instances according to their interpretation, even though they were not there or present or even had a representative present during the negotiations or when the rule or the agreement was made. They immediately violate the agreement and understandings. This kind of competition and lack of communication is carried on in every department of management, generally speaking.

I understand that that kind of competition can be good to a certain extent. We will try to do better in this department than you did in that department. But I think what has evolved here is that kind of competition, and that kind of communication is one of the problems in the industry today causing extremely bad service. This industry, even with all of its problems, could be a better service industry to the public.

I have heard shipper groups. I have listened to them. I have talked with them, discussed the problems with them. Most every one of them tells me that in today's world they are not interested so much generally in receiving a carload of merchandise or a carload of supplies 5 hours after they ordered them. They want to know from the railroad: when will this carload of merchandise reach me? If it is ordered on the 1st day of June, can you get it to me by the 10th? If not, by the 12th?

But when the 12th comes, the car is not there yet. Those kinds of commitments should not be made. This is not an unusual situation, the shippers tell me, and these groups tell me.

They want it delivered when the railroad says they are going to deliver it. Because their inventory regulates their business and the railroad carriers and other forms of transportation are competing against inventories today.

The railroads have never learned that the customer is king.

Delay of trains. Railroad labor shows disgust at this sort of thing, where we see trains lay around in yards, cars laying in yards 2 and 3 days. Somebody is waiting for that merchandise.

Why do they lay there? Well, one reason is that trains may come in there with 50 cars, or we may have a train come in a yard and that train has to be classified, and you don't have 200 cars to go west out of New York City to Los Angeles. So we just wait. We just wait until we get sufficient cars.

However, there is a truck running down the highway with less than a railroad car of freight and it has two people on it. Maybe a small trailer behind it. He is not waiting for four or five loads. He has to go. And so the customer has found himself wanted by the truckers.

The inefficiency of handling cars in the yard. The operation of crews in the yard, management calls this featherbedding, Senator. Call a crew for 10 o'clock in the morning. And many times that crew never gets out of the yard until 2 o'clock in the afternoon.

The crew sits there and waits and waits and waits. Now whose fault is that? We are supposed to have communication today even on the railroads, a communication that indicates to a dispatcher, to the railroad management, the very time that a train should arrive there. He should know where that train is every minute, every hour of the day.

And so we call the crews and they lay there. It is costly. It is not only costly, but many, many times these crews hardly get out of the railroad yard until they have to stop because they have been on duty 12 hours already.

Now they are going to say to you, Senator, this is an unusual case. Is it? I say to the Senator, let us investigate all of these things for once, once and for all. Let us let the public know the truth.

Distribution of cars. This has always, as long as I can remember in my 39 years in this industry, been a problem. It doesn't matter whether times are good or times are bad, whether the carrier is about to go into bankruptcy, whether he is making money. We still have bad distribution of cars. It is brought by inefficient management in transferring the cars that they do have from one carrier to the other.

Are they hiding them or are the cars held over here on some side track because they are going to use them a month from now? Are they in the South waiting for harvest of a certain kind of agricultural product that won't be ready for 30 days when they ought to be out in Kansas ready to haul the wheat for 30 days and then come back to the South?

We have a right to question this performance. As we sit here today, we have 50,000 cars a day short. Right today. That is based on unfilled orders. Those are not my figures, not my statistics. Those come out of the Interstate Commerce Commission.

You are going to see this year, Senator, the greatest car shortage that has ever been seen on the railroads. You are going to see one of the largest locomotive shortages.

I don't indict management for all of these problems, not by a long-shot. But I do say to management, it is a poor management team that 10 years ago, even 5 years ago, didn't have somebody on board in that management team who could look down the road and see what the national product will be 5 years from now. At least hazard a guess.

Are we in a depression, a recession? Is business pretty good? You know, most businesses can at least get some kind of a judgment on this. Not the railroads.

There are other reasons, I say, but these are mistakes in this industry.

Our interchange between railroads. Seventy percent of all the rail traffic in this country is interchanged from one road to another. Our

cars in this industry, Senator, spend more time in the yards, in interchange, than they do on the road.

Railroad cars only handle revenue freight about 11 percent of the time. To me that is a disgrace. Eleven percent of the time. No wonder they can't afford to buy cars.

You hear a lot of excuses for that. It is on this point and all other points I don't want the subcommittee to take only my word and my testimony. I want to see a real investigation. No more of that bickering back and forth to see what is right and what is wrong.

I say to you that the railroad industry has given more business away than they have lost to competition through these areas right here that I have discussed today. These are problems that are not labor related, in any way whatsoever.

I want to offer for the subcommittee's perusal, Senator, some reports here which are called the Final Reports of the St. Louis Terminal project.

This is a project that came out of our labor-management relations program. This is a project where, finally, through agreement with the Department of Transportation, labor organizations and the railroads, through the Association of American Railroads, we agreed to go into the St. Louis Terminal to find out what the problem was, why you can't get freight through this terminal.

In many things I have said, management was part of this. I would like for the staff to just review this. I want you to see where the problem is.

We had some problems on one or two rules with labor. They are corrected today. We had a problem in Chicago when they were building the Sears building and all of those new buildings that happened to come at the same time. It took the railroads 5 days to haul sand, gravel, and steel across Chicago.

I will tell you who corrected it. The record is there to look at. Our general chairman on the Chicago Northwestern. And he made an agreement with management, and now we go across Chicago in 4 hours, Senator, not 5 days. The record is there for this subcommittee. And I hope they will take a look at that.

You know, I guess things sort of become a habit. It started with management back in 1959 with the featherbedding charge. I'm sure everybody read that.

We couldn't compete with their kind of advertising: television, radio, and newspaper ads. We don't have that kind of money in our unions. This cost was picked up by consumers. They wanted railroad business. So everybody was called a featherbedder. Our rules were called antiquated with the consumer money.

The media don't know much about what they speak, but they parrot this thing. Every once in a while they get diarrhea of the mouth when they get an opportunity.

So we go on until this featherbedding thing builds and builds and builds. You really get sick of this sort of thing because the propaganda is never supported by facts. Everybody, if you will notice, in the media, those that write and those that quote, always have the same old story. It never varies.

About railroad labor, Senator, the one thing they forget to say is that in the last 6 to 8 years, all of the rules that have been changed

they have called antiquated rules, and here today they are still whining and crying about antiquated rules.

I see one here by Mr. Reebie. I will get to that in a second.

Senator McGovern. I am going to give you a chance. I will raise a number of the questions that Mr. Reebie made, Mr. Chester, and you will have a chance to reply. If you could complete your statement, then it will give us a little more time to get into some of these other things.

Mr. Chesser. I want to get into rules. How many people have heard about the antiquated 100-mile day? They can't work more than 100 miles. They get paid a day's pay for 2 or 3 hours.

Well, let me tell you that the record shows today it takes a freight train longer to get 100 miles than it did 20 years ago because a lot of tracks are down in mud.

They told us a few years ago, "We can't live with this sort of thing. We can't live with it." What did we do? Do you remember when we did away with the 100-mile day and let you run 300 interdivisional miles. We made a rule.

There aren't one-third of the railroads in the country today that have the managerial ability to put that rule into effect. We like it across country because it provides better jobs. We are moving freight. Crews get to stay home longer than they do on a hundred mile job where they are home very little. You are there to sleep and get right back on the job.

This hogwash about this 100-mile day—that is just what it is, hogwash. The public is never told this. I wanted the record to stand up to be examined.

YARD RULES

Railroads say, "We are stymied by antiquated rules." Well, you know, one reason they say that is we have an arbitrary rule that says we will be paid so much for being held out of a terminal. Railroads claim that is featherbedding. While we are sitting out there waiting, it is an arbitrary we don't want. We don't want the money. We don't want the delay. We want to come on into the yard.

It is bad management that keeps that train out there. If I had a yardmaster, a train superintendent that couldn't do a job better than that, he wouldn't be there in the morning. Because we can take any switchman out there and he'd have sense enough to get a train off the main line into the yard.

You park the train and then we have to get some crews and put it over here. We took care of that. Now a train that is a solid train that comes in off of one railroad that has to go to another never stops. The crew just goes right over there and takes the train over for him. Those are some of the antiquated rules.

They were mostly arbitraries. They negotiated that if they don't do this, they won't be paid. If they had done it and lived up to their own rules, then they wouldn't have had the problem of all the delays.

Senator, I would like for this subcommittee—some committee of Congress—I want to see the conglomerates of holding companies examined. You are talking about a little Sunday school picnic when you talk about W–2's compared to what I think you are going to find in the conglomerates.

Who started them? Do you remember the Chicago Northwestern? That railroad is flat broke. But it had money enough to buy some industries and start a conglomerate. And then when Ben Heineman got through with it, bless his soul, he wanted to sell it to the employees.

Well, I don't want to buy that kind of stock. I hope they are all right. I have no problem with that, except one thing. I just want to know—I would like to know about these holding companies, these conglomerates that were started with railroad moneys, these railroads that were broke and somewhere in their treasury they found enough money to buy a panty hose business or Coca-Cola or some leather goods and started another business. I want to investigate if they are a stranglehold on this industry or is it all right.

The ICC started an investigation a few years ago into the Kansas City Southern industry that was never finished. Nobody has heard a word from them. Not one. I would like to see it finished.

If that is a cancer, let us cut it out. If it is good, let us keep it. But why are we so afraid to let the U.S. Congress examine this thing?

I read Business Week. I like to read that magazine because I like to see what corporations are doing. I read "Executive Suite" in that magazine. I want to just make you a little comparison.

You talk about featherbedding. The most secure place for an executive today is to get to be a railroad executive. I want you to point out to me, anybody, just how many executives—I am talking about the entire industry now—have been changed on account of when the board of directors looks at the balance sheet at the bottom line of the operations—I don't think they ever look at the operations—they are disappointed. But the executives stay right in office.

They promote failure in this industry. "He might not be doing a good job, but we will make a vice president in marketing of him and put him over here," they say.

You think I am not speaking the truth? Let's investigate it. I want to see a real investigation. About the only thing that is definite is death and retirement.

I don't see that in other corporations. None at all. So I say let us look at it. What are these incentives they get paid for? Incentive for what? Incentive for bankruptcy? I want to see some of that.

I will just say to you that railroad management is tired, worn out, untrained. I don't really blame most of these individuals. I don't question their integrity, their character. I know a lot of them. They are good folks. They have not had the opportunity. Those who are coming up through the ranks right today, they have not had the opportunity of the right kind of training that other industries give their executives.

They do the same as their predecessors did. They operate the same and say it is labor's antiquated rules. Let us see if it is. I am willing anywhere, any time. That is our problem.

I am going to hurry now, Senator. You asked about national transportation policy. That is a big joke in this country. We don't have any.

Senator McGovern. I said that when the hearing opened this morning.

Mr. Chesser. I'm glad you did. Then they will all believe me on this score, maybe.

I think, Senator, the Congress has to bear the burden. I think they are like Nero. They fiddled while the transportation system crumbled. It is all transportation that has really suffered. We just have a shadow of a system here. I will say you could get good management tomorrow, perfect management on any railroad, and in many instances they couldn't compete. We can't compete in this industry.

We have to have some changes. Transportation is so important that it can smother even a community. We have had experience with this in Watts in California. The real problem that started Watts was that the people couldn't get out of there. Those who worked in housework, those women couldn't get out of Watts. There was no transportation of any kind when the Southern Pacific pulled out their commuter system. All transit stopped. They were frozen there. They had no carrier.

When I am talking about transportation, I am talking about how you get in and out of New York City to come to work. I am talking about how you ship freight from New York to Los Angeles, whether it is by airline or whether it is by railroad.

I think the Congress—I guess they are like all of us—only reacts to emergencies.

Well, we have an emergency. They didn't act until all the railroads in the industrial Northeast went bankrupt. Whether or not two or three individuals stole the money, as has been charged and as I certainly do believe because I went through those hearings, I think they stole the money. It is gone now. We have not done anything to prevent a repetition yet.

Congress has not done anything to keep that from happening tomorrow. So we have ConRail, good or bad.

I am not arguing the merits of it. I think it's good, Senator. There are a lot of problems over there. They have to be ironed out. I think Congress can help do it.

We have another ConRail problem coming out in the Midwest. I think legislation should be passed immediately to transfer the highway trust fund into a national transportation fund.

Why the highway? Of course, I know why. The asphalt people, the concrete people, the rubber people that manufacture rubber, all of those people. That's why. But here many of us never have an opportunity to get onto an interstate system. Whenever we buy a gallon of gas to go fishing or to come to work we are not taking that interstate system. But we pay a tax to support the trust fund.

It should be given a lot of thought to make this a national transportation fund.

Nationalization, we should have nationalization. That should be studied. I have been quoted as saying that. I never said it in my life. I said: "Let us look at it." Are we like McCarthy with the Communists? Hell, I would like to know him, to see him, whether I hate him or love him.

Nationalization. What would it mean to this country? I think it means chaos. We are going down that road. One of these days we will have to do something.

Roadbeds. I think this, Senator: Either immediate rehabilitation—and again I emphasize that I don't say it is all management that

caused it at all. I reemphasize that. The roadbed, the track, something has to happen. There has either got to be an influx of money here, that these railroads don't have, from somewhere, or it has to be Government ownership just like Federal highways, with the highway system owned by the Federal Government and user charges placed on them.

And I am sorry to take up so much of your time.

Senator McGovern. I do want to get into some of these points that were raised earlier. The basic thrust of your critique, I believe, has been directed toward mismanagement of the rails.

Without going over that ground again, serious criticism of railway labor practices have been made by Mr. Reebie in his statement that was prepared for this hearing. I had hoped that your travel schedule would permit you to be here to hear it, but we understand you were delayed.

Consequently, what I would like to do is try as fairly as I can to restate some of the critiques that Mr. Reebie made about the work practices and give you a chance to comment on those.

He stated, among other things, that analysis of railroad operations show that the current expense of four-man crews represents the most serious barrier to the improvement of the Nation's railway system.

And he advocates reduction of the crew size to two, something he says the European railroads have done and demonstrated safety, and the achievement is to have substantial savings.

What is your reply to this proposal?

Mr. Chesser. I am sorry Mr. Reebie had to leave the room. I will make an explanation along with my statement.

Mr. Reebie had a bad dream last night. He has those kinds of nightmares. He is a railroad supplier.

Maybe if I were in his place I would be doing the same things, because he has a new car he wants to sell to the railroad industry.

First, let me say this: Comparing our railroads to the European railroads in any way you want, they are all subsidized by the Government, mostly nationalized. Mr. Reebie didn't mention that, did he?

Two-man crews on all railroads in Europe? That's not so. That's not true. But I don't care what is in Europe. That doesn't make a whole lot of difference to me. We have never studied this country's operation. I am not interested in European transportation. I am interested in the United States of America.

Over the kind of railroads that we have, the terrain over which we operate, whether or not it is safe, we have one of the most unsafe industries in the United States in the railroad industry, second only to mining.

We ride some death trains, and the communities permit them to go through. Some of that is the railroad's fault and some of it is the Government's fault. Nevertheless, let us look at the whole spectrum.

Now, as to crew operation, well, the carriers talked about a national rule. We said, "No, we have been through that once. We spent 10 years on it," and the court said it was not a subject for national negotiations.

Because what happens in the State of New York, what kind of railroad operation you have on ConRail in New York has nothing to do with the kind of operation you have out in Utah and Colorado and

those States. If we are going to talk about crew consist nationally we are willing to talk about it. In fact, we have made an agreement on that. There are trains out there today with two men on the crew. And they are running 20 cars and getting more business every day.

Senator McGovern. What would be the objection, then, Mr. Chesser, to extending that two-man crew principle elsewhere? Do you think there are areas where there would be an appreciable loss of safety if you reduced from four men to two?

Mr. Chesser. Oh, absolutely. That is one of the principal concerns, and the evidence is there to look at.

I will ask anyone on your committee, on the staff, to get out in the yards and work with us. Through trains that operate what we call out on the main line—do you want to talk about crew consorts? I think some of those trains can operate with less than four people. Let them withdraw their request for national handling. And within 3 weeks the union can make an agreement with them on the number of people that work on that train.

Senator McGovern. Your concept as railway labor leader is if you see areas where you can cut the size of the crew without decreasing the danger, you are willing to go that route without losing operating efficiency?

Mr. Chesser. Yes. We don't want to give all the productivity controls to the railroads. I know we can't do that. I would like to have a say on that. It was on our Milwaukee agreement. We will talk about productivity.

Senator McGovern. In that connection, Mr. Reebie observed in his prepared statement that the economies achieved by the Florida East Coast Railroad, which included the reduction to two-man crews have enabled that line to increase the number of crews it employs.

Do you agree with that observation, because Florida East Coast employs more people than it did?

Mr. Chesser. If I did, I would like that man in the white coat to come through the door and get me. I am sorry but Mr. Reebie is still beating a dead horse. That is going to help sell that car of his.

We have been down and taken pictures of it, Mr. Reebie. You better investigate before you make any more statements about the Florida East Coast Railroad. Yes; they operate with a two-man crew and a conductor.

What he forgot to tell you is that there are a couple of train masters on there or a stationmaster to help them. They don't call them trainmen or brakemen. They just put them on the train. So you don't have two crew members as we know them today, an engineer and a conductor. Where are all the rest of those pitiful hangers-on that are riding on that train? What are they doing on there? If it is such a great operation, why do they have them?

It is a 300-mile flat railroad. I suspect he could automate it and have no one on it.

Old man Ball, he doesn't account to anybody. He has defied the United States and Congress and all its laws. Look at the laws. You know that, Senator.

And if you had two men on the railroad, that would be fine, if it was true. When they get to a yard and have to do some switching, well,

the agent turns into a switchman. The trainmaster turns into a switchman. I get kind of sick about hearing this, Senator. I really do. We don't have them in our union at all any more and wouldn't have.

Senator McGovern. I'm going to give Mr. Reebie a minute to reply in just a moment.

Mr. Chesser. I welcome a public debate.

Senator McGovern. Mr. Reebie asserts the terms of shippers have told key railway union executives it is primarily work rules that set in motion what he calls the chain reaction of poor car supply, poor dock-to-dock service, and uncompetitive rates and ultimately raises the prospect of accelerating the loss of railroad jobs by continued abandonment and loss of traffic.

I assume you are one of the railway labor executives that have been so approached. If that is true, have you responded to the findings of the shippers on these complaints about workloads?

Mr. Chesser. I have not seen any shipper executives. They have a representative committee, one from Pet Milk, some from other industries. I don't right now recall all of their names.

So help me God, if I was going to get shot with a 0.32 right here, I never heard of that accusation before. Mr. Reebie must have slept out on the sidewalk last night. He didn't have a soft bed.

I never heard of this kind of an accusation before. Never in my life. That the shippers accused us of car shortages. They never said this to me. They gave me some examples of work crews and crewmembers. And those examples don't even exist in this country. We didn't have any of the kinds that they gave me.

This poor car supply, Senator, just a little bit of realization. We are responsible for poor car supply. Isn't that something. I would like to correct the mistake, if we can get you some cars. My union, we have some under trusteeship.

Do you want to buy some? We will sell you some. We have tried to help these railroads.

Poor dock-to-dock service. I can take you here in the yards today. Do you know who the biggest gripers are? The switchers aren't working like they should be. Management. That's the problem there.

Causes loss of traffic. This is a subject I would like to get into, but it will take more than a couple of minutes.

Senator McGovern. Let us have Mr. Reebie reply to what has been said.

Mr. Reebie. I think this is perhaps a good time to get into it, because Mr. Chesser just made a statement that he had never had such information provided by shippers. I can tell you that in the printed statement of one of the leading shipper traffic executives rendered to Mr. Adams and the FRA at their Chicago hearings on the Midwestern railroads—and I find I do not have the printed statements with me—he clearly states that the principal problem he finds in the railroads is that the work rules prevent the railroads from adopting more efficient operating procedures for movement of trains and cars.

Mr. Worth was in my office late last week and told me that he had discussed this personally with Mr. Chesser. And that Mr. Chesser said, "I don't like what I am hearing, but keep talking. I want to hear it."

So maybe that put a little bit of light on what has been said. I think, however, that I have to apologize to Mr. Chesser for my recorder beeping as each 15-minute tape came to an end. I recorded because I happen to agree with most of what Mr. Chesser has said. I think he has said some very important things about the railroads here today. And I wanted to record it because it was good stuff.

In terms of many of the things he spoke about, interrailroad conflicts, he is right. And in many cases what we find is that each railroad functional department says, "It is always the other fellows that are causing the problem."

For example, in our studies of intermodal transportation for the planning of ConRail's future intermodal operation, we examined the Penn Central intermodal operation. Whereas the operating people had been showing the trustees they were making $12 million a year, our studies showed they were losing $70 million. Eventually it came out in the preliminary system plan that the Penn Central people did agree that they were losing $29 million, as I remember. But when you talked to those people in that department, they always said, "No; it is the rest of the railroad that is losing money." And, yet, we could tell where most people were losing money.

I think that's much of what we have here today between labor and management. People keep saying, "Let's study, let's study, let's study."

Where there is a conflict between Mr. Chesser and myself, about a subject like the Florida East Coast, maybe that is where the study should come from. Then we would see if it is the same kind of situation with respect to his statement about shipper conversations with him.

In our report to the Federal Railroad Administration, we, too commented much as, Mr. Chesser did, about a lack of understanding of the railroad problems within railroad management themselves, and the lack of ways in which they generally communicate and work with labor, as the St. Louis project worked.

So I find that, really, I would say that Mr. Chesser's views, in his desire to help the industry and the Nation, and mine are generally together until we come down to a specific labor matter.

I was with him where I read—I think it was in one of ConRail's ads about 3 or 4 months ago—that they were still studying whether or not they should implement a car control and distribution system. In my view, that is a little bit like studying whether you want to breathe or not.

I think those kinds of things should be addressed. Also quality control systems of the kind that are so well exemplified in the trucking industry. There are many things in what Mr. Chesser has said that are true. What I would like to merely state is that where we have a flat disagreement and he has called for an investigation of that agreement, that is a relatively simple thing, a fast thing, and I second his request for a quick investigation of it.

I still believe that the comments I made about the fact that while it is not the most significant thing in railroad operations that we have smaller but more numerous crews, it is, as I said, the key to open the door. The door is the big barrier. These railroad operations are the big barrier. But a little key can open a big barrier like a door.

So I believe that the two-man crew perhaps one-man crew in certain circumstances, is that key. And it is my understanding—and I have not looked into it personally, but it has been told to me by people whose views I respect—that the Milwaukee agreement, that Mr. Chesser refers to, shared so much of the savings with labor that it wasn't really any benefit to the Milwaukee.

So I think these things need to be investigated. I still feel, however, the analysis we have already done has provided most of the answers. And all we need to do is substantiate or refute that analysis with the kind of evaluation that Mr. Chesser has spoken of.

Mr. CHESSER. Senator, if the management doesn't like that agreement where we have cut crews on the Milwaukee, I would be glad to stop it. I could stop it in the morning. It wouldn't be any problem for me. I could take care of that in a hurry.

Senator MCGOVERN. On that note, I think we should give Congressman Toby Moffett, who is now here, an opportunity to give a statement. He is here as a witness today, but he is also here as the Congressman from Connecticut, as a member of the House Interstate and Foreign Commerce Committee, and a member of the House Government Operations Subcommittee on Transportation.

Congressman Moffett, I am happy to welcome you with my personal regards.

What I would like to do now is to give Congressman Moffett a chance to make any observations he wishes. And then, in the interest of time, rather than interrogating my own colleague, I am going to give Mr. Reebie and Mr. Chesser an opportunity for a closing statement just to tie up any loose ends.

Mr. Sweeney, if you have anything further you would like to add, you are welcome to do so.

At this time let us hear from Congressman Moffett.

STATEMENT OF HON. TOBY MOFFETT, A U.S. REPRESENTATIVE IN CONGRESS FROM THE SIXTH CONGRESSIONAL DISTRICT OF THE STATE OF CONNECTICUT

Representative MOFFETT. Thank you, Senator.

I want to apologize for being late. Perhaps my subcommittee and yours can take a hard look at the air traffic controllers' situation. We were circling New York for some time.

I am not here to dwell in any way on personalities. But I note with some disappointment, although not a great deal of surprise, the absence of Mr. Jordan. I want to comment that it is indeed unfortunate.

The fact that Mr. Spence decided to leave ConRail, which, as I understand it, was cited as a reason for Mr. Jordon not being here, was widely known as impending for a number of days, if not weeks.

To categorize it here as an emergency—perhaps it turned into an emergency, but it was by no means a surprise. It is unfortunate he cannot be here.

Let me ask that my prepared statement be submitted for the record. I will not take the time here to read it.

Senator McGovern. We will enter your prepared statement, as though read, Congressman, and you can highlight it any way you see fit.

Representative Moffett. I don't want to distract anyone from the interesting debate that was going on when I arrived. I don't want the two gentlemen to cool off too much, so I will be rather brief.

I am not opposed to ConRail, although I think some of the people in ConRail, because of my frequent criticism, might think that I am. I am not. And I have met many dedicated people who are doing a good job at ConRail.

I also note there have been some accomplishments—nearly 2,000 miles of tracks which now have new welded rails; 10 million new crossties; heavy repairs on about 25,000 cars and nearly 2,000 locomotives.

My assessment of ConRail is not one that is completely negative. I think that the 3–R Act of 1973 was questionable in terms of the assumptions on which it was based. I think we need immediately to assess that legislation and ConRail's performance.

We are told now that the Final System Plan which is a 1975 document based on 1973 and 1974 data is, according to USRA and their report, no longer a useful measuring stick.

I think this is a reflection of the kind of thing we have seen. A 1975 report is no longer a useful measuring stick.

The funding requirements which were said to be perfectly adequate at $2.1 billion are now deemed inadequate by ConRail and many others. We now have a call for $1.3 billion more. USRA says that could possibly be close to $4 billion before we are through.

And always the promise of self-sufficiency and independence. More frequently than not there are glowing assessments of performance by ConRail people, particularly at the very top.

In April testimony to two Senate subcommittees, one the Senate Appropriations Subcommitte on Transportation on April 26, the other the Commerce Subcommittee on April 13, Mr. Jordan stated that he wanted to continue to tell it as it is, to be very realistic and frank with the Congress.

He said that ConRail was perfectly willing to explore other options to the present system, but, and I quote: "Now is not the time to interrupt the substantial progress that is now being made."

I don't want to dwell on minor things, but I think the granting of high salaries and bonuses, while not a significant factor in the overall deficit of ConRail, is a reflection of the fact that ConRail does think it is doing quite well.

Maybe one can make the case it is doing reasonably well, and in some cases it is, given the complexity of the task. I am willing to concede that.

However, in terms of overall performance, I don't think it is fair to say they are doing all that well. The 1977 report to the Congress by the U.S. Railway Association is not a perfect document, but much of what they say about ConRail's performance I have seen borne out back home in my own district.

When the USRA says, for example, that ConRail missed its tonnage forecast by 10.2 percent in terms of its 1977 business plan, it estimated

ConRail would handle sufficient revenue carloads to carry 299 million tons. When they compare the ConRail performance to the projection, ConRail missed the tonnage by 10.2 percent. The association believes ConRail's ability to reach its forecasted tonnage is constrained by its inability to provide consistent, reliable service and by its failure to keep the locomotives moving the tonnage.

This has created dissatisfaction among shippers and has diverted traffic to other rail carriers as well as to other modes. ConRail's failure to utilize cars has contributed to its equipment troubles.

Finally concluding on ConRail's marketing performance, the report says the association recognizes that ConRail has put a high priority on service, but it is ConRail's position to concentrate on the daily operations. They question whether ConRail's performance is coordinated among all departments.

Speaking quite parochially, back home I find much dissatisfaction with ConRail. There is a lack of reliability in service, a lack of sensitivity to problems of shippers. While spending time with ConRail officials in Washington and back home reviewing rail lines that might be slated for abandonment, I have come to appreciate the difficulty of the task required by an unrealistic piece of legislation in 1973. I still don't think that they are sensitive enough or that they use their legislative mandate flexibly enough to provide the best service that they possibly can.

I plan on offering an amendment to ConRail's $1.3 billion request, slicing it quite substantially when it comes to the full House.

I also, as you know, have offered amendments which held up several million dollars of ConRail appropriations in the transportation appropriation.

I offered these amendments not only because it wasn't authorized but also because there are many questions that need to be answered.

Senator, I think you know what some of those questions are, if not all of them. Let us move well beyond the issues of bonuses and memberships in private clubs, which our appropriations legislation now prohibits.

There are allegations of payroll irregularities of phantom empolyees on the payroll. I don't know that there are, in fact, phantom employees. But I was not made aware of this problem and it was not mentioned in ConRail testimony presented to the House.

It was particularly interesting and ironic that after we got wind of the W–2 allegations and the possible payroll irregularities and a reporter called ConRail, that ConRail issued a statement saying they had their own investigation going on into this very matter. There is a trend here, of secrecy, of insufficient sensitivity to the Congress, which, after all, has to vote to bail them out quite frequently.

Our own subcommittee, the Commerce Subcommittee on Oversight and Investigation, has their own investigation. I don't think the $1.3 billion should be given now. Let us give it out in smaller portions and oversee ConRail's performance.

I am not against subsidies. I am not one who has the illusion that you can operate this system in whole or in part without heavy subsidies. But now we have neither profit nor good service. We have neither efficiency nor accountability to the Congress. We are losing both ways.

The promise was if you let us go out and run this like a private corporation, there would be no problems. Eventually it would be a private corporation. But we don't have profitability. We are bailing ConRail out quite frequently. And we are not getting the kind of accountability that we need.

It is not all ConRail's fault. It is the Congress' fault for putting together a piece of legislation which was not realistic, which does not meet the needs. We need to go back and reexamine that.

But we need to make ConRail as accountable as we can under the present law. And we need to get the straight story on the various allegations that have been made and what in fact are the best guesses about what is going to be needed to do this job, and to do it properly.

Thank you.

[The prepared statement of Representative Moffett follows:]

PREPARED STATEMENT OF HON. TOBY MOFFETT

Senator McGovern and members of the subcommittee, I appreciate the opportunity to testify today on the subject of rail transportation. It is a subject which vitally affects the economic health of my congressional district and the entire Northeast.

Rail service has the potential to provide the most efficient method of transportation in this country. Freight lines and rights of way, though in disrepair, exist throughout the Northeast. Rail transportation is energy efficient and nonpolluting—and, if run properly, could provide inexpensive service.

In creating the Consolidated Rail Corporation—ConRail—to salvage the Penn Central and other bankrupt lines in the Northeast and Midwest, the Congress recognized the importance of rail service, even when it means federal subsidies in the early stages of operation. The Final System Plan provided an interim measure of relief to the Northeast, with the hope that a profitable rail system could emerge. There can be no doubt that ConRail was presented with an enormous task; nor can there be much doubt that Congress was more than willing to rid itself of the potential problems inherent in overseeing railroads in the Northeast. As ConRail's own Chairman noted, his railroad "is the progeny of disaster."

The goal of the Final System Plan, in theory, was to protect rail service. We have not reached that goal; in fact, we have retreated from it. In Connecticut we see a marked deterioration and a distinct lack of commitment to efficient and reliable rail service. My files are filled with complaints from shippers who are being driven out of business because they cannot obtain rail cars to ship their goods.

One of the causes of the deterioration of service in Connecticut is ConRail's attempt to maximize their profits. Using the narrowest possible definition of "profitability," ConRail has failed to consider the economic well-being of the region. It does not examine the question of jobs, of regional economic growth, and of community survival. ConRail claims that many of its lines in Connecticut are marginal or unprofitable. Yet those lines provide an enormous service to the communities they serve.

Equally important, ConRail has ignored the possibility of attracting new shippers and new industries to the region through reliable and efficient freight service. Shippers will naturally use other modes of transportation when rail service is sporadic and slow; new industry will locate in areas which do provide reliable and efficient rail service.

Instead of improving service and encouraging the use of the existing Northeast rail system, we are witnessing an attempt to cut back service to operations which will guarantee an immediate profit. Line-haul services such as grain and coal hauling are examples. The small shipper is being ignored, and his use of rails discouraged.

There can be no doubt that the short-haul and terminal operations of a railroad are more difficult to run profitably. But there are examples in New England and elsewhere of such operations being taken over and run profitably. It is possible with efficient management and a commitment to good service to shippers.

More importantly, in any attempt to calculate the cost of rail service, the "social profitability" of the line as well as the economic profitability of the line must be included. With proper motivation and management, I think the vast majority of these "socially profitable" lines can also be made economically profitable.

Personally, I'm convinced that ConRail would prefer to abandon the New England area altogether, based on their analyses of the volume of traffic and the costs. Such a decision would have a devastating impact. The economy of New England could not endure such a blow.

I believe the Congress made a serious mistake in setting up ConRail as it did. It created a private sector corporation funded with taxpayers dollars, with little or no public accountability to the taxpayer for its actions. ConRail is responsible to practically no one—not for the social implications of its actions, not for the economic implications of its activities, not for the long-range planning implications of its policies.

In 1977, ConRail lost $366.6 million. The first quarter loss for 1978 was $216 million, higher than the first quarter loss in 1977. ConRail recently abandoned the Final System Plan and proposed a new "Five Year Plan" to achieve profitability. During this same period when ConRail was losing millions of taxpayers' dollars, beyond even the projections of the Final System Plan, ConRail executives were given nearly a million dollars in bonuses in two years. I cannot justify to my constituents the payment of their tax dollars for this kind of ridiculous award for nonachievement.

ConRail has recently appeared before a number of House and Senate committees to argue for the investment of an additional $1.3 billion in public funds. The three Federal agencies (USRA, DOT, and ICC) charged with supervising ConRail also appeared, in support of ConRail's request for more money.

At no time during those hearings did we hear from ConRail or the other agencies any mention of the possible waste of millions of Federal dollars through payments to "phantom" employees.

As you are probably aware, Representative John Moss of California and I recently began an investigation of undeliverable W–2 tax forms mailed out to ConRail employees. The potential waste in payments to non-existent employees runs into the millions of dollars. Mr. Moss' House Commerce Subcommittee on Oversight and Investigation, on which I serve, is pursuing this matter. We will determine the extent of waste involved, and determine why Congress was not informed of this problem.

Can the Congress be expected to invest billions of dollars in a private corporation, when there is an enormous potential that those dollars will be wasted? Why didn't we hear from ConRail that this problem existed, or from any other agency which knew of it? Again, we have a clear illustration of the lack of public accountability.

ConRail apparently believes that it is a private sector corporation with no responsibility to the Congress or to the country to account for its activities. In testifying before Congress on its Five Year Plan designed to achieve profitability by 1980, ConRail said repeatedly that it was a difficult but workable plan that would see ConRail achieve its goal of short-term profit.

Not only do I disagree with ConRail's predictions about future profitability, but I also believe ConRail itself does not think it will achieve its goal with these funds. They are selling the Congress the idea of more Federal funding with the lure of profitability, compounded by the fear of a crisis.

On February 15, ConRail provided a memorandum to private investors describing ConRail's financial situation. My office obtained a copy of this memorandum, and at my request, Mr. Jordan provided another some months later. I have a copy of that memorandum with me today. I urge you to read that memorandum and draw your own conclusions as to ConRail's assessment of future profitability. I believe that ConRail has painted a clearer picture, and a vastly more pessimistic one, for its private investors than it has for its largest investor, the American public. I think ConRail is playing a public relations game with the United States Congress.

In justifying its own existence, ConRail has stated before several Congressional committees that it believes that ConRail is the best alternative for operation of the railroads in the Northeast. ConRail raises the spectre of government takeover as the other, and awful, alternative. My response is that if we are confronted with continued inadequate service in the face of the vast investment of Federal dollars without control, versus government operation of the railroad, I favor government operation.

I think, however, that there is another alternative. The system should be broken up where possible, and railroad companies which have demonstrated the ability to operate efficiently and reliably should be allowed to take over segments of ConRail's operations.

The Congress intended that ConRail not be the final solution, that further additions or deletions from the ConRail system would be necessary. Instead, we have seen ConRail jealously guarding its system, opposing transfer of any of its lines or operations to other railroads.

I do not think that was the intent of the Congress. ConRail is a mammoth system that has demonstrated its inability to solve major problems.

With effective management and a commitment to good service, I think these lines can become, in large part, a profitable operation. I see no such commitment on the part of ConRail, or of the agencies charged with overseeing ConRail operations and funding.

Where rail service cannot operate profitably, but is essential to the needs of a particular region, I think that service should be subsidized, just as we subsidize other modes of transportation.

In New England, as I mentioned earlier, I think ConRail would prefer to abandon service completely. What the region really needs is efficient and reliable service. We have examples in New England of railroads that have operated such service and made a profit. Some of those railroads have in fact taken over lines bandoned by other carriers and, through good service, turned a profit.

The United States Railway Association (USRA) and the New England Regional Commission have begun a year-long study of service in New England. I hope their recommendations will include proposals for preserving and encouraging efficient and reliable service in New England. Their suggestions may well include eliminating ConRail from New England completely—even from profitable operations. Where ConRail cannot operate efficient and reliable service, others should be allowed to take over the service.

We must begin now to reevaluate the future of ConRail. If we do not, when ConRail returns to the Congress in 1980 with another request for billions of Federal dollars, the money will simply not be available. We must act now to avoid another crisis situation, similar to that which occurred aftert he bankruptcy of the Penn Central.

When the ConRail authorization bill reaches the House Floor, I intend to offer an amendment to reduce their request from $1.2 billion to $700 million. The reduction will be offered not because ConRail will not eventually need the full sum, but because giving them the smaller amount will force them to report back to the Congress within a reasonable time. The $700 million would fund ConRail through 1979. When they return for more funds at that time, or even if they return sooner, we will know how they are performing. If ConRail continues to demonstrate it is incapable of providing service, Congress will know that alternatives must be designed to provide rail service.

Congress must consider its options carefully. ConRail has argued that one of the root causes of their losses is the regulation of the industry by the Interstate Commerce Commission. At this time I do not favor deregulating rates in the railroad industry. The logical result would be the concentration of resources by ConRail into traffic that brings them the highest rate of return. Other shippers would be effectively cut off from rail service. In my opinion, that would be another unfortunate reduction in rail service, all in the name of profitability. Although I don't doubt that there are needed reforms in the regulatory process, it is still true that ConRail and others are protected monopolies. They must serve the public interest.

Other alternatives, such as government ownership of the roadbeds, must be studied as well. Recognizing that it may become a necessity at some point, I have seen nothing to demonstrate that government ownership of the rights-of-way will resolve the problems we are discussing here today.

We face a most difficult task. Congress and the agencies involved in insuring rail service must begin now to reevaluate the future of rail transportation in the Northeast. Short-sighted management, bent on preserving short-term, immediate profits, are permitting rapid deterioration of a vital service. And Congress must share in the blame.

We must consider the possibility of returning the oversight responsibility for ConRail to its funding source—the Congress and the people of the United States. Congress must re-examine ConRail's ability to perform its dual role, both as a profitmaking corporation and as a provider of an essential service.

We must face the distinct possibility that we have created an unrealistic mandate, a mythology that ConRail can operate on a strictly "for-profit" basis in the Northeast. It may well be time to re-think our reliance on an entirely profit-motivated rail monopoly, concentrating instead on a service-motivated system.

Senator McGovern. Thank you very much, Congressman Moffett, for your testimony. And let me just express my appreciation for the alertness you have shown for a long time on this problem. I have no hesitance in saying that your own public statements had something to do with alerting us in the Senate and helping to bring about the hearing that we are having today, although we are anxious to look beyond the immediate problems of ConRail and to the problems of the industry as a whole, as I know you are.

I think what we might do is just give Mr. Sweeney, Mr. Chesser, and Mr. Reebie, in that order, an opportunity for a brief closing statement, if you have anything you would like to add.

Mr. Sweeney. I would like to just make a couple of observations. First, I don't think that Congressman Moffett is the only person that characterizes the actions of Congress as a bailout of ConRail or a subsidy of ConRail, as if that was an institution comprised of the individuals who are now in the management functions.

This is an effort to solve the Northeast rail problem no matter which way Congressman Moffett's amendment might affect it. Over the years there would be invested, approximately $3.3 billion. During that period of time there will be a $10 billion improvement in the capital plant of this organization. That $3.3 billion that is going in is only part of a massive capital upgrading of the system.

If we fail—if we leave the company—and I might add, there are a large number of people who are there not because they thought there was an increase of salary opportunity or thought it represented some glorious power—a large number of people are there to help solve the Northeast rail problem.

But if we depart, or ConRail fails, that investment will be in place. It is not a bailout of the corporation. We couldn't care less what the framework is that is used to meet that crisis.

When it is over with, the track will be there, the plant will be improved for whatever eventual solution the Congress will decide.

I would, second, make the observation that if we have a problem in dealing with some of the statements that have been made in the past, it is that we face, as the first public utterance on the question of the W–2's, a statement that says there is a potential of $200 million loss in that problem.

That is 10 percent of our payroll. And to make that kind of a suggestion, that we are wasting or allowing fraud to take place of that magnitude, I think if there was any slight suggestion, there should be an immediate overhaul of all people in the higher management positions.

We did not regard it as a payroll fraud problem. We regard it as a simple problem as to how to get 14,000 addresses for undelivered W–2's. And I will close with one final statement.

The final system plan did say $2.1 billion. That was not what USRA came up with in its estimation to what the investment in this system should be. That was a political number arrived at by negotiations

between the Secretary of Transportation and the Board of Directors of USRA. Their original recommendation was $4 billion. That's what they thought it took to rebuild the Northeast rail system to any degree of usability.

But it was compromised out because Gerry Ford's budget couldn't stand that kind of a number, and Bill Coleman couldn't stand that kind of a number. The original Senate bill had $3 billion in it. Nobody is more aware of that than you, as to how numbers are arrived at in which public funds are invested.

I close.

Senator McGovern. Mr. Chesser.

Mr. Chesser. First of all, I would like to thank you for this opportunity and for chairing these hearings, and maybe even getting them started. I wouldn't refuse the Congress or any Member of the Congress to come to a hearing. Had it not been for you, yourself, chairing these hearings, then I would have been very reluctant to come to such a hearing. And I have been to too many of them before.

From your past actions in the U.S. Senate, I think we are going to get some action. I would hope, Senator, that you do make a real investigation of this industry, not from the standpoint that somebody is stealing something or there is conspiracy.

Let us once and for all put it through the wringer. It will stand that. This can stand that. If we can get over a Watergate, we can sure get over a little investigation of one industry in this country. I think it will be good for the industry. Let the chips fall where they may.

When we talk about those things that are wrong in the industry, even work rules, I would welcome and hope that the subcommittee will find some opportunity to put them under oath. Let us really get to the bottom of this whole mess, because if we don't, this country is going to suffer. We absolutely, no way, could stand another emergency as we had in World War II and depend on this industry to function. We would get about half done compared to what we did prior to and during World War II.

So this industry is in worse shape than people think it is. So let us find out why. I want to find out why in the last 10 to 12 or 15 years the employees in this industry have shrunk from 1 million down to less than 500,000, and as of today we have more railroad officials than we ever had.

Why does it take more to govern so few? I would like to know these things.

Remember this. I again say that I believe railroad labor—and I believe it is documented in the U.S. Congress—has done more for this industry to promote it in the last 7 years than management has itself. Why? Well, we didn't really do it for America. We didn't wave a flag. We really did it for ourselves. You know, we are funny that way. We want a job. We can have good jobs and railroad officials can have good jobs and get good pay. I am not against that. I don't except a scab official to work and perform.

Send our children to school. Get a boat to hook up behind a car and go out on the weekends. That's the kind of things we want. We have to have a viable industry; one that is making money. In order to do that, I think we have to wring this industry out.

I certainly wouldn't get into the controversies that are there now about ConRail, only to say I have been a railroad man 39 years. I know a little bit about them. I am not an expert on the subject, but I do know a little bit about it.

It was a sad mistake when they turned ConRail loose with the amount of money they had. All of it was in the mud. There wasn't even a railroad over there. You can't run a car on a track at 5 milies an hour. To build a new railroad track, new welded rails, you couldn't do it. They didn't have any locomotives that were worth running.

I think everybody was a little conservative. I don't know what the taxpayers felt when they got ahold of proposition 13. In the industrial Northeast, where we feel it more than any other place, nobody is moving. Some of them are coming back South. We must have a viable railroad system.

As far as funds were concerned, there wasn't enough money there. Organized labor knew about that and called their attention to it. Maybe it should be a million there, and a million there, and a million there.

You can't do something with nothing. The song, "Pennies From Heaven," is just a song. They need money. We expected good employees to perform.

That's my wrap-up, Senator, as short as I can make it. I want to thank you yourself, and the subcommittee.

Senator McGovern. Thank you.

Mr. Reebie, you have the final word.

Mr. Reebie. Maybe I won't, because in the interest of fair time and equal time, I wanted to comment about a point that happens to be in particular interest to me, and give Mr. Chesser another chance, after I finish, to withdraw another statement wherein I think he misspoke. I feel sure that in his endeavor to counter my arguments concerning the small portion of the labor work rules which seems so important to those of us who have analyzed the industry, he did not mean to threaten my personal interest in the introduction of a new piece of equipment as one way of pressuring me to withdraw these comments.

The new piece of equipment, as Mr. Chesser knows, has been documented as a considerable advance in railroad technology and economics, and it is being proved out on the FRA test tracks in Pueblo as a significant new piece of equipment.

I might also tell him some of the other railroad union people who saw it there tend to speak favorably of it, and hope that he will not erect a barrier to its introduction, because it can provide such an increase in profitability of the railroads and an increase in jobs for many of the unions.

That's the only comment I want to make there, because I know Mr. Chesser is a sincere fellow helping this industry, and we all get a little excited now and then, and I am sure that was not his attempt.

I, too, in closing, would like to express my congratulations to this subcommittee. You have taken the time to focus on the basic economic issues of this country. Finding the most economic balance between satisfying the national transportation needs and consuming the Nation's worker and material resources certainly is a challenging undertaking. The complexity of it is brought out by the number of different

views that we have. Yet, the success of your effort will greatly affect the productivity of this industry and the productivity of the Nation in both its defense and well-being.

May high intent, wisdom, good fortune and the God of freedom loving people continue to bless your effort.

Senator McGOVERN. Congressman Moffett, in all fairness, you are entitled to a final statement.

Representative MOFFETT. I don't want to get involved in the fight about that piece of equipment. I have been trying very hard, as Mr. Sweeney knows, to get the Poughkeepsie Bridge rebuilt so we would have a link to the West. I look favorably to anything that would open a link for us, because we are essentially a branch line.

With all due respect to Mr. Sweeney, I still must categorize what we do as a bailout. When you have a corporation that is supposed to be out there making money and has held out the promise of making money, and it doesn't do that, and the Congress comes in with funds, it is a bailout.

We are appreciative of the fact, as I indicated in the first few moments of my statement, that there are things being done with this money that are clearly worthwhile.

We are also aware of what Mr. Chesser said as to where ConRail started, the system being very much down and out.

And, of course, there may not be enough money there. We may need to spend a lot more money. I am one that agrees with that thoroughly. It is a question of in what increments, what accountability, over what period of time. And we get mixed stories from the higher-ups of ConRail.

I would like to have submitted into the record a memorandum of February 15, 1978, with your permission, which is a memorandum for private investors, which paints, in my view, a much bleaker view of ConRail than some of the congressional testimony. I would like this in the record.

Senator McGOVERN. Without objection, that will be included in the hearing record.

[The memorandum referred to follows:]

CONSOLIDATED RAIL CORPORATION MEMORANDUM FOR PRIVATE INVESTORS,
February 15, 1978.

This memorandum is being furnished to institutional investors solely in connection with proposed financing transactions relating to the acquisition of railroad rolling stock and other equipment by ConRail. It may not be reproduced or disseminated except upon the express written permission of ConRail.

INTRODUCTION

ConRail is a private, for-profit corporation. It was established pursuant to the Regional Rail Reorganization Act of 1973 (the "Rail Act") to acquire the rail properties of six bankrupt railroads in the Northeast. ConRail commenced rail operations on April 1, 1976. In terms of revenues, and by most other standards, it is the largest freight and passenger rail carrier in the country.

ConRail is currently dependent to a substantial degree on continued financial support from the Federal Government, which it now obtains through the sale of debt and equity securities to the United States Railway Association ("USRA"), a mixed-ownership Government corporation. The total amount of ConRail securities that USRA is presently permitted by statute to purchase is limited to $2.026 billion.

More Federal money will be needed by ConRail to become economically viable. Funds obtained under the present Rail Act authorization will be expended by early 1979. Additional funds—necessary to ConRail's continued operations—must be available shortly thereafter to avoid financial jeopardy.

Legislation that would permit these additional Federal funds to be invested in ConRail does not now exist; nor has any such legislation been proposed. The Federal budget for fiscal 1979 proposed in January by President Carter does not contain any request for an appropriation relating to the additional funding for ConRail during that period. Government officials have suggested that programs for financial assistance already authorized could be used to assure the flow of uninterrupted Federal funding to ConRail, while the possibility of new legislation providing additional funds for ConRail is being studied by the Executive Branch and the Congress.

It is important that private investors understand that ConRail cannot assure that favorable legislation will be adopted or that, if adopted, any further Federal investments that might thereby be authorized will be sufficient in amount and character or available on a timely basis. Sponsorship and support of such legislation by USRA is believed by ConRail to be critical to its being favorably considered by Congress and by the Administration. It is not expected that USRA will announce its views in that regard until completion of its review of ConRail's Five-Year Business Plan submitted to it on February 15, 1978.

That Five-Year Plan contains a review of ConRail's progress toward the goal set for it by the Rail Act: to restore adequate and efficient rail service in the Northeast region at the lowest cost to the taxpaper. It also contains a description of the programs and actions that ConRail plans to undertake in order to accomplish this goal.

Through the end of 1977, ConRail's operating and financial results and rehabilitation efforts—in the aggregate—have been substantially within the margins predicted in the Final System Plan ("FSP") prepared in 1975 by USRA. The Five-Year Plan concludes, however, that the rate of progress projected in the FSP cannot be maintained due primarily to the poor condition of ConRail's equipment fleet and physical plant, its declining traffic base, and the crippling impact of two harsh winters plus a lengthy coal strike.[1]

The Five-Year Plan charts a demanding corrective course for ConRail. It predicts a financial turnabout in 1980, although the overall trend of both business levels and financial performance for the railroad (and its predecessors) over the last 10 years has been moving steadily downward.

To achieve this turnaround, ConRail must make substantial, near-term progress in increasing revenues through improvements in service, and in reducing costs through labor productivity gains and economic efficiencies expected to be realized from ConRail's massive, costly rehabilitation programs. These objectives are thought by ConRail's management to be attainable by instinting efforts and through labor cooperation, but success is by no means assured.

The Five-Year Plan describes major problems—both actual and potential—whose impact and severity exceed that anticipated in the FSP. Additional financing[2] aggregating at least $2.3 billion from both public and private sources will be needed as a result of some of these problems. Even then, these and other problems may persist, or new problems may develop, which would at the very least impair ConRail's ability to become financially independent of the Government.

Private investors should understand the scope of these problems and the manner in which ConRail proposes to resolve them. A failure to resolve major problems as predicted, or the realization of key assumptions in a manner not as favorable as projected, could cause significant harm to ConRail's financial condition.

This memorandum, in the following sections, identifies some of the basic problems that must be overcome and some of the more important risk factors impinging upon ConRail's future. Private investors will want to consider these

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[1] The FSP's assumptions and financial projections are based on data which have changed. To reflect changes in circumstances and new information, CONRAIL has adopted assumptions that in material respects differ from those used in the FSP.

[2] This additional financing is over and above the $729 million already appropriated for investment in ConRail securities.

matters carefully before deciding to invest funds in ConRail's equipment obligations.

The information contained in this memorandum is in summary form and is not intended to be inclusive of all material information about ConRail that private investors would consider to be pertinent. This memorandum, then, is meant only to be a supplement to—and not a substitute for—complete access by private investors to any material information in ConRail's possession. Investors are encouraged to review such information, and to seek from ConRail and other sources complete answers to their questions about ConRail and its prospects.

CAPITAL STRUCTURE AND BUSINESS PLAN

Conrail's capital structure

ConRail's authorized capital is 40 million shares of Series A Preferred Stock, 35 million shares of Series B Preferred Stock and 250 million shares of Common Stock. In addition, the Board of Directors has authorized the issuance of $1 billion principal amount of 7.5 percent Convertible Debentures due January 1, 2011.

The following table sets forth the consolidated capitalization of ConRail at December 31, 1977:

Unaudited

Title of class:	*Amount outstanding Dec. 31, 1977*
Short-term debt	$70,497,000
Long-term debt:	
Equipment obligations:	
CSA and other	173,866,000
capitalized leases	317,161,000
Mortgage bonds	6,223,000
7.5 percent convertible debentures, due 2011 [1]	1,000,000,000
Loans:	
211(h)	233,539,000
vacation obligations	60,000,000
Total debt	1,861,286,000
Capital stock:	*Shares*
Series A preferred stock [2]	1,826,000
Series B preferred stock [3]	31,740,000
Common stock [3]	25,000,000

[1] All of the authorized 7.5 convertible debentures have been issued to USRA pursuant to a Financing Agreement between USRA and CONRAIL. Interest on the debentures may be paid for a limited period by the issuance of series A preferred stock at the rate of one share per $100 in accrued interest. The debentures may be declared to be due and payable upon occurrence of an event of default under the financing agreement.

[2] Series A preferred stock is issued to USRA under the terms of the financing agreement. Pursuant to the provisions of the financing agreement and CONRAIL's articles of incorporation, the outstanding Series A preferred stock is subject to mandatory redemption following an event of default.

[3] The outstanding series B preferred and common stock were issued to voting trustees in connection with the transfer of rail properties to CONRAIL. The beneficial owners of such stock are the railroads in reorganization and other transferors of rail properties to CONRAIL. Under the Rail Act, a special Federal district court was established to consider, among other things, the value of those rail properties received by CONRAIL and the securities issued by CONRAIL in consideration thereof. The special court may require CONRAIL to issue additional securities (either debt or equity) to the railroads in reorganization and other tansferors (see app. II, "Litigation," attached).

CURRENT FIVE YEAR BUSINESS PLAN

On February 15, 1978 ConRail filed a Five Year Business Plan with USRA pursuant to the terms of the Financing Agreement. The Plan contains financial projections for the five years ending December 31, 1982. The Plan also outlines the projects and programs that ConRail will undertake in that period.

The principal goal of the Plan is to reach a level of operational and financial performance that is consistent with financial self-sustainability. The Five-Year Plan contemplates an additional Federal investment of $1.3 billion in ConRail beyond that currently authorized and approximately $1 billion from private

sources for equipment financing. These funds are in addition to the loans to be made to ConRail under Section 211(h)[3] of the Rail Act and the reimbursements to be received by ConRail under Title V of that Act.[4]

The Plan's successful implementation will also require extensive and demanding efforts by ConRail to rebuild its revenue base and to cut costs. Although the Plan rests on plausible assumptions, minor variations by key assumptions, especially those in respect to external factors, could dramatically alter ConRail's business and financial conditon. A 10 percent unfavorable variation in five of the major assumptions could result in the necessity of additional Federal funding thought to be in excess of $1.9 billion; a 10 percent unfavorable variation in the traffic assumption alone constitutes $1.3 bililon of that figure. This is not to suggest that the assumptions actually would so change. The foregoing is intended to indicate, mathematically, that changes of that magnitude could greatly increase ConRail's funding needs.

There are serious risks, however, that the results projected in the Five-Year Plan will not be achieved; and the Plan, therefore, may be conisdered to be optimistic. If the results are not achieved, there can be no assurance that additional financing will be available.

FINANCIAL STATEMENTS

ConRail's certified public accountants have advised ConRail that, without assurance of Federal financial support through 1978, the auditor's opinion accompanying ConRail's 1977 audited financial statements will be qualified. These financial statements, when released, will reflect operating losses for 1977 substantially greater than those projected in the FSP. In addition, ConRail's unaudited financial statements for the first quarter of 1978 are expected to show heavy operating losses resulting in large part from the effects of the harsh winter and the coal strike.

RISK FACTORS

The investment of funds in any security calling for payments, directly or indirectly, from ConRail involves substantial risks, certain of which are briefly described below.

Availability of Federal financing

In addition to the funds available under Sections 211(h) and Title V of the Rail Act, ConRail needs at a minimum from the Federal Government after February 15, 1978 approximately $2 billion. This sum includes the $729 million remaining from the $2.026 billion already appropriated for investment by USRA in ConRail and approximately $1.3 billion not contemplated under the Financing Agreement nor currently appropriated by Congress. There is no assurance that Congress will authorize the investment of these additional funds. The financial projections accompanying the Five-Year Plan may provide a basis for the Finance Committee to direct USRA not to invest the remaining $729 million of appropriated funds in ConRail securities, subject only to an overriding direction by Congress.

The Financing Agreement conditions USRA's periodic investment commitments to ConRail on the receipt of a ConRail officers' certificate to the effect that it is reasonably likely that ConRail will be able, in compliance with applicable laws, to perform ConRail's rail service obligations on a long-term basis while achieving a "net positive funds position" without requiring any Federal financial assistance in excess of the $2.026 billion. The Five-Year Plan clearly demonstrates that ConRail cannot reach a "net positive funds position" without further financing from the Government in excess of presently appropriated funds. A waiver permitting certification to be made without the "net positive funds position" representation has been granted by the Finance Committee[5] effective through June 30, 1978.

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[3] Section 211(h) authorizes loans to ConRail of up to $350 million for use by ConRail in paying, as agent, certain obligations of the railroads in reorganization from which ConRail acquired rail properties. It is expected that, to the extent that ConRail is unable to collect the moneys so borrowed and used on behalf of such railroads, the United States Government will forgive repayment of Section 211(h) loans by ConRail after three years.

[4] Title V imposes upon ConRail certain obligations to former employees of the transferor railroads and certain other companies with respect to which, upon payment thereof, ConRail is entitled to reimbursement form the Federal Government. The current statutory limit upon such reimbursement is $250 million.

[5] The Finance Committee is comprised of the Secretary of Transportation, the Secretary of the Treasury and the Chairman of the Board of Directors of USRA.

In addition to the certification requirements in the Financing Agreement, Section 216(b) of the Rail Act also contains provisions governing USRA's investments in ConRail. If the Finance Committee affirmatively finds either that ConRail has failed substantially to attain the overall operating and financial results projected in the FSP, or that it is not reasonably likely that ConRail will be able to become financially self-sustaining without requiring Federal assistance substantially in excess of the $2.1 billion authorized for investment in ConRail, further investments would be within the control and complete discretion of the Finance Committee. The projections made in the Five-Year Plan may give the Finance Committee a basis upon which to make these findings. Pursuant to the Rail Act, either House of Congress may override a direction by the Finance Committee to limit or to cut off funds to ConRail.

Apart from these issues concerning certification and other requisites to continued funding, Congress, in appropriating funds for USRA's purchase of $2.026 billion in ConRail securities, appears to have provided that only $508 million of the first $1.465 billion invested could be used to meet "operating losses." Questions about the meaning of this possible limitation have been raised; and interpretations for continued funding for ConRail have been agreed upon by USRA and representatives of the House Appropriations Committee.

It should be understood, in this connection, that ConRail's cumulative book operating losses, as well as its total cash operating losses, are expected to exceed $508 million by the end of February, 1978; while cumulative investments by USRA in ConRail are not scheduled to reach $1.465 billion until May, 1978 USRA's authority to invest in ConRail the remaining $729 million of the $2.026 billion appropriated will be guided by that clarification of the "operating loss" limitation.

Despite the favorable suggestions by Government officials, described above, there is presently no assurance that any additional funds will be invested in ConRail by the Government; or, if further funds are made available, that such funds will be supplied within the time frame and in the amounts contemplated by the Five-Year Plan. If additional Federal funds in amounts at least substantially equivalent to those contemplated by the Five-Year Plan are not made available beginning in early 1979, ConRail may thereafter be unable to meet its obligations as they become due.

Availability of private financing

The Five-Year Plan contemplates the investment by private sources of approximately $1 billion in new equipment for ConRail. The availability of new equipment is critical to ConRail's capacity to improve its revenue base. ConRail cannot generate sufficient funds internally with which to buy this equipment. Furthermore, a diversion of capital funds from plant rehabilitation efforts could be counter-productive. Private financing for equipment acquisitions is therefore crucial to the success of ConRail's Five-Year Plan.

There can be no assurance that sufficient private financing for equipment will be available under whatever conditions prevail. ConRail's need for additional Government financing, in the absence of a favorable response from the Government, may deter many investors from investing in ConRail's equipment obligations.

ConRail has to date been able to acquire new equipment principally through leveraged lease financings. Lease financings have been available in large part because of (a) the tax incentives that can be passed through to the equipment owner/lessor, chiefly the investment tax credit and accelerated depreciation; (b) the present bankruptcy remedies available to owners of "rolling stock" equipment which permit repossession of the equipment despite railroad bankruptcy proceedings unless the lease obligations are affirmed and payments are made during the proceedings; and (c) in certain cases, limited guarantees of ConRail's obligations which have been given by manufacturers to facilitate the sale of their equipment.

Some financial institutions have conditioned their commitments to invest in ConRail equipment obligations on the availability of manufacturers' guarantees. There also can be no assurance that equipment manufacturers will extend guarantees, if needed, in the future.

ConRail obviously cannot assure that there will be no changes in bankruptcy remedies or in tax incentives, or in the rules which govern their availability to equipment lessors. Tax reform proposals which could diminish the availability of private funds for equipment lease financings have been sent to Congress by President Carter. A general revision of the bankruptcy laws is also being considered by Congress at this time.

Business assumptions and problems

The Five-Year Plan is predicated on a number of important assumptions, the failure of any one of which could delay or prevent ConRail's future viability. Among these are assumptions that there will be steady increases in traffic from 1977 levels; substantial rate increases by regulatory agencies will be timely granted; adequate subsidies for commuter operations and light density line services will continue; operating efficiencies will be realized; labor costs per revenue dollar will decline; retirement taxes will not exceed currently projected levels; Title V employee protection costs will be fully reimbursed; timing of financing will be appropriate; the costs of major natural disasters and other unforeseen catastrophes will not exceed Plan reserves; and plant rationalization to modify and curtail certain services will proceed. A brief summary of these assumptions follows:

Increase in traffic.—The projected increases in traffic revenues assumed by the Five-Year Plan are dependent upon a number of key factors including: the general state of the National and the Northeast economies; the absence of major strikes against ConRail, other railroads or basic industries served by ConRail such as the coal and steel industries; success in acquiring new equipment, rehabilitating old equipment, and upgrading rights-of-way so that improved service will attract additional traffic; and selective rate changes to attract profitable business.

ConRail's high fixed-cost ratio magnifies the loss effect of any adverse change in its revenue base. If revenues decline, costs probably will not be reduced proportionately. A slight downward deviation from the traffic gain projected in the Five-Year Plan could have a material adverse effect on ConRail's financial condition.

Rate increases.—The Five-Year Plan assumes that ConRail will be able to obtain higher rates for the movement of certain commodities. Timely general rate increases also will be necessary to offset any higher costs resulting from the effects of inflation. It can be expected that rate increases will be contested strenuously by shippers and various other persons, including state transportation authorities, and, in some cases, other carriers. While ConRail has had some success to date in obtaining rate increases, its ability to continue to do so in the future is not assured.

Operating subsidies.—The Five-Year Plan reflects the assumption that adequate subsidies for the operation by ConRail of passenger and light density line services will continue. The formulae by which ConRail is to be compensated for its losses in connection with those services have been challenged by several state and local transportation authorities; and, accordingly, ConRail's projected recovery of subsidies may not be fully realized.

Operating efficiencies.—The Five-Year Plan assumes that ConRail will acquire certain new cars and locomotives, and that it will make substantial progress toward rehabilitation of cars and locomotives in its existing fleets. Failure to do so will mean lost revenues and higher costs due to increased use of cars owned by other railroads. It is expected that new and rehabilitated equipment and improved physical plant will enable ConRail to increase its capacity to serve its customers, particularly those industries which provide profitable business. The attainment of these goals depends upon capital funds being available for these purposes. There also can be no assurance that ConRail will be able to implement its plans for improving car utilization and for realizing economic efficiencies from physical plant rehabilitation and other capital investments. Furthermore, even if service is improved, increased business is not assured.

Labor costs.—The Five-Year Plan assumes that, while payroll costs will increase significantly in the 1978–1982 period, productivity improvements will reduce labor costs per revenue dollar from 63.9 percent to 54.4 percent. There can be no assurance that ConRail will be able to negotiate the required work rule changes in its collective bargaining agreements, or that wage rate negotiations will not result in costs in excess of those projected.

Railroad retirement taxes.—ConRail is required to pay heavy railroad retirement taxes to a Federally administered fund that is seriously deficient in its capacity to pay benefits to the large number of participants, retirees and beneficiaries who are or will be entitled to benefits paid from that fund. It is anticipated that this funding shortfall will be addressed in Federal legislation that may be adopted in the near future. It is possible that railroad employers will be required to bear a substantial portion of the cost of mitigating or correcting the shortfall. In the absence of related rate relief, this extra cost would place an ad-

ditional burden on ConRail, not associated with any productivity gain whatsoever, which would materially adversely affect ConRail's financial condition. The possibility that this cost might be incurred is not reflected in the financial results targeted in the Five-Year Plan.

Title V reimbursement.—Title V of the Rail Act obligates ConRail to make compensatory payments to protected employees who are deprived of employment or whose regular pay is reduced below certain base levels. ConRail is entitled to be reimbursed by the Federal Government for these payments, but the current statutory authorization for such reimbursement is limited to $250 million. The current fund may be depleted, perhaps by 1980. If there are no funds available for reimbursement, ConRail's obligation to pay will nonetheless continue. The Five-Year Plan assumes that additional Title V funds will be authorized and appropriated should the need arise. ConRail cannot, of course, assure that such legislative action will be taken or, if taken, that it will become effective on a timely basis.

Timing of financial aid.—The timing of additional government funding is critical. A delay in receipt of additional funds will seriously impact the Five-Year Plan's assumptions with respect to investments in rehabilitation and improvement programs as well as revenues and cost reductions to be derived therefrom. Delay also could lead to withdrawals by some private investors of equipment investment commitments. In these events, additional funding substantially in excess of that projected would be required.

Disasters.—The Five-Year Plan provides a reserve of $248 million for natural disasters and other unforeseen catastrophes. This reserve, based upon ConRail's experience to date (which included two severe winters and a coal strike) and studies of other available data, is believed to be reasonable.

Plant rationalization.—ConRail is actively seeking opportunities to rationalize its plant facilities through line abandonments and other corrective action. Such plant rationalization in any form requires public sector cooperation; and states and localities have strongly opposed complete abandonment. Accordingly, the Five-Year Plan's assumptions in this regard may be optimistic.

The foregoing sets forth some of the risks that the major premises of the Five-Year Plan will not be met. There are a number of other premises upon which the Five-Year Plan is based, any or all of which might not be realized.

Additional material information

The Five-Year Business Plan is deemed by ConRail to include privileged and confidential commercial and financial information that should not be generally disseminated. Investors are nonetheless encouraged to seek access to any material ConRail may have either within the Plan or otherwise. However, in order to protect its confidentiality, ConRail may require appropriate non-disclosure agreements.

In addition, reference is made to Appendix I and II hereto which contain a description of certain provisions of and problems under the Financing Agreement and a description of certain material litigation threatened or pending against ConRail.

Particular attention is directed to the provisions of the Financing Agreement and ConRail's Articles of Incorporation which provide that, if an event of default occurs under the Financing Agreement, depending upon the nature of the default, not only may the outstanding Debentures be declared due and payable but, in addition, all shares of Series A Preferred Stock then held by the United States become subject to mandatory redemption. Under these provisions, upon the occurrence of an event of default, such as ConRail's bankruptcy, the outstanding Series A Preferred Stock in effect would be converted into debt due to the United States. In this connection attention is directed to Section 3466 of the Revised Statutes of the United States (31 United States Code 191) which provides for a priority for debts due to the United States in cases of insolvency, receivership, and the like. It is not clear whether this provision would apply to any claims of the United States in respect of its investment in ConRail's capital stock and debentures.

APPENDIX I

SUMMARY DESCRIPTION OF CERTAIN PROVISIONS OF AND PROBLEMS UNDER THE FINANCING AGREEMENT

The Financing Agreement dated March 12, 1976, between United States Railway Association (USRA) and ConRail provides for the investment by USRA of up to $1 billion in ConRail 7.5 percent Convertible Debentures due January 1,

2011, and up to $1.1 billion in ConRail's Series A Preferred Stock, such stock to be purchased for $100 a share. Under the provisions of the Agreement, the maximum amount which may be invested by USRA in ConRail through the year 1978 is $1,826,900,000. ConRail's current Five-Year Business Plan contemplates that the Government's investment in ConRail will exceed this limitation by $148,000,000 by the end of 1978. A waiver of this limitation will be requested by ConRail, but it is not known whether USRA and the Finance Committee will grant the waiver. Failure to obtain the waiver will place ConRail's financial position in jeopardy.

As is usual in such agreements, there are a number of affirmative and negative covenants. In addition to the usual covenants with respect to the payment of its obligations, conduct of business and compliance with law, ConRail also covenants that it will not, without the appropriate action by the Board of Directors of USRA and/or the Finance Committee, amend its Articles of Incorporation or By-Laws or issue any investment securities other than: (a) securities issued to USRA or to any transferor in compensation for the transfer to ConRail of rail properties in conformity with the applicable statutory requirements, (b) debt securities incurred or assumed pursuant to Sections 211 or 215 of the Rail Act, and (c) debt securities incurred for the purchase or reconstruction of transportation equipment. Additionally, the Financing Agreement limits the debt which ConRail may incur including a limitation on current bank debt which requires that current assets be at all times at least equal to 110 percent of current liabilities, that for at least 30 consecutive days each year no current bank debt be outstanding and that current bank debt never exceed $100,000,000. Debt incurred for the purchase of real property is limited to an aggregate of $25,000,000 outstanding through December 31, 1979 and $50,000,000 thereafter and such debt cannot exceed in any case 80 percent of the acquisition price of the property involved.

The Financing Agreement also restricts the payment of most types of debt by ConRail prior to stated maturity or as required by mandatory sinking fund provisions. There are also restrictions upon the incurring of lease obligations, the disposition of assets and upon sale-leaseback transactions which limit ConRail's ability to finance itself through the use of these types of transactions.

Effective on the earlier of January 1, 1981, the first day of the first full calendar quarter in which USRA no longer has an obligation to make any investment in ConRail under the Financing Agreement, or the first day of the first calendar quarter following the expiration of any period of six months during which USRA has not made an investment in ConRail under the Financing Agreement, ConRail is required to maintain Stockholders' Equity, as defined in the Financing Agreement, at a level not less than the greatest previous Adjusted Stockholders' Equity, also defined as the Financing Agreement, as of December 31, 1980 or any subsequent year. After January 1, 1981 or such earlier date as described above, ConRail is also required to maintain consolidated current assets of not less than 105 percent of its consolidated current liabilities.

The Financing Agreement also requires ConRail to issue Contingent Interest Notes to USRA as required by Section 216(d)(4) of the Rail Act. That section provides that if the Board of Directors of USRA and the Finance Committee modify the terms or conditions of the Financing Agreement or if the Finance Committee waives compliance with any term, condition, provision or covenant of the Debentures or Series A Preferred Stock, the Finance Committee may require ConRail to issue Contingent Interest Notes in such amounts as, in the determination of the Finance Committee, will provide protection for the United States, in the event of bankruptcy, reorganization or receivership of ConRail, equal to the protection the United States would have had in the absence of such modification or waiver.[1]

Upon an event of default occurring and depending upon the nature of the default, the passage of time and/or the passage of time combined with notice, all Debentures outstanding become immediately due and payable and all shares of Series A Preferred Stock held by the United States or an agency of the United States become immediately subject to mandatory redemption.

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[1] Under the terms of Subsection (d)(5) the Contingent Interest Notes are to bear interest compounded annually at the rate of 8 percent per annum. Such notes and the accumulated interest thereon shall be payable only in the event of the bankruptcy, reorganization or receivership of CONRAIL occurring prior to the repayment and redemption of all outstanding Debentures and Series A preferred stock. For other provisions of the Contingent Interest Notes, see Exhibit D to the Financing Agreement.

ConRail has reported to USRA a number of instances of noncompliance with these covenants. USRA has recommended to the Finance Committee that it waive any action under the Financing Agreement that it might take in respect to those reported instances until 1979. If this waiver is not granted, the Finance Committee, after notice and a failure by ConRail to cure such noncompliance, could trigger acceleration of the Debentures and require redemption of the Series A Preferred Stock.

The foregoing description of certain provisions of the Financing Agreement does not purport to set forth in detail all of the provisions thereof and reference is made to the Financing Agreement itself for other terms and conditions. A copy of the Financing Agreement may be obtained from ConRail upon request.

APPENDIX II

LITIGATION

This appendix describes certain pending and threatening litigation. It is not inclusive of all pending and threatened litigation that could result in a loss to Consolidated Rail Corporation (the Company) or its subsidiaries. Generally, matters involving $10 million or more are described below.

A. *Certain Amtrak matters.*—On April 1, 1976, the Company sold to Amtrak certain rail properties (known as the "Northeast Corridor") in exchange for an interest bearing mortgage obligation of $86 million, payable in installments over not more than eight years, beginning October 1, 1976. The Penn Central Trustees have contended before the Special Court that Penn Central and other former owners of the Northeast Corridor properties are entitled to the funds received under the mortgage obligation and to additional consideration for such properties.

Amtrak has brought an action against the Penn Central Trustees seeking to compel the Trustees to comply with a provision of their agreement with Amtrak to maintain the level of utility on certain rail lines. The United States District Court for the Southern District of Indiana has entered an order confirming an arbitration award which ordered the Trustees to perform the obligations under the agreement. The United States Court of Appeals for the Seventh Circuit has reversed this order and remanded the case. The Penn Central Reorganization Court has denied Amtrak's petition to enforce the arbitration award, and Amtrak has appealed that determination. The United States Court of Appeals for the Third Circuit has remanded that appeal to the Reorganization Court for further proceedings and has ordered ConRail joined as an indispensable party. To prevent certain determinations of ConRail liability by the Penn Central Reorganization Court, ConRail sought and received from the Special Court a stay of the Reorganization proceedings to the extent that issues of ConRail liability were raised.

B. *Vacation liabilities.*—The Company was required by the Rail Act to assume and pay accrued vacation pay claims of former employees of the transferor estates covered by collective bargaining agreements. The Rail Act entitles the Company to be reimbursed for its payment of such claims, if, USRA determines that they are obligations of the transferor estates. The question whether claims for accrued vacation pay are such obligations is currently being litigated in several courts, and USRA has advised the Company that USRA will not make a final determination while litigation is pending.

With regard to former Penn Central employees, USRA has made a conditional determination that the vacation claims paid by ConRail are obligations of Penn Central in the amount of $60 million as a result of a compromise agreement which the Penn Central Reorganization Court preliminarily found to be acceptable for eventual inclusion in a plan of reorganization of that estate. This conditional determination was the basis for a 1977 loan of $60 million to ConRail under Section 211(h) of the Rail Act, which ConRail has agreed to repay (with interest) if the compromise agreement is not incorporated in a Penn Central plan of reorganization. The Company believes that it is probable that the compromise agreement will be incorporated in an approved plan of reorganization and it therefore has not provided any cash reserves with which to repay the loan.

C. *Pension liabilities.*—Certain pension plans were transferred to the Company pursuant to the Rail Act. Unfunded termination liabilities for vested benefits under these plans as of April 1, 1976 were approximately $27 million, of which approximately $9 million relates to 14 pension plans terminated by the Company on August 1, 1976.

The Company in 1977 received loan funds under Section 211(h) of the Rail Act of approximately $18.5 million which were deposited into the trusts for the pension plans. The pension plans were then merged into the Company's pension plan. The amounts obtained under Section 211(h) are deemed under Section 303(b)(6) of the Rail Act to be the obligations of the transferor estates, some of which have indicated an intention to resist payment of those obligations by alleging that this statutory provision is unconstitutional. The Company believes that USRA, pursuant to Sections 211(h) and 303(b)(6) and a certain Reimbursement Procedures Agreement, bears the full risk of loss with respect to a failure to recover these amounts from the estates for constitutional reasons.

The Company is required by the Rail Act to guarantee the payment of benefits under the 14 terminated pension plans. The Company is entitled to borrow under Section 211(h) amounts needed for adequate funding of the terminated plans as of April 1, 1976 which amounts are also deemed by the Rail Act to be obligations of the transferor estates. The Company has applied for approximately $9 million for such amounts, which have been committed by USRA, and are probable of receipt if needed. The Company has been borrowing under Section 211(h) amounts needed for current benefit payments under terminated plans other than those of the Penn Central estate, and expects to continue to do so until the liabilities under such plans are either discharged or otherwise provided for.

D. *Railroad retirement taxes.*—The Railroad Retirement Board has recently issued an opinion that Excelsior Truck Leasing Company, Inc. (Excelsior), a wholly owned subsidiary of the Company, is subject to the Railroad Retirement Act ("the Act"). Such an opinion, which may be challenged by Excelsior, may give rise to an assertion by the IRS that Excelsior is taxable as an employer under the Railroad Retirement Tax Act ("Tax Act"). Excelsior has made employer payments under the Federal Insurance Contribution Act but it has not made the employer payments under the Tax Act. Should the IRS be successful in an assertion that Excelsior is an employer under the Tax Act, Excelsior could be liable for substantial back taxes, interest and, perhaps, penalties under the Tax Act.

Another wholly owned subsidiary of the Company, Pennsylvania Truck Lines, Inc. ("PTL"), could also be subject to a similar assertion by the IRS and could also face substantial tax liabilities. A revenue ruling published by the IRS in 1974, if applied to PTL, could provide a basis for asserting that PTL is an employer under the Tax Act. The IRS has asserted Tax Act claims against subsidiaries of other railroads which perform activities similar to those performed by PTL.

E. *Valuation case.*—Pursuant to the provisions of the Rail Act, the Special Court has commenced proceedings involving valuation of the properties transferred to the Company and the consideration received therefor. The Rail Act mandates that the Special Court determine whether or not the consideration, including the securities of the Company, certificates of value and other benefits (taking into consideration compensable unconstitutional erosion, if any) received or to be received by the transferors of properties to the Company, taking into account the public interest, constitutes a fair and equitable exchange as a constitutional minimum for the assets conveyed. Should the Court decide that the exchange is not fair and equitable, it may allocate the consideration among the transferors in such nature and amount as would make the exchange fair and equitable, it may require the Company to issue additional secuurities, or it may enter a judgment against the Company if the judgment would not endanger the viability or solvency of the Company. Should the Special Court determine the exchange to be fairer and more equitable than required as a constitutional minimum, it is to order the return to the Company of the excess securities or other relief. It is not possible at this time to determine the likely outcome of the valuation proceedings or the extent to which the proceedings may affect the Company.

F. *Lehigh Coal & Navigation Co.*—The Lehigh Coal & Navigation Company ("LC&N") has tendered to the Company pursuant to Section 301(j) of the Regional Rail Reorganization Act of 1973, as amended, its leasehold interest in the Railroad properties of the Lehigh & Susquehanna Railroad. The reversionary interest and a leasehold interest in these properties were previously conveyed to the Company. Under the lease, the Company is obligated to pay to LC&N an annual rental of $575,000 until 1998. In LC&N's view, the Company is required under Section 301(j) to now acquire LC&N's leasehold interest for approxi-

mately $7 million. A question has arisen whether the Company is in fact required to acquire such interests in that financial assistance would not be available for the acquisition of the interests as tendered by LC&N as contemplated by Section 301(j). LC&N has instituted suit against the Company seeking to compel it to accept the tender and to recover other alleged damages. The Company believes that, while it has substantial defenses, it is not possible at this time to evaluate the outcome of his litigation. The measure of the potential financial impact on the Company with respect to the tender claim would essentially be the difference between the $7 million (plus interest) sought by LC&N and the discounted present value of the rental payments remaining under the lease.

The LC&N also asserts it is entitled to trackage right payments received by ConRail from the Delaware & Hudson and it alleges an unlawful conversion of certain properties but has not placed a claimed amount on this latter claim.

G. *Agency compensation.*—The United States Court of Appeals for the Sixth Circuit has held that ConRail is not entitled to be compensated for performing agency work on behalf of the Erie Lackawanna estate pursuant to Section 211(h) of the Rail Act. A petition for reconsideration of this Order was denied. Through June 30, 1977, ConRail had incurrent approximately $1.8 million in charges related to agency work for the Erie estate. Subsequently, the Trustees of the Reading and Lehigh Valley estates petitioned their respective Reorganization Courts seeking reformation of their prior agreements with ConRail with respect to agency compensation. These petitions are pending. It is not possible, at this time, to predict the outcome of these proceedings. In connection with ConRail's agency relationship with the Penn Central estate, ConRail has been paid $22 million for agency work through December 31, 1977, pursuant to a settlement agreement approved by the Penn Central Reorganization Court. If a challenge were raised to the propriety of payment to ConRail of agency compensation by Penn Central, the Company believes that it can assert substantial defenses which probably would prevent recapture of any or all of the $22 million paid to ConRail.

H. *New York sales and use tax.*—New York has asserted a sales tax liability against the Erie Lackawanna with respect to "per diem" payments involving the use of railroad cars between carriers on the theory that such payments constitute taxable rentals. The Erie Lackawanna is resisting this liability in court. If New York is successful against the Erie Lackawanna, it is probable that New York will assert a similar claim against the Company. The Company has not determined the extent of its potential liability under such a claim but it could be substantial. Furthermore, other states may adopt the same position as New York.

I. *Environmental matter.*—Federal law required the Company to install certain water pollution control improvements on portions of its properties by July, 1977. This was not accomplished with respect to a number of locations, although procedures have been established to achieve compliance at the earliest possible time. The penalties which may be imposed for failure to comply with the law are substantial. It is not now possible to determine the financial impact of such noncompliance or whether substantial penalties will be levied against the company for failure to comply timely.

J. *Occupational safety and health.*—Provisions of the Occupational Safety and Health Act of 1970, which may be found to be applicable to ConRail, may require the Company to install certain protective devices in its shops and on its equipment. It is not now possible to determine the financial impact of compliance with the Occupational Safety and Health Act requirements or whether substantial penalties would be levied against the Company for failure to comply.

K. *Review of ConRail's acquisition of the stock and other interests in, or in respect of, certain subsidiaries.*—Under Canadian law the acquisition of the stock of, and interests in, The Canada Southern Railway Company, St. Lawrence and Adirondack Railway, Niagara River Bridge Company and Detroit River Tunnel Company may require the approval of the Canadian Transport Commission ("CTC") and the Foreign Investment Review Agency of Canada ("FIRA"). While the CTC has issued an interim order directing ConRail to continue rail operations in Canada which had been conducted, prior to April 1, 1976, by Penn Central Transportation Company, final determinations are yet to be made by the CTC and FIRA. In addition, certain minority shareholders of The Canada Southern Railway Company have intervened in the CTC proceedings seeking various items of relief on behalf of The Canada Southern Railway Company.

L. *State of Illinois v. Consolidated Rail Corporation; Consolidated Rail Corporation v. State of Illinois.*—These related cases involve litigation relating to the manner in which ConRail's freight operations are to be conducted in Southern Illinois, and specifically the validity of certain trackage rights agreements entered into between ConRail and Louisville and Nashville Railroad Company. Initially, a Federal District Court in Illinois found the trackage rights agreements invalid and enjoined ConRail's operations pursuant thereto. That adverse determination was appealed to the United States Court of Appeals for the Seventh Circuit, but the appeal has been stayed by that court pending resolution of the matters referred to below.

Subsequent to the District Court's determination and ConRail's appeal, ConRail initiated litigation in the Special Court created pursuant to the Rail Act. The Special Court has preliminarily enjoined the State of Illinois from litigating the issues originally sought to be litigated in Illinois other than before the Special Court and has found the trackage rights agreements to be valid. The State of Illinois sought review in the Supreme Court of the Special Court's preliminary determinations, and on February 22, 1977, the Supreme Court denied the State of Illinois' Petition for a Writ of Certiorari. The matter is now before the Special Court for final adjudication. If ConRail were ultimately unsuccessful in its litigative efforts before the Special Court and the Seventh Circuit, substantial sums could be required to be expended by ConRail to rehabilitate certain freight lines in Southern Illinois. Although the issues presented are legally complex, the likelihood of an outcome unfavorable to the Company would appear to be remote.

M. *Regulatory matters.*—Proceedings are pending before the Interstate Commerce Commission relating, among other matters, to revisions of basic and incentive per diem rates, guidelines for divisions of revenues among interchanging carriers and for establishing adequate revenue levels, and increased freight rates and charges. These proceedings could have a material effect on the financial condition or operations of the Company.

N. *Property and transfer taxes.*—The Company has instituted a Property Tax Program pursuant to which it has offered to pay all State and local taxing jurisdictions, within which there is located real property that was conveyed to it, the principal amount of all real property taxes attributable to the period following April 1, 1976 for tax periods spanning that date. Based on Section 303(b)(2) of the Rail Act and the Order of the Special Court conveying the properties, it is the Company's position that it is responsible only for the principal amount of such taxes and not for any interest or penalties attributable thereto. The State of New Jersey has informally asserted a claim for statutory interest and penalties. Should New Jersey pursue this claim successfully the Company could be obligated to pay interest and perhaps penalties to other taxing authorities as well.

In addition, the State of New York has asserted the Company is liable for Sales Tax on the transfer of properties to it incident to the conveyance despite Section 303(e) of the Rail Act which, in the Company's view, exempts the transfer from State transfer or sales taxes. If New York is successful in its assertion other States could assert similar claims with respect to the transfer of rail properties to the Company.

O. *RSPO proceedings.*—Commuter subsidy payments to ConRail are based on standards promulgated by the Rail Services Planning Office (RSPO) of the Interstate Commerce Commission. One commuter authority (SEPTA) for which ConRail provides substantial commuter services has taken the position that the RSPO standards result in the overpayment of subsidies to ConRail and has petitioned RSPO to reopen its rulemaking proceeding. RSPO thus far has reopened consideration of the extent to which liabilities (e.g., personal injury and property damage claims) arising out of commuter operations should be included as expenses for which ConRail is to be made whole. Other aspects of the RSPO standards may be reconsidered as well.

ConRail's position is that the standards do not take into consideration all of the costs for which ConRail should be reimbursed. It is not possible at this time to predict the probable outcome of these proceedings.

P. *Matters listed in ConRail-USRA financing agreement.*—Incorporated herein by reference is all pending and threatened litigation referred to in Appendix II to the Financing Agreement by and between United States Railway Association and Consolidated Rail Corporation, dated March 12, 1976.

These matters include various challenges to the conveyance of rail properties to ConRail and the extent of ConRail's obligations respecting those properties for the period after April 1, 1976. The proceedings in these matters are reported in the Special Court Reporter, copies of which will be made available to any interested party upon request.

Representative MOFFETT. I thank the subcommittee for creating this forum. I agree with Mr. Chesser that we need much more of this. I don't think all of our congressional units that are responsible for transportation are as vigilant. You are giving us an indication that at least this one unit, this subcommittee, is going to be, and I think that's good.

Thank you.

Senator MCGOVERN. Thank you.

Mr. CHESSER. I think I better set the record straight. I might have hurt Mr. Reebie's feelings.

If he thinks I put the pressure on him, so to speak, to quit speaking about these problems, we try to see to it he doesn't sell his roller coaster, his car. It's a good one. I hope he sells a lot of them. It will work.

What I am saying to you, Mr. Reebie, is to pay damn good attention to your car and leave labor relations to somebody else.

Senator MCGOVERN. I was asked by one of the reporters during a break how long we are going to continue this study and this analysis. I refused to put any time limit on it, because I don't know how long it is going to take. It is going to continue until such time as we have a clear view of what the problems are. That may be some time yet. We have some studies that have already been completed that are excellent studies.

You have given us some material here. Mr. Reebie and others have developed excellent studies. And we have to have time to digest and evaluate them. There are other reports we want to look at.

But at some point after we have had a comprehensive and thorough look at the railway problem—and we have touched on a few of those problems this morning—we will have some things to say and some recommendations to make.

At this time I don't have any reflections concerning recommendations we will make. I think we have some serious problems in a very, very important industry relating to critical national problems, such as unemployment, inflation, and urban difficulties.

In any event, the hearings will resume in Washington, on July 24 and 26. And we are going out to my State on the 28th of July. And we will go on from there to look at the problems as comprehensibly as we can.

I do want to thank all of the witnesses who are here today. I think we have had an excellent opening session, and we are grateful for your appearance and testimony.

The hearing is recessed.

[Whereupon, at 12 noon, the subcommittee recessed, to reconvene at 9 a.m., Monday, July 24, 1978.]

NATIONAL RAILROAD POLICY: WHICH WAY IS UP?

MONDAY, JULY 24, 1978

CONGRESS OF THE UNITED STATES,
SUBCOMMITTEE ON ECONOMIC GROWTH AND
STABILIZATION OF THE JOINT ECONOMIC COMMITTEE,
Washington, D.C.

The subcommittee met, pursuant to recess, at 9 a.m., in room 5110, Dirksen Senate Office Building, Hon. George McGovern (member of the subcommittee) presiding.

Present: Senators Sparkman, McGovern, and Javits; and Representative Brown of Ohio.

Also present: Philip McMartin, professional staff member; Mark Borchelt, administrative assistant; Robin Carpenter, member, Senator McGovern's staff; and Charles H. Bradford and Robert H. Aten, minority professional staff members.

OPENING STATEMENT OF SENATOR MCGOVERN, PRESIDING

Senator MCGOVERN. The subcommittee will be in order.

This session of the subcommittee's hearings on railroad policy and problems reflects two distinct and important levels of concern: Allegations of serious mismanagement within ConRail, the country's largest railroad which survives on the investment of taxpayer dollars; and fundamental problems and requirements of the Nation's rail industry as a whole.

The issues regarding ConRail to be discussed today should be of great concern to ConRail, Congress, and the entire rail industry. The purpose of ConRail, while to provide continuation of rail service in the Northeast, was also a dramatic attempt to prove that with innovative management operations, altered work rules, and efficient car utilization, a profitable, private sector railroad could emerge from the six bankrupt lines comprising the ConRail system today.

The ultimate goal was to establish ConRail as a model for the rest of the industry. However, ConRail has not been able to achieve profitable operations with the $2.1 billion Congress has already appropriated. An additional $1.28 billion authorization is pending before the Senate this week, and ConRail's overall operations have steadily declined.

If the corporation cannot effect changes on their system to halt this decline in operations, service, reliability and efficiency, Congress will be forced to admit that the objectives of this private sector attempt cannot be achieved.

Such conclusions may have tremendous impact upon the future of the Nation's rail industry.

Therefore, it is incumbent upon the Congress to examine the nature of the problems ConRail is facing and to assist them in any way to identify these problem areas and to suggest improvements.

Charges of highly wasteful practices and possible fraud have been made against ConRail's management by the Transport Workers Union and by an official of the United Transportation Union. These witnesses have asked for an opportunity to testify because of their concern for the future of ConRail's employees and their expressed convictions that ConRail, as it is now structured, cannot survive, if serious mismanagement continues. Their allegations and questions demand immediate answers by ConRail where necessary.

In an effort to resolve these allegations as quickly as possible, I have made information to be presented by the unions available to ConRail and the U.S. Railway Association officials in order that they may have prepared responses. ConRail spokesmen have agreed to testify on these allegations today. Mr. Donald Cole, president of USRA, is scheduled to testify on this and other matters on Wednesday, July 26.

Beyond this, I am calling this portion of the hearing record to the attention of the ConRail Board of Directors, the Interstate Commerce Commission and the Department of Justice in order that they may determine what appropriate corrective steps should be taken.

The problem is compounded by the fact that ConRail's complete answer was not received until shortly before the hearing. We try to cover the major points on both sides of the issue, with the intention of giving both sides these documents, the full attention they deserve in the weeks ahead.

With this in mind, I am advising them that they may be on call to complete the hearing record.

The second phase of this morning's hearing will consist of the testimony of three distinguished management and railroad shipping experts. We will be addressing the challenges presented to the national rail system by rail operations, shipping and worker productivity problems. One of the most critical problems facing the industry today are the increasing number of decisions being made by shippers to utilize other modes of transport.

These decisions contribute substantially to the continuing decline of rail revenues. The increasing lack of service efficiency and reliability contributes substantially to the continuing decline of rail revenues. The increasing lack of service efficiency and reliability contributes substantially to the railroads' inability to compete with other modes.

We will begin with the statements of Albert A. Terriego, international vice president, railroad division, Transport Workers Union of America; Robert Morritt, Local 95 of the United Transportation Union; and John Sweeney, vice president, government affairs, of ConRail. After they have testified, Arthur Grotz, railroad management consultant; William Smith, acting chairman, United States Railroad Association; and Clifford Worth, general traffic manager, Westvaco, will be asked to come to the witness table to present their statements.

I will ask all of you to give a 10-minute summary of your prepared statements with the understanding that those prepared statements and any accompanying material will be made part of the hearing record.

Senator McGovern. Senator Javits.

OPENING STATEMENT OF SENATOR JAVITS

Senator JAVITS. I'm here just to say that I came to learn as much as I could about these hearings. I consider them crucially important.

I think the railroad system of this country is infinitely underestimated in its economic and social importance to the country. Though I may not have the direct interest my colleague has, coming from the great part of the middle of the country which is served by the railroads, we have an enormous interest in the Port of New York.

Senator, as my engagements this morning make it impossible to stay too long, I ask unanimous consent that I may put certain questions to ConRail concerning the problems in the city of New York, and the problem of rail support, which we lack, and ask that they be answered in writing by ConRail, and that the answers and questions be made a part of the record.

Senator McGOVERN. Without objection, the Senator from New York's request will be honored; and we are glad he is here for whatever time he can give us.

Now we will have Mr. Terriego, the international vice preisdent of the Transport Workers Union, as our first witness.

STATEMENT OF ALBERT A. TERRIEGO, INTERNATIONAL VICE PRESIDENT-DIRECTOR, RAILROAD DIVISION, TRANSPORT WORKERS UNION OF AMERICA, AFL–CIO

Mr. TERRIEGO. Senator, I would like to thank this subcommittee for inviting me to appear here today to give my testimony, and the opportunity to express my opinions in regard to national rail policy and the future of rail service in the Northeast United States, and more specifically, the future of the Consolidated Rail Corporation.

My name is Albert A. Terriego, international vice president-director, railroad division, of the Transport Workers Union of America, AFL–CIO. We represent approximately 10,000 workers on ConRail who are engaged in repairing and inspecting its freight cars and equipment.

I have submitted a lengthy prepared statement with attachments to this subcommittee, and I would like to comment briefly on those. I would be glad to answer any questions concerning any of the contents of my prepared statement.

The prepared statement is separated into three parts. The first part deals in general terms of the decline of the American railroads in the Northeast United States, particularly since the end of World War II, and the mismanagement and bankruptcy of the railroads which led to the formation of the Consolidated Rail Corporation by the U.S. Congress.

More specifically, my prepared statement points out the incredible mismanagement and practices of ConRail officials, the misuse of funds supplied to ConRail by the U.S. Congress, which has caused great suspicion of propriety and coverup by ConRail management.

Part II and III of my prepared statement deals more specifically with examples of mismanagement and misuse of funds that are supported by documents and invoices that were submitted to ConRail by the 146 outside contractors that ConRail has engaged to provide equipment for wrecks and derailment service, even though ConRail

employees have the exclusive right by labor agreement to perform the service. The former railroads making up ConRail have always traditionally performed its own wreck and derailment services with its own wreck crews stationed in strategic locations on their systems, and have always owned and maintained their own wreck equipment.

We as honorable and concerned union representatives recognize that the rules, wreck equipment, and old steam derricks, were outmoded and should be replaced with more modern and efficient over-the-road mobile cranes. We changed our labor agreements to accommodate the railroad in this regard, to give it more flexibility in utilizing its work force, but still, at the same time, retaining the right to perform the ground work. We changed the labor agreements on four different occasions in the past 2 years, but each time the situation became worse, and the use of contractors accelerated.

Off the record, Senator, it appears to us it does not make any difference how they write the wrecking rules. Because they are going to circumvent the contract to get outside contractors.

Immediately after the agreements with the Transport Workers Union and the Brotherhood of Railroad Carmen of America and Canada were signed, the railroad began using outside contractors equipment for derailments at 10 to 20 times greater cost.

ConRail began to phase out its outmoded equipment, but failed to replace the equipment, thereby creating a situation where they were forced to use outside contractors' mobile cranes to a point where it now exclusively uses a contractor, at 10 to 20 times greater cost.

We consider it almost an act of criminal neglect for a railroad management to strip itself of its vital wreck equipment and become a vulnerable victim to a group of 146 contractors who are bleeding the railroad of the vital funds that are needed to operate the railroad and make it solvent. Funds paid to contractors are a major factor in ConRail multimillion dollar yearly losses.

By using information supplied to us we have concluded that ConRail is literally giving away an estimated $180 million a year to outside contractors when their own forces could perform the same service for $20 million yearly and that would include $6.5 million to purchase 30 100-ton mobile cranes, thereby eliminating the need for contractors.

My prepared statement points out the waste, and reveals thousands of instances where ConRail pays three times for the same work performed, just for the privilege of using an outside contractor. This fact has caused great concern and suspicion among the employees.

My prepared statement also reveals the fact that ConRail could save multimillions of dollars by building their own freight cars in their own shops, but for some unexplained reason have failed to utilize its shops and work force. My statement contains the production records of their Altoona car shops, and the capability of the shops.

ConRail owns the largest and most modern car building and repair shop in the world. Its shops can double the new car production of any similar shop in the world. ConRail has failed to utilize these shops, and now contracts out the work at 15 to 20 percent greater cost. Its own shops can produce a hopper car for $4,000 less than any other shop, however, ConRail saw fit to contract out a $4,000 hopper car order to outside contractors, and now plans another 11,000

car order that is in the planning stage. If both orders were completed in its own shops, ConRail could save another $60 million.

We have concluded that ConRail will never survive following its present policies, and cannot afford the luxury of using outside contractors at 10 to 20 times greater cost.

We suggest that this subcommittee initiate an intensive investigation into ConRail's policies of contracting out in all departments of the railroad, and stop this massive misuse of funds.

Senator McGOVERN. Mr. Terriego, I think before we question you, we will hear from Mr. Morrett, and then we will question you both. Thank you.

[The prepared statement of Mr. Terriego, together with attachments, follows:]

PREPARED STATEMENT OF ALBERT A. TERRIEGO

Part I

My name is Albert A. Terriego and I reside at 25 Winthrop Place, Hazlet, New Jersey. I am presently employed as International Vice President-Director, Railroad Division, of the Transport Workers Union of America, AFL-CIO, and have held that position since 1975. Our International Headquarters are located at 1980 Broadway, New York, N.Y.

In my position as director of the railroad division, I am responsible for administering its affairs' and negotiating contracts that cover approximately 15,000 railroad employees on 10 of the Nation's railroads. I am presently serving as chairman of the negotiating committee of the joint council of carmen on AMTRAK nationwide. In addition, I negotiate contracts for certain employees on the Port Authority of New York, including Path and the old Hudson Manhatten Railroad. I entered railroad service as a laborer on the Pennsylvania Railroad Company on March 10, 1942, at age 17, and except for service in World War II—1943–45—I have been associated with the railroad and railroad labor unions ever since.

I have watched the decline of the American Railroad in the northeast United States, particularly since the end of World War II.

I can recall when it was a distinct honor as a young man to be employed by the Pennsylanvia Railroad Company in post World War II ERA. Railroad workers were among the most respected industrial workers in the country. A railroad pass issed to workers by the Pennsylvania Railroad was more honored for identification and establishing credit than any of the present-day credit cards in existence today. I am sorry to say that children of ConRail employees today are literally embarrassed to reveal to friends that their father is an employee of ConRail, a bankrupt company that is made a butt for jokes by the public and news media of this country. It is no honor to work for a company that is hopelessly mired in bankruptcy with billions of dollars in debt and operating on Government handouts, whose management is literally driving the company deeper into a hole by the squandering and misuse of funds.

The leadership and members of the transport workers union have done everything in their power to help the railroad right itself and make a respectable showing in an attempt to put the bankrupt railroad back on its tracks. We have taken pains together with the Brotherhood of Railway Carmen of the United States and Canada to change our entire labor agreement with ConRail to provide it with more flexibility to utilize its work force. We have negotiated an entire new agreement with ConRail. We have informed our membrs through bulletin board notices and meetings that theft and waste of ConRail funds will not be tolerated by the transport workers union. In the attachment at the end of part I of my prepared statement is a notice identified as Exhibit A. We have given to the management of ConRail, at great sacrifice to our memebrs, changes in the labor agreement and work rules, which makes it less expensive to clean up wrecks and derailments on ConRail property and right-of-way and to get the railroad right-of-way open at faster speed. No other unions in the country has made such drastic changes in its labor agreements to accommodate the railroads.

We have changed our work rules agreement which in the past prohibited ConRail management from using outside contractors' equipment for wrecks and derailments, thereby giving management the right to use outside contractors' equipment where it is truly more economical and efficient to do so. We re-negotiated the agreement with provisions that ConRail would use ConRail carmen represented by the Transport Workers Union of America and the Brotherhood of Railway Carmen of the United States and Canada to work in conjunction with the outside equipment with no penalties for using the outside contractor. ConRail has flagrantly abused these agreements and now use contractors' equipment *and crews* in violation of the labor agreements. It must be noted that each time ConRail management violates the agreement in using and paying for the outside contractors' crews, it must also pay its own Carmen employees for sitting at their homes. The cost of clearing wrecks has gotten out of control, millions of dollars are being wasted because of ConRail's persistent using of outside contractors.

Regardless of how hard we try to help ConRail it seems that ConRail management continues to find more ways to destroy ConRail. We will present evidence to this subcommittee that ConRail will never succeed with the present attitude and misuse of ConRail funds by ConRail management. The flagrant abuses and mismanagement of funds by ConRail officials have caused great concern among employees in all departments throughout the ConRail system.

We have, therefore, organized and instructed our members to police and report to my office any evidence of misuse of ConRail funds by any member of management. We have been flooded with evidence of such abuses and mismanagement and that becomes my primary reason for appearing before this subcommittee. It is a national tragedy that ConRail officials are not willing to police their own people to eliminate these abuses of funds. I will submit to you in the brief time that I have before this subcommittee just a few examples of misuse of funds, and misplacement of trust. These examples, I am sure, will be shocking to this subcommittee as they have been to us, and to thousands of ConRail employees throughout the ConRail system.

EXAMPLE NO. 1

It was reported to me by our union members in Williamsport, Pa., that the shop superintendent at the Newberry Junction car shop was detected removing a gondola car full of new railroad ties while the car was stationed in the Newberry car shop for repairs. The shop superintendent purposely delayed the car in the shop for 1 week until a Saturday morning when he and two other supervisors removed 300 new ties from the property valued at $17.00 per tie to a farm owned and operated by a relative of the shop superintendent. I dispatched our international representative to the scene to investigate. Our international representative secured the necessary information and wrote to the chief mechanical officer and division superintendent about the incident and requested a meeting to discuss the situation. After he was ignored for 2 weeks he insisted that unless a meeting was scheduled, the union itself would file charges with the local police in Williamsport, Pa.

A meeting was finally arranged with ConRail's division superintendent, chief mechanical officer, and ConRail's division chief of police. At the above meeting, the chief mechanical officer defended the shop superintendent and dismissed the information as petty and praised the shop superintendent as a good, conscientious ConRail supervisor.

When it appeared that a coverup was taking place, I personally went to Philadelphia and met with ConRail's top officials in the personnel department and made an official complaint. As a result of this complaint, two ConRail police inspectors were subsequently dispatched to Williamsport, Pa., and after investigation by ConRail's police inspectors, the shop superintendent was apprehended and jailed in the Lycoming County, Pa., jail, suspended from his position with ConRail, and was later dismissed.

The 15 employees, who were employed at the Williamsport car shop and members of this organization at the time of the incident, paid the supreme sacrifice for being conscientious and dedicated ConRail employees who carried out our policy to apprehend thieves on ConRail. The chief mechanical officer and master mechanic closed the Williamsport and Newberry shop 30 days after the shop superintendent was jailed and dismissed. We considered this an act of retaliation. The shop is now permanently closed. The master mechanic has informed our international representative that he considered the shop superintendent a very good and conscientious employee and would make an attempt to have him reinstated to

his former position. We strenuously resent this type of attitude by members of management. Subsequent investigation developed the fact that the Williamsport shop superintendent had been misusing funds and material from ConRail for a long period of time before he was apprehended.

I would like to call to the attention of this subcommittee of the delay and laxity on the part of ConRail in handling this situation. Exhibit B identifies the communications concerning the incident in Williamsport and Newberry Junction, Pa.

EXAMPLE NO. 2

On January 13, 1977, at 9 p.m., the Penn Erection & Rigging Co. of Turtle Creek, Pa., appeared at the Conway, Pa., freight yard with a 100-ton mobile Holmes crane and pick-up truck. This 100-ton mobile crane was parked at the Conway, Pa., ConRail car shop parking lot from 9 p.m., January 13, 1977, until 1:30 a.m. January 24, 1977, for a 12-day uninterrupted period and again from 12 midnight, January 31, 1977, until 12 midnight, February 11, 1977, for another 11-day uninterrupted period. The total aggregate time that the 100-ton mobile Holmes crane was parked at the ConRail Conway, Pa., car shop was 552 hours. The rates charged by the Penn Erection & Rigging Co. to ConRail for the privilege of parking its 100-ton crane and a small pick-up truck was as follows:

24 hours for 100-ton Holmes mobile crane and pickup truck

Holmes crane first 8 hours regular rate at $140 per hour	$ 1,120
Holmes crane next 16 hours at premium rate of $165 per hour	2,120
Pickup truck at $19.50 per hour for 24 hours	468
Total charge for crane and pickup truck for each 24 hour period	4,228

The total charge to ConRail for the above service performed of parking the Penn Erection & Rigging Co. 100-ton mobile Holmes crane and a small pick-up truck on ConRail property for the period of 552 hours mentioned above was the fantastic figure of $91,546.33 for performing no work.

Under the terms of the agreement, ConRail would have realized a generous 3 percent savings if the bill was paid in full within 15 days.

The above equipment, with the exception of the pick-up truck, was parked, but never used to perform any service for ConRail, and the pick-up truck with a charge of $468 per day never appeared at the Conway, Pa., yard. The invoices for the above service are recorded as Penn Erection & Rigging Co.'s invoice No. 1574, dated January 31, 1977, and invoice No. 1621, dated February 11, 1977, listed under customer order number 44235 and job No. 872, are identified as exhibit C.

Members of our organization and, also, some lower-level management personnel employed at Conway, Pa., submitted this information to the ConRail officials in July of 1977. To date there has been no resolution of this situation and the situation has grown worse. Members of our organization and lower-level management personnel at Conway are ready and willing to testify that the crane was parked for the 23-day period and did not move from the parking lot for the entire period and that the pick-up truck was never in Conway, Pa., as charged by the Penn Erection Co.

The witnesses will be presented to this subcommittee upon request, as will all other statements and documents, to support the allegations contained in his statement.

While the Penn Erection & Rigging Co., 100-ton Holmes crane was parked at the Conway car shop doing nothing for a 23-day period, there were many derailments occurring in the Conway yard and area. It is very interesting to note how the derailments occurring in the 23-day period in question were handled while the contractor's 100-ton mobile crane was sitting by doing nothing at the Conway yard.

On January 14, 1977, a derailment occurred at 5 hump in the Conway yard while the same 100-ton Penn crane was sitting idle. The derailment occurred approximately 200 yards from where the same 100-ton crane was parked. To clear up the derailment, Penn erection was ordered to bring in 2 additional 75-ton mobile cranes and a pick-up truck to clear up the derailment which took 17 hours at a cost of $4,826.12 to ConRail. The work on the above derailment was performed while the Penn Erection 100-ton crane was being paid at a premium rate for sitting idle on a full-time basis at theConway car shop 200 yards away. The invoice No. 1543, dated January 21, 1977, is identified as exhibit D.

Again 2 days later on January 16, 1977, another derailment of a locomotive occurred in the Conway yard area at Island Avenue in Pittsburgh, Pa., which is approximately 12 miles from the Conway yard limits. Again, while the 100-ton Holmes crane was stationed at Conway and under pay, Penn Erection was ordered to dispatch another 100-ton Holmes hi-rail crane and a 75-ton crane and pick-up truck to the scene. The Penn Erection Co., performed the work from 4 p.m. to 12 noon at a cost to ConRail of $2,649.10, again while the Penn Erection & Rigging Co., 100-ton Holmes crane was standing by at Conway being paid premium rates and doing nothing. The Penn Erection invoice number on the above derailment is 1316, dated January 18, 1977 and identified as exhibit E.

The most flagrant case of mismanagement occurred 5 days later, on January 21, 1977, when at 5 p.m. a derailment of 5 cars occurred at Vanport, Pa., a distance of 5 miles from the Conway yard. The company dispatched the ConRail Conway, Pa., wreck crew with their own wreck equipment, which consisted of a 200-ton steam derrick and a crew of 10 men to the scene of the derailment. The ConRail wreck crew cleaned up the derailment within 10 hours and, I want to emphasize, with no help from the Penn Erection Co. A bill was submitted to ConRail by Penn Erection for the same derailment for January 21, 1977, at Vanport from 5 p.m. to 3:30 a.m. in the amount of $6,630.00. Witnesses at the scene, including some members of management, will testify that Penn Erection charged for the work and never did appear at the scene of the derailment at Vanport and all of the work at the Vanport derailment was performed by ConRail employees. It must be noted that ConRail was charged by Penn Erection for work that was never performed at Vanport, Pa., while another Penn Erection 100-ton Holmes crane was sitting by at Conway at a cost of more than $4,000 per day doing nothing. Invoice No. 1567, dated January 31, 1977, is identified as exhibit F. Witnesses will be presented to verify that Penn Erection did not appear at the scene at Vanport and performed no work. We suggest that this incident warrants a suspicion of fraud.

The above incidents of gross mismanagement are only a small fraction of the cases that occur on a daily basis throughout the ConRail system in the 16 States that ConRail services. Although we have complained about them to management it has never undertaken to give us a satisfactory answer. Exhibit G identifies copies of correspondence that show I have made complaints of the abuses and the management has disregarded by complaints.

Wrecking contractors are parasites who generally seem to have cozy arrangements with middle level members of management who are trusted with the responsibility of cleaning up wrecks on ConRail property. There are numerous wrecking contractors stationed throughout the 16 States in which ConRail operates, and some of them are large contracting firms that provide fringe benefits to members of ConRail management.

Contractors are assigned to territories which are dictated by the division superintendents who have complete authority on the use and abuse of using outside contractors for wrecks and derailments with no apparent restraint by higher level management officials. The following is an example of the above policy of using contractors by ConRail officials:

Kenneth Lowe, a ConRail division superintendent stationed in the New Jersey area, was recently transferred to the Cleveland, Ohio, area. While Lowe was stationed in New Jersey, he used exclusively the equipment from Isringhausen Co. from the Newark, N.J., area on ConRail derailments. The ConRail division superintendent in Cleveland at that time used All-Wrecking Co. Shortly after Lowe's transfer to the Cleveland, Ohio, area as ConRail division superintendent, Isringhausen Co. equipment appeared at the scene of the derailments in Cleveland, Ohio. In effect, some superintendents take their own contractors with them when they are transferred to other areas of ConRail. What arrangements were made between the ConRail official and the outside contractor are not made available to us. Exhibit H is a letter of complaint by the Brotherhood of Railway Carmen of the United States and Canada on the use of the Isringhausen firm in the New Jersey area.

As herein before stated, contractors are stationed in areas throughout the ConRail system as designated by division superintendents. Hulcher Wrecking Co. is the most prominent outside contractor dealing in wrecking and is used in most of the areas between St. Louis and Boston. Hulcher is noted for providing the most lucrative fringes to ConRail management as reported to us. Mor-Trak is used in the Syracuse area. Winters Co. and Lake Steel Co. are used in the

northern New York area. Penn Erection is used in the eastern Ohio and western Pennsylvania area. Isringhausen handles the New Jersey area and now has replaced the All-Wrecking Co. in the Cleveland and northern Ohio area.

I have in my possession records of many similar incidents too numerous to be included in this statement which I would be glad to submit to this subcommittee.

We submit that we have provided evidence of gross neglect and mismanagement by ConRail officials. We suggest that an investigation should be conducted on the use of outside contractors. Contractors should be replaced and the wrecking work turned over to ConRail employees who can perform the work at a fraction of the cost and would eliminate the waste of much needed funds that can be used to operate the railroad system.

CONTRACTING OF BUILDING OF FREIGHT CARS

ConRail has announced that it intends to contract out the work of building 4,000 hopper cars rather than construct the hopper cars in its own freight car shops on the ConRail system.

ConRail operates 4 large car shops on its system that are capable of building new freight cars. The car shops are located in Altoona, Pa.; Reading, Pa.; Meadville, Pa.; and Beech Grove, Ind. The largest of these shops is located at Altoona, Pa., and is considered to be the largest most modern and efficient freight car building and repair facility in the world. In peak production periods in 1959, the Altoona shops built 8,244 new freight cars for the Pennsylvania Railroad Co., while performing all of Pennsylvania's heavy repairs at the same time. The production record of the Altoona Sam Rea Car Shop from 1955 through 1975, is identified as exhibit I. The shops have never reached their full potential.

The Altoona shop is equipped with 4 assembly lines to build freight cars on a 3-shift basis. An example of the capabilities of this enormous facility reveals that the shops can produce 24 new hopper cars per line per 8-hour shift. If only 2 lines were used to build hopper cars on a 2-shift basis, the shop could produce 96 hopper cars on a 2-shift basis. The remaining half of the shop can be used to meet ConRail's needs for heavy repair to freight cars. If Altoona were used exclusively for building cars, the 3 smaller shops could provide all the necessary heavy freight car repairs for ConRail. It is a well-known fact there would be millions of dollars saved if ConRail had properly planned to utilize its own shops to build the 4,000 hopper car order which was let out to 3 outside contractors in the month of January, 1978.

It has been reported to me that planning is now underway for an 11,000 new freight car program for delivery late in 1978. However, there has been no decision to date on contracting out the work on the 11,000 freight car order. There is no question in my mind that ConRail's own shops can produce the 11,000 new freight cars at a substantially lower cost with much quicker delivery to ConRail, while ConRail is in desperate need of new freight equipment.

I have informed ConRail officials that we are willing to sit down with management and provide them with the flexibility in utilizing the work force to gain maximum production in any car building program if they chose to build the cars in ConRail's own shops. To date ConRail has not responded to our suggestions.

We are concerned that if the ConRail policy of contracting out work to the outside is extended to contracting out the building of cars, then millions of dollars that could be saved will go by the wayside.

During the year 1974 many political leaders toured the Altoona car shops when the U.S.R.A. was in the process of formulating the final system plan for ConRail. U.S. Secretary of Transportation Claude Brinegar stated after his tour of the shops that he was amazed at the attitude and high spirits of the work force and that you could not tell you were walking through a shop owned by a bankrupt company. The spirits and attitude of the work force is super; Mr. Brinegar also stated for the news media in central Pennsylvania that the Altoona shop is the greatest unused asset of any company he has ever seen.

Many political leaders visiting and touring the shop were measurably impressed by the attitude and spirit of the work force and the efficient manner in which the work force carried out their duties. The production record of the Altoona shops is the best of any large car shop in the United States.

We pledge to this committee that our organization will cooperate in any manner possible to eliminate the abuses and mismanagement among ConRail officials.

In conclusion, we respectfully request that an investigation be conducted into the mismanagement of ConRail funds. We are able and willing to assist in such an investigation with facts and figures that we have accumulated over the past 18 months.

EXHIBIT A

TRANSPORT WORKERS UNION OF AMERICA,
RAILROAD DIVISION,
New York, N.Y. October 24, 1977.

To: All ConRail and Amtrak local presidents, grievance chairman and staff assigned, Transport Workers Union of America, AFL–CIO.

DEAR SIRS AND BROTHERS: Due to the increasing number of discipline cases involving dismissal for theft and pilferage we find it necessary to issue the enclosed leaflet once again.

You are urged to post this leaflet on all your bulletin boards in the most conspicuous place keeping it there for everyone to see.

If you need more leaflets you can obtain them by writing to my office.

I trust you will adhere to the above.

Fraternally yours,

Attachment.

ALBERT A. TERRIEGO,
Director-Railroad Division,
International Vice President.

MEMO TO ALL TWU MEMBERS

POST

Recently, we discussed the subject of theft and pilferage with officials of ConRail and Amtrak. The matter is of great concern because of the increasing number of theft incidents on company property. The facts are that some of our members were separated from the company because of their involvement in theft.

The company policy concerning theft by employees is an established and widely publicized fact. It is known by all the employees; it is contained in the company's posted work rules and regulations. Any employee involved in a theft is subject to dismissal by the company.

It is important that all members know their union's position in this matter. We do not condone thievery. Many times we have heard the plea that the value of the item taken was small, and therefore, the penalty of dismissal was severe. The fact is a theft is a theft regardless of the value of what was taken. The company action of punishment is the same.

We strongly urge all TWU members not to become involved, directly or indirectly, in the theft or pilferage of Company property, the property of others or railroad shipments. If you become involved in such incidents your Union is not in a position to give you the full support you normally expect when grieving some unjust action by the company. It would be a waste of your union's funds if in fact you were guilty of thievery.

Your union strongly urges you not to put your job on the line by taking something that doesn't belong to you.

ALBERT A. TERRIEGO,
Director-Railroad Division,
International Vice President.

EXHIBIT B

TRANSPORT WORKERS UNION OF AMERICA,
RAILROAD DIVISION.
New York, N.Y., October 1, 1976.

R. E. WERREMEYER,
Division Superintendent, Consolidated Rail Corporation, 9th Avenue and 12th Street, Altoona, Pa.

DEAR SIR: It had been reported to this organization that employees represented by this organization have been refused medical attention resulting from accidents on the job at Newberry Jct. Shops and Yards, and are harassed after reporting these injuries to the General Car Foreman at that location. The latest incident involved Car Repairman L. J. Winters.

We have also been informed by employees of the Newberry Car Dept. that there is a gross misuse of ConRail funds and material that involves company officials. The incidents are too numerous to mention in this letter. These incidents have been brought to the attention of the local Master Mechanic and have been completely ignored.

As you know this organization has made a significant contribution to make ConRail a reality and to make it a viable Railroad. We request an immediate meeting with you or any Company official with authority to correct such abuses in the best interests of all concerned.

Very truly yours,

Make reply to:

MILO SHIMRAK,
International Representative, 627 Bauman Avenue,
Baden, Pa. 15005.

CONSOLIDATED RAIL CORPORATION,
Pittsburgh, Pa., October 11, 1976.

Mr. MILO SHIMRAK,
International Representative, Transport Workers Union,
627 Bauman Avenue, Baden, Pa.

DEAR MILO: Division Superintendent Werremeyer and I have been unsuccessful in our attempts to contact you through your office in connection with our desire to meet with you to resolve the alarming statements outlined in your letter of October 1, 1976.

In Mr. Werremeyer's absence for two weeks I would like to meet with you anywhere at your convenience to review the injury incident and also to quickly learn of the misuse of ConRail funds of which our present Master Mechanic has neither knowledge nor been the receipient of any such advice.

In the interest of time reply or telephone call can be made through my office.

Very truly yours,

C. A. KORN,
Superintendent Equipment.

TRANSPORT WORKERS UNION OF AMERICA,
RAILROAD DIVISION,
New York, N.Y., October 18, 1976.

C. A. KORN,
Supdt Equipment, Consolidated Rail Corp., 915 Penn Central Station, Pittsburgh, Pa.

DEAR SIR: This refers to your letter dated October 11, 1976 in regard to my letter to Supdt Werremeyer dated October 1, 1976 in which a request was made to meet with him concerning the Company's refusal to give the Employees Medical attention to certain Employees at Newberry Jct, Pa., and reports made to the Union of the misuse of ConRail funds at that location.

Since we did not hear from Supdt Werremeyer on our request we have decided to use other avenues on the contents of our letter. As you know I do not service the Pittsburgh Area on ConRail I could have been reached at our office in Altoona, Pa. or at my Home in Baden, Pa. Your Personnel Office in Pittsburgh has the Phone numbers and addresses of our Office.

We have reported to your Master Mechanic on several other occasions of the same type incidents referred to in my letter, however, there were no Investigations made, and we subsequently made Grievances of those incidents but your Mechanical Dept and Personnel Dept defended the Master Mechanic without a joint Investigation. At that time one of your Master Mechanics was charged with the misuse of Company funds and the Grievance is still pending and unresolved. At that time the Company's Personnel Supdt made a joke of our grievance in Altoona, Pa.

We no longer have confidence in your Master Mechanics who whitewash every thing and refuse to cooperate in any request for an investigation concerning injustices to Employees and the contents of our letter of October 1, 1976.

I can assure you that we are going to pursue these problems until they are resolved to satisfaction of both ConRail and its Employes, and make ConRail a viable Railroad, which will be to the benefit of both ConRail and its Employees.

Yours Truly,

MILO SHIMRAK *Intl. Rep.*

TRANSPORT WORKERS UNION OF AMERICA,
RAILROAD DIVISION,
New York, N.Y., January 7, 1976.

JAMES J. BUTLER,
Chief Mechanical Officer, Consolidated Rail Corp.,
6 Penn Center, Philadelphia, Pa.

DEAR SIR: This refers to the letter of October 1, 1976, sent to Division Superintendent, R. E. Werremeyer, Allegheny Division, and conversation with you in regard to contents of our letter to Supt. Werremeyer while in Philadelphia in October, 1976. At that time your investigators met with us and obtained our detailed information concerning gross misuse of ConRail funds and material at Newberry Jct., Pennsylvania. We supplied the investigators with many details and names of witnesses where material valued in the thousands of dollars was recovered from Company property.

In the month of November, 1976, I met with Supt. Werremeyer, Chief Mechanical Officer of Central Region, C. A. Korn, and Captain of Police McQuaide in Altoona and supplied them with the same information. After I supplied them with same information I was advised by your investigators from the auditing department in Philadelphia that they were advised to discontinue any investigation on our information, and we never received any report of our allegations from anyone.

Our further investigation reveals that a car load of new ties was removed from Company property and the Company official taking the ties was apprehended by Pennsylvania State Police, but was bailed out by a higher Company official who advised police that the Company official had permission to take the ties which were brand new. This information was withheld from us and we have never received any report.

We, also, submitted many names of witnesses who witnessed officials using Company employees to perform free work for individuals off Company property and removing Company material to officials' residences. These witnesses have never been contacted. We feel that there is a coverup going on.

As you know, our organization does not condone thievery among employees that we represent. There have been 26 employees represented by us dismissed in the past few months because of the thievery of Company property and we expect Management to police their own.

I am sorry to inform you that because of the large amount of money involved in the misuse of funds and material at Newberry, we will meet with the new U.S. Secretary of Transportation and other high government officials.

Before we pursue other avenues, I think that it would be to the best interest of all concerned if we meet with you and our International Vice President, A. A. Terriego, in Philadelphia. We will both be in Philadelphia on January 17th and 18th, 1977, to attend negotiations. I suggest that we meet then.

I am forwarding a copy of this letter to Edward Jordan.

Yours truly,

MILO SHIMRAK,
627 Bauman Avenue, Baden, Pa.
JANUARY 17, 1977.

MR. MILO SHIMRAK,
627 Bauman Avenue,
Baden, Pa.

DEAR MR. SHIMRAK: This refers to your letter dated January 7, concerning reports you have furnished our investigators respecting what you term "gross misuse of Conrail funds and material at Newberry Jct., Pennsylvania".

This matter was turned over to our Police Department some time ago. I am sure they are making a complete investigation. As soon as they have completed the investigation and a determination is made as to action that may be indicated as a result of such investigation, I will be glad to pass along the results thereof to you.

I will be glad to talk to you and Al Terriego when you are in Philadelphia on January 17th and 18th. If you have any additional information that will be helpful. I will be glad to turn it over to our Police Department.

Very truly yours,

J. J. BUTLER,
Chief Mechanical Officer (Act.).

INVOICE EXHIBIT C

Penn Erection and Rigging Company

STEEL ERECTORS • RIGGING • MACHINERY MOVING
500 BROWN AVENUE, TURTLE CREEK, PA. 15145
AREA CODE 412 824-5000 — 271-3388
TWX 710 797 3675

Conrail Corporation
2405 Verner Highway
Detroit, Michigan 48216

INVOICE NO. 1574

DATE January 31, 1977

Att: Mr. G. J. Jacks, Mgr. Acct. Operations

CUSTOMER ORDER NO. MC 44235
(call by Max Solomon)

TERMS: 2% discount 5 days
1% discount 10 days

Job #872 - Standby (derailments), Conway Yard Jan. 13 - 24

13/77	; 1:30 AM to 9:00 PM		
	100 Ton Holmes w/crew 8 hours regular	@$140.00/hr.	$ 1,120.00
	11 hours premium	@ 165.00/hr.	1,815.00
	Tool and Block Truck 19 hours	@ 19.50/hr.	370.50
13-14/77	9:00 PM to 12:00 Noon		
	100 Ton Holmes w/crew 4 hours regular	@$140.00/hr.	560.00
	11 hours premium	@ 165.00/hr.	1,815.00
	Tooland Block Truck 15 hours	@ 19.50/hr.	299.50
/14/77	12:00 Noon to 12:oo Midnight		
	100 Ton Holmes w/crew 4½ hours regular	@ 140.00/hr.	630.00
	7½ hours premium	@ 165.00/hr.	1,237.50
	Tool and Block Truck 12 hours	@ 19.50/hr.	234.00
/15/77	12:00 Midnight to 12:00 Noon		
	100 Ton Holmes w/crew 12 hours premium	@ 165.00/hr.	1,980.00
	Tool and Block Truck 12 hours	@ 19.50/hr.	234.00
/15/77	12:00 Noon to 12:00 Midnight		
	100 Ton Holmes w/crew 12 hours premium	@ 165.00/hr.	1,980.00
	Tool and Block Truck 12 hours	@ 19.50/hr.	234.00
/16/77	12:00 Midnight to 12:00Noon		
	100 Ton Holmes w/crew 12 hours premium	@ 165.00/hr.	1,980.00
	Tool and Block Truck 12 hours	@ 19.50/hr.	234.00
1/16/77	12:00 Noon to 12:00 Midnight		
	100 Ton Holmes w/crew 12 hours premium	@ 165.00/hr.	1,980.00
	Tool and Block Truck 12 hours	@ 19.50/hr.	234.00
1/17/77	12:00 Midnight to 12:00 Noon		
	100 Ton Holmes w/crew 4hours regular	@ 140.00/hr.	560.00
	8 hours premium	@ 165.00/hr.	1,320.00
	Tool and Boock Truck 12 hours	@ 19.50/hr.	234.00

continued

193855

Crane Erecting and Rigging Company
CRANE CONTRACTORS · RIGGING · MACHINERY MOVING
500 BROWN AVENUE, TURTLE CREEK, PA. 15145
AREA CODE 412 824-5000 – 271-3388
TWX 710 797 3675

EXHIBIT - C Page 2

TO: Conrail Corporation

INVOICE NO. XXXXXX 1574 - page

DATE January 31, 1977

CUSTOMER ORDER NO. MC 44235

TERMS: 2% discount 5 days
1% discount 10 days

DATE

JOB 0872 - Standby Conway Yard

1/17/77	12:00Noon to 12:00 Midnight		
	100 Ton Holmes w/crew 4½ hours regular	@ 140.00/hr.	630.00
	7½ hours premium	@ 165.00/hr.	1,237.50
	Tool and Block Truck 12 hours	@ 19.50/hr.	234.00
/18/77	12:00 Midnight to 12:00 Noon		
	100 Ton Holmes w/crew 4½ hours regular	@ 140.00/hr.	630.00
	7½ hours premium	@ 165.00/hr.	1,237.50
	Tool and Block Truck 12 hours	@ 19.50/hr.	234.00
/18/77	12:00 Noon to 12:00 Midnight		
	100 Ton Holmes w/crew 4½ hours regular	@ 140.00/hr.	630.00
	7½hours premium	@ 165.00/hr.	1,237.50
	Tool and Block Truck 12 hours	@ 19.50/hr.	234.00
19/77	12:00 Midnight to 12:00 Noon		
	100 Ton Holmes w/crew 8 hours premium	@ 165.00/hr.	1,320.00
	4 hours premium	@ 140.00/hr.	560.00
	Tool and Block Truck 12 hours	@ 19.50/hr.	234.00
/77	12:00 Noon to 12:00 Midnight		
	100 Ton Holmes w/crew 4½ hours regular	@ 140.00/hr.	630.00
	7½ hours premium	@ 165.00/hr.	1,237.50
	Tool and Block Truck 12 hours	@ 19.50/hr.	234.00
/77	12:00 Midnight to 12:00 Noon		
	100 Ton Holmes w/crew 8 hours premium	@ 165.00/hr.	1,320.00
	4 hours regular	@ 140.00/hr.	560.00
	Tool and Block Truck 12 hours	@ 19.50/hr.	234.00
/77	12:00 Noon to 12:00 Midnight		
	100 Ton Holmes w/crew 4½ hours regular	@ 140.00/hr.	630.00
	7½ hours premium	@ 165.00/hr.	1,237.50
	Tool and Block Truck 12 hours	@ 19.50/hr.	234.00

Penn Erecting and Rigging Company

ERECTORS • RIGGING • MACHINERY MOVING
500 BROWN AVENUE, TURTLE CREEK, PA. 15145
AREA CODE 412 824-5000 -- 271-3388
TWX 710 797 3675

EXHIBIT C PAGE 3

TO: Conrail Corporation

INVOICE NO. XXXXXXXX 1574 - P&S

DATE January 31, 1977

CUSTOMER ORDER NO. MC 44235

TERMS: 2% discount 5 days
1% discount 10 days

DATE

JOB #872 - Standby Conway Yard

1/21/77	12:00 Midnight to 12:00 Noon		
	100 Ton Holmes w/crew 12 hours premium	@ 165.00/hr.	1,980.00
	Tool and Block Truck 12 hours	@ 19.50/hr.	234.00
1/21/77	12:00 Noon to 12:00 Midnight		
	100 Ton Holmesw/crew 12 hours premium	@ 165.00/hr.	1,980.00
	Tool and Block Truck 12 hours	@ 19.50/hr.	234.00
1/22/77	12:00 Midnight to 12:00 Noon		
	100 Ton Holmes w/crew 12 hours premium	@ 165.00/hr.	1,980.00
	Tool and Block Truck 12 hours	@ 19.50/hr.	234.00
1/23/77	12:00 Midnight to 12:00 Noon		
	100 Ton Holmes w/crew 4 hours regular	@ 140.00/hr.	560.00
	8 hours premium	@ 165.00/hr.	1,320.00
	Tool and Block Truck 12 hours	@ 19.50/hr.	234.00
1/23/77	12:00Noon to 12:00 Midnight		
	100 Ton Holmes w/crew 4½ hours regular	@ 140.00/hr.	630.00
	7½ hours premium	@ 165.00/hr.	1,237.50
	Tool and Block Truck 12 hours	@ 19.50/hr.	234.00
1/24/77	12:00 Midnight to 12:00 Noon		
	100 Ton Holmes w/crew 4 hours regular	@ 140.00/hr.	560.00
	8 hours premium	@ 165.00/hr.	1,320.00
	Tool and Block Truck 12hours	@ 19.50/hr.	234.00
1/24/77	12:00 Noon to 1:30 AM		
	100 Ton Holmes w/crew 4½ hours regular	@ 140.00/hr.	630.00
	9 hours premium	@ 165.00/hr.	1,485.00
	Tool and Block Truck 13½ hours	@ 19.50/hr.	263.25
1/22/77	12:00Noon to 12:00 Midnight		
	100 Ton Holmes w/crew 12 hours premium	@ 165.00/hr.	1,980.00
	Tool and Block Truck 12 hours	@ 19.50/hr.	234.00
	Food Bill		52.52
		50,325.20	
	ORIGINAL	Total Amount Now Due	$51,403.27
			1028.07

INVOICE

Penn Erection and Rigging Company

STEEL ERECTORS • RIGGING • MACHINERY MOVING
500 BROWN AVENUE, TURTLE CREEK, PA. 15145
AREA CODE 412 824-5000 — 271-3383
TWX 710 797 3675

EXHIBIT-C- Page 4

Conrail Corporation
2405 Verner Highway
Detroit, Michigan 48216

INVOICE NO. 1621

DATE February 11, 1977

Att: Mr. G. J. Jacks, Mgr. Acct. Operations

CUSTOMER ORDER NO. MC 44235

TERMS: 2% discount 5 days
1% discount 10 days

SCB

Re: #372 - Standby derailments, Conway Yard, 1/31/77 - 2/10/77

1/31/77	3:00 PM to 12:00 Midnight		
	100 Ton Holmes w/crew 1½ hours regular	@$140.00/hr.	$ 210.00
	7½ hours premium	@ 165.00/hr.	1,237.50
2/1	Tool and Block Truck 9 hours	@ 19.50/hr.	175.50
2/1/77 to	12:00 Midnight to 12:00 Midnight		
2/2/77	100 Ton Holmes w/crew 8 hours regular	@ 140.00/hr.	1,120.00
2/2	16 hours premium	@ 165.00/hr.	2,640.00
2/2	Tool and Block Truck 24 hours	@ 19.50/hr.	468.00
2/2/77 to	12:00 Midnight to 12:00 Midnight		
2/3/77	100 Ton Holmes w/crew 8 hours regular	@ 140.00/hr.	1,120.00
2/3	16 hours premium	@ 165.00/hr.	2,640.00
2/3	Tool and Block Truck 24 hours	@ 19.50/hr.	468.00
2/3/77 to	12:00 Midnight to 12:00 Midnight		
2/4/77	100 Ton Holmes w/crew 8 hours regular	@ 140.00/hr.	1,120.00
2/4	16 hours premium	@ 165.00/hr.	2,640.00
2/4	Tool and Block Truck 24 hours	@ 19.50/hr.	468.00
2/4/77 to	12:00 Midnight to 12:00 Midnight		
2/5/77	100 Ton Holmes w/crew 24 hours premium	@ 165.00/hr.	3,960.00
2/5	Tool and Block Truck 24 hours	@ 19.50/hr.	468.00
2/5/77 to	12:00 Midnight to 12:00 Midnight		
2/6/77	100 Ton Holmes w/crew 24 hours premium	@ 165.00/hr.	3,960.00
2/6	Tool and Block Truck 24 hours	@ 19.50/hr.	468.00
2/6/77 to	12:00 Midnight to 12:00 Midnight		
2/6/77	100 Ton Holmes w/crew 8 hours regular	@ 140.00/hr.	1,120.00
2/6	16 hours premium	@ 165.00/hr.	2,640.00
2/7	Tool and Block Truck 24 hours	@ 19.50/hr.	468.00
2/7/77 to	12:00 Midnight to 12:00 Midnight		
2/7/77	100 Ton Holmes w/crew 8 hours regular	@ 140.00/hr.	1,120.00
2/7	16 hours premium	@ 165.00/hr.	2,640.00
2/8	Tool and Block Truck 24 hours	@ 19.50/hr.	468.00
2/8/77 to	12:00 Midnight to 12:00 Midnight		
2/8/77	100 Ton Holmes w/crew 8 hours regular	@ 140.00/hr.	1,120.00
2/8	16 hours premium	@ 165.00/hr.	2,640.00
2/8	Tool and Block Truck 24 hours	@ 19.50/hr.	468.00

212134

continued

INVOICE

Penn Erection and Rigging Company

STEEL ERECTORS · RIGGING · MACHINERY MOVING
500 BROWN AVENUE, TURTLE CREEK, PA. 15145
AREA CODE 412 824-5000 – 271-3383
TWX 710 797 3675

EXHIBIT-C Page 5

Conrail Corporation
2495 Verner Highway
Detroit, Michigan 48216

INVOICE NO. XXXXXX 1621 - page 2

DATE February 11, 1977

STOMER ORDER NO. MC 44235

TERMS: 2% discount 5 days
1% discount 10 days

TE
Ice
#1872 - Standby derailment, Conway Yard, 1/31/77 - 2/10/77

3/77 to 10/77	12:00 Midnight to 12:00 Midnight 100 Ton Holmes w/crew 8 hours regular 16 hours premium	@$140.00/hr. @ 165.00/hr.	1,120.00 2,640.00
3/10	Tool and Block Truck 24 hours	@ 19.50/hr.	468.00
	Food		68.05
	Total Amount Now Due		$40,143.05

202.35

39 340.20

INVOICE EXHIBIT – D

Penn Erection and Rigging Company

STEEL ERECTORS • RIGGING • MACHINERY MOVING
500 BROWN AVENUE, TURTLE CREEK, PA. 15145
AREA CODE 412 824-5000 • 271-3388
TWX 710 797 3675

TO: Conrail Corporation
2405 Verner Highway
Detroit, Michigan 48216

Att: Mr. G. J. Jacks, Mgr. Acct. Operations

INVOICE NO. 1543

DATE January 21, 1977

CUSTOMER ORDER NO. MC 44235
(call by Max Solomon)

DATE

TERMS: 2% discount 5 days
1% discount 10 days

JOB #872 - Derailment, Conway Yard, #5 Hump, 9 cars

1-2				
/14/77	2:30 AM to 8:00 PM			
	No. 1 75 Ton Crane w/crew 8 hours regular	@$110.00/hr.	$	880.00
	9 hours premium	@ 135.00/hr.		1,215.00
	No. 2 75 Ton Crane w/crew 8 hours regular	@ 110.00/hr.		880.00
	9 hours premium	@ 135.00/hr.		1,215.00
	Tool and Block Truck 17 hours	@ 19.50/hr.		331.50
	Permits			279.10
	Food bill			25.52
	Total Amount Now Due		$	4,826.12

96.52

4729.60

186416

INVOICE EXHIBIT - E

Penn Erection and Rigging Company

STEEL ERECTORS • RIGGING • MACHINERY MOVING
500 BROWN AVENUE, TURTLE CREEK, PA. 15145
AREA CODE 412 824-5000 – 271-3388
TWX 710 797 3675

TO: Conrail Corporation
2405 Varnor Highway
Detroit, Michigan 48216

INVOICE NO. JM1818

DATE January 18, 1977

Att: Mr. G. J. Jacks, Mgr. Acct. Operations

CUSTOMER ORDER NO. MC 44236
(call by Max Solomon)

DATE

TERMS: 2% discount 5 days
1% discount 10 days

JOB #872 - Derailment, Island Ave. Yard, 2 engines

1/16/77	4:00 AM to 12:00 Noon		
	75 Ton Crane w/crew 8 hours premium	@$135.00/hr.	$ 1,080.00
	100 Ton Holmes Hi-rail w/crew 8 hours premium	@ 165.00/hr.	1,320.00
	Tool and Block Truck 8 hours	@ 19.50/hr.	156.00
	Permits		93.10
		Total Amount Now Due	$ 2,649.10

52.93

2596.17

186435

In Part I

INVOICE EXHIBIT - F

Penn Erection and Rigging Company

STEEL ERECTORS • RIGGING • MACHINERY MOVING
500 BROWN AVENUE, TURTLE CREEK, PA. 15145
AREA CODE 412 824-5000 – 271-3388
TWX 710 797 3675

TO: Conrail Corporation
2405 Verner Highway
Detroit, Michigan 48216

INVOICE NO. 1576

DATE January 31, 1977

Att: Mr. G. J. Jacks, Mgr. Acct. Operations

CUSTOMER ORDER NO. MC 44235
(call by Max Solomon)

TERMS: 2% discount 5 days
1% discount 10 days

DATE

JOB #872 - Derailment, Vanport, Pa., 5 cars

1/21/77	5:00 PM to 3:30 AM.		
	100 Ton Holmes Hi-rail w/crew 10½ hours premium	@$165.00/hr.	$ 1,73[illegible]
	Rigger Foreman 10½ hours premium	@ 34.00/hr.	35[illegible]
	Two Riggers 10½ hours premium each	@ 31.80/hr.	66[illegible]
	No. 1 583 Sideboom w/operator 6 hours premium	@ 105.00/hr.	63[illegible]
	No. 2 583 Sideboom w/operator 6 hours premium	@ 105.00/hr.	63[illegible]
	977 Cat w/operator 5 hours premium=	@ 75.00/hr.	37[illegible]
	75 Ton Crane w/crew 7 hours premium	@ 135.00/hr.	94[illegible]
	Two Tractor Trailers Lo-boy w/drivers 6 hours premium each	@ 65.00/hr.	78[illegible]
	Dispatcher 5 hours premium	@ 31.80/hr.	15[illegible]
	Tool and Block Truck 10 hours	@ 19.50/hr.	19[illegible]
	Permits for 75 only		15[illegible]
	Food bill		1[illegible]
		Total Amount Now Due	$ 6,63[illegible]

$6,630

130.00

6500.00

193869

Paid

EXHIBIT - G -

Consolidated Rail Corporation

October 11, 1976

OCT 13 1976

Mr. A. A. Terriego, Vice President
and Director
Transport Workers Union of America
1980 Broadway
New York, N.Y. 10023

Dear Sir:

This is in reference to your letter of September 22, 1976, and our discussion on August 25, 1976, relative to outside contractors employes used as ground men in lieu of TWU carmen since inception of the new wreck regulation effective May 1, 1975.

Our review of your files indicated of the forty six (46) claims, six (6), two (2) of which have been resolved, could possibly constitute a violation as referred to above.

Nine (9) did not contain sufficient data to make any determination and the remainder appeared to deal with the following alleged violations:

1. Must use all company equipment before engaging outside contractor.

2. Must exhaust extra list before using outside contractors employes.

3. Late calls for our wreck crews (resolved).

4. Using wreck crew members in other carmens seniority districts.

5. Using carmen in the seniority district where wreck occurs in lieu of the wreck train crew members.

6. Proper facilities not provided for wreck crew members.

Over a period of sixteen months we are not satisfied with even six possible violations and where it is deemed necessary we intend to take corrective action, if not already done so.

It is apparent some disatisfaction exists but in no manner does it reflect widespread abuse or disregard for the Rule.

Never the less, in recognition of your complaint our Vice President, Operations, has issued instructions under date of September 7, 1976, to make sure we are calling our Carmen to Assist contractors in clearing wrecks as provided under the provisions of Regulation 8-F-1 (b)5.

EXHIBIT G- Page 2

We feel the above action illustrates our sincere effort to apply the regulation as intended and corrects the situation complained of.

Very truly yours,

J. R. Walsh
Senior Director-Labor Relations

EXHIBIT G- Page 3

MICHAEL J. QUILL
International President
1934-1966

TRANSPORT WORKERS UNION OF AMERICA

RAILROAD DIVISION

1980 BROADWAY, NEW YORK, N. Y. 10023 • Phone 873-6000

MATTHEW GUINAN
International President

ROOSEVELT WATTS
Int'l Secretary-Treasurer

JAMES F. HORST
Int'l Exec. Vice President

ALBERT A. TERRIEGO
Director-Railroad Division
Int'l Vice President

September 22, 1976

Mr. J. R. Walsh, Senior Director-Labor Relations
Consolidated Rail Corporation
Six Penn Center Plaza
Philadelphia, Pa. 19104

Dear Sir:

In support of our allegations made at our special meeting with representatives of your office August 25, 1976 and your subsequent letter to my office dated September 3, 1976, I have attached hereto a copy of my files of claims from various parts of the Con Rail System which supports our contention of management's complete disregard of Regulation 8-F-1 Wreck Rule effective May 1, 1975.

If local management denies our allegations and if your office is sincere in living up to your commitments during our negotiations for a new Wreck Rule and if you believe you have bargained in good faith, then I am requesting you make available to my office all the bills submitted to your Finance Department for payment by all the outside contractors used in connection with wrecking since May 1, 1975 and let the chips fall where they may.

Let the record show TWU does not and will not stand idly by and let this violation of rules, regulations and abuse of taxpayers' money to continue any longer.

We have several recourses to secure a just solution. However, we believe your office is sincere and will live up to your commitments. Therefore, we are giving you the opportunity to eliminate this problem.

Very truly yours,

Albert A. Terriego

Albert A. Terriego
Director-Railroad Division
International Vice President

AAT:fa
opeiu-153-afl-cio
cc: M Guinan
J. Horst
R. Watts
A. Schwartz
A. E. Egbers
All Local Presidents
Staff Assigned

EXHIBIT - H

Joint Protective Board

JERSEY CENTRAL LINES

Northampton & Bath Railroad Lehigh & New England Railway

Brotherhood Railway Carmen of America
Affiliated with AFL-CIO and CLC

OFFICE OF ALEXANDER LESHIK, GENERAL CHAIRMAN
803 MOUNTAIN AVENUE
MIDDLESEX, NEW JERSEY 08846
PHONE: 201-356-7244

December 20, 1976

Mr. J. R. Walsh
Senior Director Labor Relations
Consolidated Rail Corporation
Six Penn Center Plaza
Philadelphia, Pa. 19104

Dear Sir:

In an arbitrary and capricious manner without notice to the General Chairmen of the Brotherhood Railway Carmen of United States & Canada and Vice President Director Railroad Division of the Transport Workers Union of America, the Consolidated Rail Corporation has been subcontracting out the majority of its wrecking service in Seniority District 6 to the Isringhausen Specialist Inc. in lieu of using ConRail's own wrecking equipment, violating Article II of the Sept. 25, 1964 Agreement as amended by Article V of the Dec. 4, 1975 Agreement.

Furthermore, I have been advised that the Carrier has entered into an Agreement that guarantees the Isringhausen Specialist Inc. sufficient monies per month to warrant Isringhausen to maintain their Holmes Crane on ConRail property in Elizabethport Avenue Yard, Elizabeth, N. J.

ConRail brought the Isringhausen's Holmes Crane on their property sometime in August, 1976, and ConRail has been assigning more and more wrecking work to this outfit, depriving their employes the right to work.

On Dec. 6, 1976, the Isringhausen Crane was used with ConRail (PC) Holmes Crane to turn over and rerail NAHX 92940 and DUFX 9911 at the Bayway Refinery. No wreck crew ground men were used to work with the Isringhausen Crane.

On Dec. 12, 1976 in Brills Yard (CNJ) under the Wilson Avenue Bridge at the Oak Island Interchange, the Isringhausen Crane rerailed GATX 99870, UTLX 96730, PFGX 5302 and GATX 87231. No members of the E'port Shop Wreck Crew were called for the Brills Yard derailment. Also on the same day, the Isringhausen Crane rerailed 4 cars in South Kearny.

On Dec. 18 and 19, 1976, the Isringhausen Crane was used for a wreck caused by Job 2, Engine No. 1553 at CY Tower on the CNJ side of the connecting track to Waverly Yard. Five cars were rerailed by this crane. No E'port Shop wreck crew members were called.

A partial list is enclosed indicating when the Isringhausen Crane

EXHIBIT-H Page 2

Mr. J. H. Walsh December 20, 1976

was used in lieu of using ConRail wrecking equipment: Nov. 20, 21, 22, 23 and 24, 1976. Also Dec. 6, 8, 9, 10, 12, 1976, in violation of Article II, Section 1, 2 and 3 of the Sept. 25, 1964 Agreement as amended by the Dec. 4, 1974 Agreement. No advance written notice of management's intent to subcontract out their wrecking service was provided to the involved General Chairmen of the BRC of U.S. & C. and the Director Railroad Division of the TWU.

An early response would be appreciated.

Very truly yours,

Alexander Loshik

Copies to:
Messrs C. C. Bevins
A. Torriego
C. Prutzman
R. Shoemaker
P. Yeager
H. Kwiatkowski

EXHIBIT - I

RECORD OF PRODUCTION

YEAR	NEW CARS	REPAIR CLASS I	II	III	IV	YEAR TOTAL	GRAND TOTAL
1955	0	685	15	0	0	700	700
1956	1,059	4,819	176	0	0	6.054	6,754
1957	2,851	3,519	308	0	0	6.678	13,432
1958	3,669	0	201	25	0	3.895	17,327
1959	8.244	1,386	412	451	0	10.493	27,820
1960	2,693	8,236	0	2	185	11.116	38,936
1961	3,934	3,585	60	198	1,016	8.793	47,729
1962	2,847	2,907	56	2.778	315	8.903	56,632
1963	504	7,270	102	381	116	8.373	65,005
1964	3,665	2,451	54	3,661	14	8.865	74,870
1965	6,729	3,371	0	1,761	89	11.950	86,820
1966	2,724	3,135	0	2,114	40	8.013	94,833
1967	756	4,085	.170	867	28	5.906	100,739
1968	3,739	3,548	220	236	91	7.834	108,573
1969	1,830	4,163	1,473	128	449	8.043	116,616
1970	1,489	3,367	1,332	310	295	6.793	123,409
1971	0	7,011	1,308	339	358	9.016	132,425
1972	0	6,130	542	2,691	71	9.434	141,859
1973	0	7,069	1,113	3,844	1,228	13.254	155,113
1974	0	9,449	0	4,022	2,440	15.911	171,024
*1975	0	9,925	0	3,900	0	13.325	184,349
TOTAL	46,753	96,111	7,542	27,808	6,735		184,349

* 1975 projected schedule

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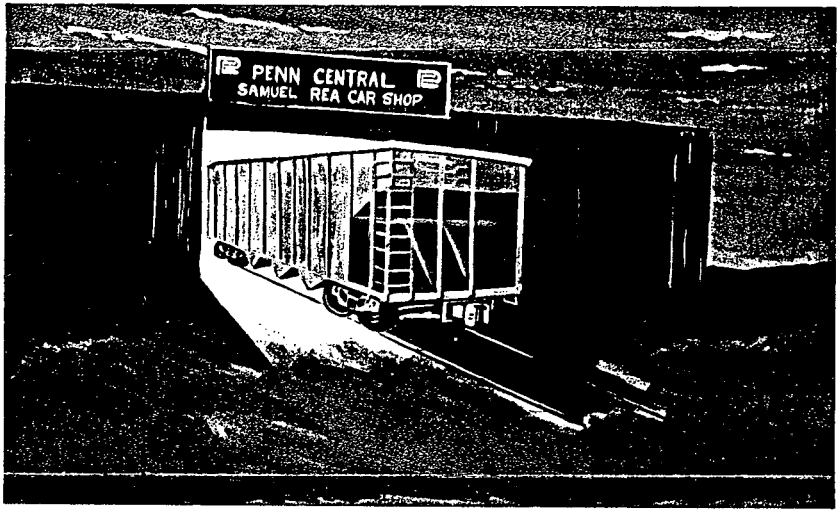

Matthew Guinan
International President

James F. Horst
Int'l. Executive Vice President

Roosevelt Watts
Int'l. Sec'y-Treasurer

Bernard E. Porta
President, Local 2017

Oliver H. Yingling
Sec'y-Treasurer, Local 2017

Richard J. Zeak
Car Shop Chairman, Local 2017

TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO

1980 Broadway, N. Y., N. Y. 10023 — 212-873-6000

Part II

As stated before, outside contractors are a parasite to ConRail's operations and unless these parasites are eliminated, ConRail can never succeed and become a profit-making and viable railroad in the Northeast United States.

The Consolidated Rail Corporation has engaged the use of outside wrecking contractors who are stationed at 145 separate locations throughout the ConRail system and are employed on a daily basis on major and minor derailments of all kinds. The contractors are paid in various amounts totaling tens of millions of dollars even though, in a large majority of cases, the contractor is not needed because ConRail's own wreck forces can perform the wreck work across the system, particularly in cases where there is no extreme emergency involved.

Contractors are ordered indiscriminately across the system as soon as a derailment occurs even though the derailment involved is a minor one involving a pair of wheels that can be easily corrected by ConRail's own forces. In many cases, contractors are ordered for a derailment and by the time the contractor arrives, the derailment is corrected by ConRail forces but the contractor is paid several thousand dollars for no work performed. These are not isolated cases because they happen hundreds of times weekly across the system resulting in multi-million dollar losses to ConRail.

Listed below is the network of parasite contractors which covers an average of 14.5 miles each on ConRail's main trunk lines from Boston, Mass., in the east to St. Louis, Mo., and Chicago, Ill., in the west. In other words, for every 14.5 miles of main trunk lines, there is a contractor located and ready and waiting to be called for the derailment. ConRail employs wreck forces of its own who cover the same areas and are available for use in the majority of cases. They are not used but are paid for staying at home. When ConRail uses the contractor it also uses its own forces or reimburses them when they are not called.

Listed below are the contractors and locations:

New York

Dalrymple, Gorick, Olari, Lombardi & Sons, J. Evans Co., Winters Railroad Service, Inc., A. Miland & Sons, Schipp Construction, Atlas Contracting, Atlas Contractor, Don Milligus, Gridley & Sons, Anthony Julian, Ludlow.

Rig All, Inc., Mor-Trak, Inc., J. E. Polingra, Inc., Tartaglia, Inc., Carpenter Rigging, Syracuse Rigging, Higgins Erectors, Rosco Equipment, Rite Equipment, Sherman Equipment, Lake Steel Crane Rental, Rapp Rental, Leach Steel-Crane Rental, Hulcher Railway Service.

Pennsylvania

Ewbanks Co., Spatt, Beers, Donnermuth, Hoffman, Tri-State Emergency Service, Penn Wrecking Service, Isringhausen Railway Service, Perry Truck & Erection, Sutto's Geiben Brothers, Inc., Hulcher Emergency Wrecking Co.

New Jersey

Sperher, Hoffman, Sieuers, Isringhausen Co.

Canada

C. R. Stewart Equipment Limited, Modern Crane Rentals Limited, Provincial Grading Excavating, Higgs & Higgs Ltd., Draper Brothers Equipment Ltd., Andrew Merrilees Limited, E. G. Marsh Limited, Duncan Cranes Limited, Noir Cartage Limited, E. Bondy Excavating & Trucking Ltd., Ranta Enterprises, Strickland Bulldozing Ltd.

Dicks Bulldozing Service, G. W. Cattle Construction Ltd., Hi Pro Erectors Limited, Kent Construction Equipment, Bill Shadd Trucking Bulldozing, O. L. Beam Excavating, R. E. Law Crushed Stone Ltd., Donn Construction Ltd., D. B. Kelly Construction Co. Ltd., Watters Brothers Ltd., Brandow-MacDonald Construction Ltd., Vanderburg Excavating Ltd., Higgs & Higgs Ltd., C. R. Stewart Equipment Limited.

Aldershot Equipment Rental Ltd., Cayuga Material & Construction Ltd., Kent Construction Equipment, The George Campbell Co., M. J. Storm Ltd., J. Hugh Clark, Dekay Construction Ltd., Mailloux & Sons Ltd., Modern Crane Rentals Ltd., Ranta Enterprises Limited, Central Equipment & Supplies, Nadrofsky Steel Erecting Ltd.

G. W. Cattle Ltd., Aldershot Equipment Rental, Draper Brothers Equipment Ltd., Joseph Desorcy, Elgin Construction, Dean Construction Co. Ltd., Everitt Walker Enterprises Ltd., Waterford Sand & Gravel Ltd., A. B. C. Moving & Cartage, Canadian Machinery Movers Ltd., W. S. Fullerton Construction Ltd., Marentette Brothers Ltd., Smith Brothers Excavating Ltd.

Ohio

Henry Selinsky, Inc., Johnny's Towing, Wilson Towing, R. H. Metzcar, George Igel & Co., Fondessy Corp., All Erection Crane, Tri-State Emergency Service, Hulcher Emergency Wrecking, Penn Erection Co., Isringhausen Co.

Delaware

Active Crane Rental.

Massachusetts

Zielinski Brothers, Antenellie Crane, Inc., Petricca Construction Co., Northeastern Crane, Hulcher Emergency Wrecking.

Connecticut

B. N. Beard Co., C. W. Blakeslee & Son, Keil Contracting Corp., Lombardi & Sons, Hulcher Emergency Wrecking Co.

Michigan

Donnigen Bros., Tom Robinson, Shinville, Davo, Laramie Crane, Johnson & Sons, Klochko Equipment, J. W. Labadie, Owen Thomas, Brown Bros., Schmaker Construction Co., River Side Gravel Co., Curran Crane, Michigan Tractor, G. E. Locke Co., Robinson Cartage Co., Hulcher Emergency Wrecking.

Indiana

Panscape Construction Co., Dotlich Construction Co., Vance Corporation, Ham Scape, Martin, Inc., Hulcher Emergency Wrecking Co., Isringhausen Co.

Illinois

York, Hulcher Railway Service.

ConRail is party to a labor agreement with the Transport Workers Union of America, AFL–CIO, and the Brotherhood of Railway Carman of the United States and Canada. The labor agreement requires ConRail to use its own forces to perform all ground work on all derailments and wrecks across its system. When its own employees are not used for wrecks or derailments, ConRail management pays to its employees under contract millions of dollars for no work performed. The following is an example of a normal payment to ConRail employees who were not called to perform the work after a contractor was used. This particular payment amounted to $2,663.42 and $861.75 respectively for no work performed on a single wreck.

Example No. 1 represents a payment to wreck forces at Conway, Pa., in the amount of $2,663.42 because the management used Hulcher Emergency Wrecking Co. and Penn Erection Company on a derailment and failed to call its own forces to the derailment in Tunneltown, Pa., to rerail 20 cars that could have been easily performed by either one of 3 ConRail wreck train forces stationed in Conway, Pa., Kiski Jct., Pa., or Altoona, Pa., that were located in close proximity to the derailment, providing ConRail equipped its own wreck forces with 100-ton mobile cranes, which could be provided by ConRail at very little cost.

Example No. 1

MPA–846 CARDS FOR PAYMENT OF TIME CLAIMS

Reason for claim: Employee No.: Name	Hours claimed	Date of claim	Amount paid
Not called to work with outside contract wrecking equipment:			
261884: J. A. Davis	17	Oct. 23, 1977	$130.90
201918: D. G. Bologna	25	do	192.50
233472: H. J. Hoover	25	do	192.50
270190: M. D. Brady	17	do	130.90
209145: W. R. Sharpless	25	do	192.50
235732: F. J. Fucci	17	do	130.90
280960: C. J. Roebuck	17	do	128.86
261869: A. L. Vilk	17	do	128.86
274874: F. E. Brandenburg	17	do	128.86
203621: M. G. Marsilio	17	do	128.86
261874: H. R. Brobeck	17	do	128.86
261964: J. J. Bosco	17	do	128.86
200608: B. S. Lowther	17	do	128.86
270952: P. J. Lapie	25	do	189.50
278165: J. F. Stussy	17	do	130.90
262764:[1] S. Sassic, Jr	17	do	130.90
277426:[1] M. P. Pucci	25	do	192.50
277263:[1] J. Pallas	17	do	130.90
Total			2,663.42

[1] Previously submitted MPA–846 cards for payment.

Example No. 2

MPA–846 CARDS FOR PAYMENT OF TIME CLAIMS

Reason for claim: Employee No.: Name	Hours claimed	Date of claim	Amount paid
Violation of wrecking agreement:			
271302: R. M. Penson	8.0	Aug. 20, 1977	$61.50
276113: R. L. Himmelsbaugh	8.0	do	60.54
271303: P. M. Sassic	8.0	do	61.50
261869: A. L. Vilk	6.0	Aug. 6, 1977	45.48
276113: R. L. Himmelsbaugh	3.0	Aug. 29, 1977	21.36
275107: R. J. Cavender	4.5	do	32.35
274895: W. M. Burton	4.5	do	32.04
277913: L. F. Slocum	4.5	do	32.04
278363: I. W. Waldron	4.5	do	32.04
275205: R. J. Coleman	3.0	June 28, 1977	21.57
278363: I. W. Waldron	3.0	do	21.36
274985: W. M. Burton	3.0	do	21.36
277431: M. M. Pucci	3.0	do	21.57
274647: A. L. Barrett	11.0	July 6, 1977	84.70
Bypassed overtime list, violation of regulation 2–A–1(e):			
218680: W. Suhy	8.0	Aug. 8, 1977	61.50
275799: M. L. Fusco	3.0	Sept. 19, 1977	22.74
278139: M. S. Szuba	3.0	Oct. 1, 1977	22.74
274551: E. Angeline	3.0	Oct. 6, 1977	22.74
275669: F. Fehir	3.0	Oct. 26, 1977	22.74
Violation of wrecking agreement, violation of regulation 2–A–1(e):			
275205: R. J. Coleman	10.0	do	77.00
275799: M. L. Fusco	3.0	Oct. 3, 1977	22.74
274860: J. A. Bozza	3.0	Oct. 13, 1977	22.74
262020: J. A. Gasper	3.0	Oct. 21, 1977	22.74
278315: R. V. Verrico	3.0	Nov. 1, 1977	22.74
275111: B. A. Cercone	3.0	do	23.40
278451: J. Whelen	2.0	do	15.16
276775: L. F. Marsilio, Jr	3.0	Oct. 3, 1977	23.40
253788: C. H. Goodwald	2.0	Oct. 29, 1977	15.40
209345: D. W. Penttzer, Jr	3.0	Oct. 21, 1977	22.74
241015: R. Katekovich	3.0	Oct. 29, 1977	22.74
253972: J. Taddy	3.0	do	22.74
Total			861.75

Payments as shown in examples No. 1 and 2 are normal payments made daily and are repeated countless times each day across the system as will be shown in later evidence.

CONTRACTORS ARE USED WHEN NOT NEEDED

Contractors are used when not needed across the system daily. The following is an example at only one of the 145 locations where ConRail employes a contractor to do rerailing work.

Mor-Track is located in Liverpool, N.Y., and operates a very small company that services only the Syracuse area for ConRail. We have examined a 22-day period of Mor-Track's activities on ConRail derailments in the Syracuse area, during a period from January 26, 1978, to February 16, 1978. ConRail has its own wreck forces stationed at Syracuse Dewitt yard with a crew of 9 men, a 200-ton steam crane, plus an over-the-road mobile Holmes crane similar to that used by contractors. Mor-Trak is a small concern and generally is used on jobs that ConRail's own forces can easily handle, as explained by the following letter dated May 8, 1978, and followed by several invoices totaling $5,163.08, which was submitted by the local union representative in Syracuse, N.Y.

To make a contrast between the contractors' charges for clearing the derailment on invoice No. 642, the payment to the contractor was $4,227.66. This derailment could have been performed for the sum of $380.00 that ConRail paid to its own forces if their own forces had two 100-ton mobile cranes. ConRail would have realized a savings of $3,847.00 if ConRail owned its own crane.

On invoice No. 643 the minor derailment was already corrected by ConRail forces before the contractor arrived at a cost of $114.00. The contractor charged $935.42 for answering its telephone.

Attachments.

TRANSPORT WORKERS UNION OF AMERICA,
RAILROAD DIVISION,
Syracuse, N.Y., May 8, 1978.

Mr. A. A. TERRIEGO,
International Vice President,
Director, Railroad Division,
New York, N.Y.

DEAR BROTHER TERRIEGO: Enclosed you will find two invoices from Mor-Track Inc. One is numbered 642 and the other is numbered 643. On invoice 642 for a derailment that occurred on March 21, 1978 Mor-Track charged ConRail 4227.66 for a derailment that could have easily been cleaned up by using the Dewitt wreck train. On the above mentioned date Mor-Track righted the cars with our members, including myself, doing the ground work. However, only 5 members of the wreck train crew were used and Mor-Track had 9 people at the wreck scene. Also Mor-Track had at the scene 1 boom truck in which it charged 350.00 dollars for, and a bus with a diner setup with coffee pot, stove etc. Mor-Track charged for 1 superintendent at 14.00 dollars per hour for a total of $140.00. The only superintendent that I saw there was the ConRail wreck-master.

On invoice No. 643 Mor-Track charged ConRail $935.42 for a derailment that was cancelled and absolutely no work was performed by the Mor-Track company.

I am also sending copies of this letter to Milo in Altoona.

Fraternally yours,

JOHN HEINDORF, *President.*

Enclosures.

P. O. Box 149
LIVERPOOL, NEW YORK 13088

Phone 315 652-3469

No 642

INVOICE DATE	SALESMAN
4/3/78	

SHIP TO

TO CONSOLIDATED RAIL CORPORATION
DEWITT CAR SHOPS
E. SYRACUSE, NY 13057
ATTENTION: MR. W. BURCHARD
REFERENCE: DERAILMENT ERIE BLVD. W., SYRACUSE, NY ON 3/21/78

YOUR ORDER NO.	DATE SHIPPED	SHIPPED VIA	F.O.B. POINT	TERMS
Verbal				N/10

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
	EQUIPMENT		
10 Hrs.	Two (2) Side boom dozers	$95.00/Hr	$1900.00
4 Hrs.	Two (2) Low-bed Trailers	$40.00/Hr	$ 320.00
10 Hrs.	One (1) Boom Truck	$35.00/Hr	$ 350.00
8 Hrs.	One (1) Light plant	$25.00/Hr	$ 200.00
10 Hrs.	One (1) Tool Comp. Unit	$20.00/Hr	$ 200.00
4 Hrs.	Two (2) Escort Trucks	$11.00/Hr	$ 88.00
			$3058.00
	LABOR		
10 Hrs.	One (1) Superintendent	$14.00/Hr	$ 140.00
10 Hrs.	Three (3) Operators	$12.00/Hr	$ 360.00
10 Hrs.	One (1) Mechanic	$12.00/Hr	$ 120.00
4 Hrs.	Two (2) Drivers	$11.00/Hr	$ 88.00
10 Hrs.	Two (2) Laborers	$11.00/Hr	$ 220.00
			$ 928.00
	Two (2) Permits	$25.00 Ea.	$ 50.00
	SUB-TOTAL		$4036.00
	7% NYS Tax On Equipment		$ 191.66
	TOTAL DUE THIS INVOICE		$4227.66

WE THANK YOU.

A FINANCE CHARGE OF 1½% PER MONTH IS APPLICABLE TO AMOUNTS UNPAID 30 DAYS FROM INVOICE DATE.

ORIGINAL

Thank You

MURTAUGH, INC.
P. O. Box 149
LIVERPOOL, NEW YORK 13088

Phone 315 652-3469

№ 643

INVOICE DATE	SALESMAN
4/3/78	

SHIP TO

TO CONSOLIDATED RAIL CORPORATION
DEWITT CAR SHOPS
E. SYRACUSE, NY 10357
ATTENTION: MR. W. BURCHARD
REFERENCE: DERAILMENT, ADAMS CENTER ON 3/30/78 (CANCELLED ON ROUTE)

YOUR ORDER NO.	DATE SHIPPED	SHIPPED VIA	F.O.B. POINT	TERMS
Verbal				N/10

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
	EQUIPMENT		
3 Hrs.	Two (2) Side boom dozers		NC
3 Hrs.	Two (2) Low-bed trailers	$40.00/Hr	$ 240.00
3 Hrs.	One (1) Boom Truck	$35.00/Hr	$ 105.00
3 Hrs.	One (1) Tool Comp. Unit	$20.00/Hr	$ 60.00
3 Hrs.	One (1) Light Plant	$25.00/Hr	$ 75.00
3 Hrs.	Two (2) Escort Trucks	$11.00/Hr	$ 66.00
			$ 546.00
	LABOR		
3 Hrs.	One (1) Superintendent	$14.00/Hr	$ 42.00
3 Hrs.	Three (3) Operators	$12.00/Hr	$ 108.00
3 Hrs.	One (1) Mechanic	$12.00/Hr	$ 36.00
3 Hrs.	Four (4) Drivers	$11.00/Hr	$ 132.00
	Two (2) Permits	$25.00 Ea	$ 50.00
			$ 368.00
	SUB-TOTAL		$914.00
	7% NYS Tax on Equipment		$ 21.42
	TOTAL DUE THIS INVOICE		$935.42

WE THANK YOU.

A FINANCE CHARGE OF 1½% PER MONTH IS APPLICABLE TO AMOUNTS UNPAID 30 DAYS FROM INVOICE DATE.

ORIGINAL

Thank You

The total amount paid to Mor-Track for performing derailment service in the 22-day period mentioned above was $61,195.11 and at the same time ConRail paid to its own wreck force or owed to its own wreck force the total amount of $11,054.41, which makes a combined total of $72,249.52.

It is clear that the $61,195.11 payment to Mor-Track was paid for nothing. ConRail could have used its own forces exclusively for the sum of $11,054.41 if ConRail provided itself the equipment. To simplify the explanation, ConRail paid $72,249.52 for work that they were already obligated to pay and paid to their own employees, in the sum of $11,054.41.

Millions of dollars are wasted and should never have to be paid from ConRail funds and should be used for other purposes. Again I reiterate this example can be multiplied many, many times daily across ConRail's system. By no means is the above explanation an isolated incident.

We can prove that the above happens at all locations across the system on a *daily* basis.

DERAILMENTS: SYRACUSE, N.Y., FROM JAN. 26, 1978 TO FEB. 16, 1978

Date and contractor used	Paid to contractor	Paid or owed to ConRail wreckmen
Mor-Trak:		
Jan. 26, 1978	$5,115.22	$1,065.40
Jan. 27, 1978	6,069.94	1,065.40
Jan. 29, 30, 31, 1978	2,425.35	228.24
Jan. 31, 1978	7,861.52	1,461.12
Feb. 3, 1978	657.13	152.20
Feb. 5, 1978	1,055.18	915.60
Feb. 6, 7, 1978	11,636.34	1,641.60
Feb. 9, 1978	2,728.06	301.60
Feb. 10, 11, 1978	1,549.57	342.05
Feb. 12, 1978	5,809.68	699.20
Feb. 13, 14, 1978	14,014.16	2,420.80
Feb. 16, 17, 1978	2,278.00	761.20
Total	61,195.11	11,054.41
Grand total	72,249.52	

In projecting Mor-Track's activities on a yearly basis, on information made available to us in the Syracuse area, we find that Mor-Track was paid $1,040,315 from ConRail funds in a one-year period for performing derailments that ConRail is already obligated to pay and has paid to its own employees and could have saved. We invite this committee to examine and conduct a thorough investigation into these practices. It is alarming and scandalous when the same expense is applied to the other 135 locations across the system, and when you consider that Mor-Track is only a small operator with only a fraction of the business.

The outside contractors hired by ConRail to perform rerailing service are not policed, or checked for the service performed or the equipment used. This organization has made many complaints to the highest level of ConRail management for the past 2 years, but nothing is done to eliminate the abuse and waste by using contractors needlessly.

After a complaint by this organization of the handling of a derailment situation in Salina, Pa., which cost ConRail an exorbitant price of $28,426.00 to clear up a derailment, it did make a token effort to examine the cost of handling derailments. The following is a copy of a communication from the chief mechanical officer stationed at ConRail headquarters in Philadelphia addressed to all mechanical officers in the field and to general managers and the operating vice president. I regret to say that the memorandum from the chief mechanical officer was completely ignored by those who are responsible for cleaning up derailments. The situation has become worse and the contractors are reaping a harvest with no apparent restraints or checks by management.

You will note the waste complained of by the chief mechanical officer on the system. Again, I must reiterate that ConRail must pay its own employees, in addition to the cost of using the contractors' equipment. The memorandum serves as a confirmation by ConRail of proof that the management is fully aware

of the situation, and refuses to correct the situation and save ConRail millions of dollars.

After a close examination and study using information made available to us by interested and concerned members of ConRail management and rank and file employees, we have calculated that ConRail has expended more than $200,000,000 of its funds for wreck and derailments in 1977 and the same study shows that $22,000,000 would have been sufficient including the purchase of 30 mobile 100-ton cranes at a cost of six and one-half million dollars. These 30 100-ton mobile cranes stationed strategically across the system could perform ninety percent of the work that contractors are now performing. This would result in a $180,000,000 savings to ConRail each year.

OUTSIDE CONTRACTORS' BILLS—DERAILMENTS

I have been going over the outside contractors' bills that you have approved and am attaching copies of those picked at random which I think should have been questioned.

After reviewing the attached, I believe you will agree that we are not paying enough attention to approval of these bills and I do not want any signatures applied to these invoices unless they are properly analyzed.

I have the following comments:

Hulcher Bill No. 1—This was a 2-car derailment at Columbus, Ohio. Hulcher was called with 12 pieces of equipment, a General Foreman and a Relief Operator, and was cancelled at the end of 2 hours at a cost of $2,704. Note that hotel rooms were charged at $647. How ridiculous can you get!

Hulcher Bill No. 2—This was a 4-car derailment at Catawba, Ohio. The cost was $3,787. For 4 cars, they dispatched 12 pieces of equipment and 11 people. We are averaging over $1,000/car rerailed. Who orders all the extra equipment and personnel for a 4-car derailment?

Hulcher Bill No. 3—The cost was $28,426 for the derailment at Salina, Pa. Four (4) pick-up trucks were involved, along with 1 Division Superintendent, 2 HULCHER General Foreman, 11 Truck Drivers and 10 Laborers. Isn't anyone checking the personnel that are ordered? Why did we need all this equipment and a HULCHER superintendent?

On each and everyone of these bills I would like to have Form MP-200 attached. This form is entitled "Wreck Train Operation Report". It should be completely filled out showing the number of ConRail people on hand and all the other data required. These bills are running into the hundreds of thousands of dollars and I want each of you to thoroughly review this with not only the Mechanical but also the Operating Personnel who are involved in calling contractors to the wreck scene. We should use our own people and equipment when at all possible. Just to call HULCHER, you will note, costs several thousand dollars even if we cancel the call.

Part III

In previous testimony in this statement, I mentioned contractors invoices for 22 day periods at the Conway, Pa. yard, located in western Pennsylvania, in the central region of ConRail, and followed by a 22 day period taken from DeWitt yard, located in Syracuse. N.Y. in the eastern region of ConRail. In this part of our statement we examined a 22 day period of the activities of one contractor at Toledo, Ohio, located in the western region of the ConRail system, thereby covering a wide area of the railroad and the results are identical which supports our allegations.

There are 4 outside contractors that ConRail has engaged to supply equipment and crews in the Toledo, Ohio area. Namely, Hulcher Emergency Wrecking Service, Jeffers Company, Isringhausen Company and Fondesy Enterprises, Inc. that operates a trucking, Excavating, and waste disposal company in the Toledo, Ohio area. We have selected Fondesy Inc. because it operates a small company of the same size as the Examples presented from Conway, Pa., and Syracuse, N.Y. Fondesy is only one of the 146 contractors used by ConRail throughout it's system and the results of our investigation show a similar pattern as at the other two locations that we have examined. We are convinced that these patterns can be applied to all locations that use the 146 contractors listed in this statement. Certainly the following example is consistent with the others, and that, is an in-

credible case of mismanagement and misuse of ConRail funds which certainly warrants suspicion.

Fondesy Inc. is a small concern and is used only on minor derailments that ConRail's own wreck forces can easily handle, mostly without a crane of any kind, and Fondesy and its equipment are not needed. In addition Fondesy rents various types of air compressors, and small shop equipment to ConRail.

The railroad formerly had 2 100-ton steam wreck derricks, and an over-the-road mobile crane with 2 separate wreck crews stationed at Toledo that performed all of its derailments, and contractors were never used. All of the wreck equipment at Toledo, Ohio disappeared and was never replaced leaving the railroad vulnerable and defenseless against wreck emergencies, and 100 percent dependent on the use of outside equipment at Toledo at a cost of 10 to 20 times more than if it had used its own equipment. We contend that this action was by design, as at other locations throughout the system.

Following are invoices that cover a 22 day period of minor derailments in the Toledo, Ohio area that were submitted by Fondesy, Inc., that covers a period from January 27 to February 17, 1978. We must reiterate that ConRail's own forces could have performed all of the work without the assistance of the contractor at 10 to 20 times less cost.

Following is a chart that we have prepared using a 7 day period of invoices for the period January 30th to February 6, 1978. Please note that Fondesy submits an identical invoice of $2,013.00 on each date in the period totalling 9 invoices of identical amount. These invoices should be investigated by this subcommittee. Please note that on 4 of the 9 invoices Fondesy was paid for standby service which means that no work was performed and the total for those invoices amounts to $8,052.00. Please note the pattern of similar amounts of $2,013.00, $1,715.00 and $2,898.00.

Date	Amount			
Jan. 30	$2,013			
Feb. 1	2,013	1,715.00	2,898	
Feb. 2	2,013	1,193.00	2,898	
Feb. 3	2,013	1,715.00	1,302	836.50
Feb. 4	2,013	1,084.50		
Feb. 4, 5	2,013			
Feb. 5	2,103			
Feb. 5, 6	2,013			
Feb. 6	2,013	1,715.00	871	

The total amount paid to Fondesy Inc. for rental of its' equipment for the 22 day period was $57,342.51.

These expenditures are consistent with every other location we have examined. With all information made available to us we have concluded that Fondesy Inc. takes down $1,600,000. Yearly, of ConRail funds and we must reiterate that this expenditure could easily be eliminated by using ConRail's own wreck forces with its' own equipment, particularly when ConRail is obligated and must pay their own wreck forces whether they use the contractor or not.

Attachments:

[illegible] Corporation
Trucking Excavating Waste Disposal
876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521-AC 419

February 9, 1978 | 1 | 26711

Our Order No.	Your P.O. No.	Customer No.
		53

Customer Name and Address: Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Service Location and Address:

Attention: R.W. Williams Stanley Car Shop

Line No.	Qty.	JOB/SERVICE DESCRIPTION Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSION
		Rental: Set 5 engines back on track. Stanley Yard 1/27 & 1/28				
1	1	90 Ton Lima Crane w/crew	19	OT	167.75	3,187.25

Page 4

Tickets Signed By: D.L. Bingin

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay ▶ $3,187.25

Fortney Enterprise Inc.

Trucking Excavating Waste Disposal
876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521-AC 419

Date	Page	No.
January 31, 1978	1	26610

Our Order No	Your P.O. No	Customer No.
		53

Customer Name and Address: Consolidated Rail Corporation
P. O. Box 1011
Toledo, OH 43607
Attention: R. W. Williams Stanley Car Shop

Service Location and Address:

JOB/SERVICE DESCRIPTION

Line No.	Qty.	Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSION
		Rental: ReRailment Walbridge Road,				
		Plow Snow 1/28/78				
1	1	90 ton Crane w/crew	12	OT	167.75	2,013.00
2	1	Permit				50.00

Page 5

Signed By: J. Cipeaire

All accounts subject to 1½% monthly (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days FINANCE CHARGE on invoice.

Please pay $2,063.00

44-399 322

CUSTOMER

Trucking Excavating- Waste Disposal
876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521-AC 419

January 31, 1978 | 1 | 26645

Our Order No.	Your P.O. No.	Customer No.
		53

Customer Name and Address: Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Service Location and Address:
Attention: R.W. Williams Stanley Car Shop

JOB/SERVICE DESCRIPTION

Line No.	Qty.	Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSION
		Rental: Snow Removal Unload Equipment, Stanley Yards 1/29/78				
1	1	90 Ton Lima Crane w/crew	14	OT	167.75	2,348.50
2	1	Permit		each		50.00

Page 6

Items Signed By: Herman O. Silen

All accounts subject to 1.5% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay $2,398.50

CUSTOMER 44-399 323

Trucking Excavating - Waste Disposal
876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521-AC 419

Invoice # 26635

Our Order No.	Your P.O. No.	Customer No.
		53

Customer Name and Address: Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Service Location and Address:

Attention: R.W. Williams Stanley Car Shop

Line No.	Qty.	JOB/SERVICE DESCRIPTION Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSION
		Rental: Stanley Yard 1/29/78				
1	1	90 Ton Crane w/crew	13	OT	167.75	2,180.75

Page 7

Tickets Signed By

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay $2,180.75

44-399 224

Trucking Excavating Waste Disposal
876 OTTER CREEK ROAD
OREGON OHIO 43616
Phone 726 1521-AC419

January 31, 1978 | 1 | 26637

Order No.	Your P.O. No.	Customer No.
		53

Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Service Location and Address

Attention: R.W. Williams Stanley Car Shop

SHIP	ICE DESCRIPTION Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSION
	Rental: Rerailing & Standby 1/30/78				
1	90 Ton Crane w/crew	12	OT	167.75	2,013.00

Page 8

Billed By

Approved

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

CUSTOMER

Please pay ▶ $2,013.00

Trucking Excavating Waste Disposal
876 OTTER CREEK ROAD
OREGON, OH 43616
Phone 726-152? AC 419

February 6, 1978 | 1 | 28658

Our Order No.	Your P.O. No.	Customer No.
		53

Customer Name and Address: Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Service Location and Address:

Attention: R.W. Williams Stanley Car Shop

Item No.	Qty.	Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSION
		Rental: Rerailment Engine #6023 & Standby Stanley Yard 2/1/78				
1	1	90 Ton Lima Crane w/crew	12	OT	167.75	2,013.00

Page 9

Work Signed By: R.B. Salyers

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay $2,013.00

CUSTOMER

44-399 326

ucking Excavating Waste Disposal
876 OTTER CREEK ROAD
OREGON OHIO 43616
Phone 725-1521-[illegible]419

February [illegible], 197[illegible] 1 26664

Purchase Order No. | Your [illegible] | Customer No. 53

Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Attention: R.W. Williams Stanley Car Shop

Qty.	Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSION
	Rental: Derailment #CR227[illegible]7, #CR888511, #CR64611,				
	# [illegible]X32014 Stanley Yard 2/1/78				
1	90 Ton Lima Crane w/crew	8	ST	130.50	1,044.00
		4	OT	167.75	671.00

Page 10

Tickets Signed By R.B. Salyer

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay $1,715.00

Trucking Excavating Waste Disposal
870 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521 AC 419

February 6, '78 1 26662

Contract No. 53

Consolidated Rail Corporation
P.O. Box 10
Toledo, OH 3097

Attention: R.W. Williams Stanley Car Shop

No.	Qty.	Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSION
		Rent : Rerailment #C&N521418, #CNH045'4, Southern				
		373 , #CNJ12732 Stanley Yard 2/2/78				
1	1	Lima Crane w/crew	4	ST	130.50	522.00
			4	OT	167.75	671.00

Page 18

Invoiced By

R.E. Salyer

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay $1,193.00

Trucking Excavating Waste Disposal
876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-521-AC419

February 6, 1978 | 1 | 26661

Customer No. 53

Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Attention: R.K. Williams Stanley Car Shop

Line No.	Qty.	JOB/SERVICE DESCRIPTION Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENS.
		Rental: Derailment #GN13312, #CR64611, #C565265, #LJSE1059 Stanley Yard & Willis Day 2/2/78 & 2/3/78				
1	1	65 Ton Lima Crane w/crew	8	ST	96.25	770.00
			16	OT	133.00	2,128.00

Page 1

Tickets Signed By
M.J. Cipriani

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice

Please Pay
$2,898.00

Customer

Trucking Excavating Waste Disposal
876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521-AC 419

February 6, 1978 | 1 | 26660

Our Order No.	Your P.O. No.	Customer No.
		49

Sold to Name: Consolidated Rail Corporation
P. O. Box 1011
Toledo, OH 43697

Service location and directions:

Attention: R.W. William, Stanley Car Shop

Job/Line No.	Price Qty.	Description	HOURS	UNITS	PRICE /UNIT	TOTAL EXTENSION
		Rental: Rental Agreement #CR64611, EQE1362, C&O90782,				
		#Engineer CR5628 Stanley Yard 2/3/78				
1	1	65 Ton Lima Crane w/crew	8	ST	96.25	770.00
			4	OT	133.00	532.00

Page 1

Tickets Signed By: M.J. Ciprian

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 16% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice

Please Pay → $1,302.00

CUSTOMER

Trucking · Excavating · Waste Disposal
876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1[illegible] 1-AC 419

February 6, 1978 | 26663

Our Order No.	Your P.O. No.	Customer No.
		53

Customer Name and Address: Consolidated Rail Corporation
P.O. Box 1013
[illegible], OH 43697

Service Location and Address:

Attention: [illegible] I.W. Williams, Stanley Car Shop

Line No.	Qty.	Description	HOURS	UNITS	PRICE/UNIT	PRICE EXTENSION
		Rental: Der. Tpont #CQ13312. #CJ1362 2/3/78				
1	1	65 Ton Lima Crane w/ crew	8	S1	96.25	770.00
			½	01	133.00	66.50

Page 18

Tickets Signed By
H.J. Cipriani

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay ▶ $836.50

Trucking Excavating Waste Disposal
876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 7[illegible] 1521 AC 419

February 6, 1978 | 1 | 26578

53

Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43607

Attention: R.H. Williams Stanley Car Shop

Line No.	Qty.	Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSION
		Rental: Derailment #CP81104 #NGHS 0534, #PC327282,				
		Engine 78922 Stanley Yard				
1	1	90 Ton Lima Crane w/crew	12	OT	167.75	2,013.00
		2-4-5-78				
		Page 20				

Tickets Signed By: Eloz Garza Jr.

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay $2,013.00

876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521-AC 419

Our Order No.	Your P.O. No.	Customer No.
		53

Customer Name and Address: Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Service Location and Address:

Attention: R.W. Williams Stanley Car Shop

Line No.	Qty.	JOB/SERVICE DESCRIPTION Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSI
		Rental: Derailment #GTW596189, #PG19388R, 2/5/78				
1	1	90 Ton Lima Crane w/crew	12	OT	167.75	2,013.08

Page 21

Ticket Signed By: J.J. Tenton

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay ▶ $2,013.00

Trucking / Excavating / Waste Disposal
876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521-AC 419

Our Order No	Your P O No.	Customer No.
		53

Customer Name and Address: Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Service Location and Address:

Attention: R.W. Williams Stanley Car Shop

Line No	Qty.	JOB/SERVICE DESCRIPTION Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSION
		Rental; Derailments & Stand By Stanley Yard				
		2/5 & 2/6				
1	1	90 Ton Lima Crane w/crew	12	OT	167.75	2,013.00

Page 23

Tickets Signed By: R.W. Williams

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay ▶ $2,013.00

Trucking Excavating Waste Disposal
876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521-AC 419

February 9, 1978 | 1 | 26698

Our Order No.	Your P.O. No.	Customer No.
		53

Customer Name and Address: Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Service Location and Address:
Attention: R.W. Williams Stanley Car Shop

JOB/SERVICE DESCRIPTION

Line No.	Qty.	Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENS
		Rental: Derailment Engine #7864 Stanley Yard 2/6/78				
1	1	90 Ton Lima Crane w/crew	12	OT	167.75	2,013.00 2,01

Page 24

Tickets Signed By: S. Rodriquez

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay $2,013.00

Trucking Excavating - Waste Disposal
876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521-AC 419

February 9, 1978 | 26709

Our Order No.	Your P.O. No.	Customer No.
		53

Customer Name and Address: Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Service Location and Address:

Attention: R.W. Williams Stanley Car Shop

Line No.	Qty.	JOB/SERVICE DESCRIPTION	HOURS	UNITS	PRICE /UNIT	PRICE EXTEN
		Rental: Derailment #PC757704, #PC757703, #EJCE1059,				
		#CNWI54100 2/6/78				
1	1	90 Ton Lima Crane w/crew	8	ST	130.50	1,045 00
			4	OT	167.75	670

Page 25

Tickets Signed By: J. Einhart

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay ▶ $1,715.00

Trucking · Excavating · Waste Disposal
876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521-AC 419

February 9, 1978 1 20710

Our Order No.	Your P.O. No.	Customer No.
		53

Customer Name and Address: Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Service Location and Address:

Attention: R.W. Williams Stanley Car Shop

Line No	Qty.	Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSIL
		Rental; Rerailment American Standard Plant Tiffin, OH 2/6/78				
1	1	65 Ton Lima Crane w/crew	5	ST	96.25	481.25
			2	OT	133.00	266.00
2	1	Crew	1	OT	74.00	74.00
3	1	Permit		each		50.00

Page 2

Invoice Signed By: A.G. Kundrath

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay ▶ $871.25

8[illegible] OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521-AC 419

Our Order No. | Your P.O. No. | Customer No.

53

Customer Name and Address: Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Service Location and Address:

Attention: R.W. Williams Stanley Car Shop

Line No	Qty.	JOB/SERVICE DESCRIPTION Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSION
		Rental: Derailment Engine #7517, Engine #952				
		Olive Street & Gibsonburg, OH 2/9 & 2/10				
1	1	90 Ton Lima Crane w/crew	1	ST	130.50	130
			11	OT	167.75	1,845
2	1	Lowboy - Counterweight	4	OT	43.00	172
3	1	Permit		each	50.00	50

Page 2

Tickets Signed By: J.H. Einhart

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay ▶ $2,197.75

Trucking Excavating Waste Disposal
876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521-AC 419

February 16, 1978 | 1 | 20792

Our Order No.	Your P.O. No.	Customer No.
		63

Customer Name and Address: Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Service Location and Address:

Attention: R.W. Williams Stanley Car Shop

JOB/SERVICE DESCRIPTION Line No	Qty.	Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSION
		Rental; Derailment Engine #5719, #PC294054, #NAHX				
		49444 Stanley Yard & Cargill 2/10/78				
1	1	65 Ton Lima Crane w/crew	8½	OT	133.00	1,130.50
2	1	Permit		each		50.00

Page 2

Sets Signed By
S.J. Koscuiczkk

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay ▶ $1,180.50

Trucking Excavating Waste Disposal
876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521-AC 419

53

Customer Name and Address: Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Service Location and Address:

Attention: R.W. Williams Stanley Car Shop

JOB/SERVICE DESCRIPTION Line No.	Qty.	Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSION
		Rental: Derailment #GTW315208, #GATX2563, #WCTR100 574, North K Yard; E Yard 2/11/78				
1	1	65 Ton Lima Crane w/crew	10	OT	133.00	1,330.00
2	1	Permit		each		50.00

Page 29

Tickets Signed By
A.G. Kundrath

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice

Please pay ▶ $1,380.00

[illegible] Corporation Inc.

Trucking Excavating Waste Disposal

876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521-AC 419

Date: February 16, 1978 | Page No. 1 | No. 26794

Our Order No.	Your P.O. No.	Customer No.
		53

Customer Name and Address: Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Service Location and Address:

Attention: R.W. Williams Stanley Car Shop

JOB/SERVICE DESCRIPTION Line No.	Qty.	Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSION
		Rental: Derailment #GTW315208 Stanley Yard 2/11/78				
1	1	90 Ton Lima Crane w/crew	6	OT	167.75	1,006.50
2	1	Crew	2	OT	74.00	148.00
3	1	Permit		each		50.00

Page 30

Acts Signed By
A.G. Kundrath

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay ▶ $1,204.50

Trucking Excavating Waste Disposal
876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521-AC 419

Our Order No.	Your P.O. No.	Customer No.
		53

Customer Name and Address: Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Service Location and Address:

Attention: R.W. Williams Stanley Car Shop

Line No.	Qty.	JOB/SERVICE DESCRIPTION Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSION
		Rental: Rerailment #CR889919, #PRR671822, Gibsonburg				
		#SCL40850 Luckey 2/12/78				
1	1	90 Ton Lima Crane w/crew	11	OT	167.75	1,845.25
2	1	Lowboy - Counterweight	11	OT	43.00	473.00
3	1	Permit		each		50.00

Page 3

Tickets Signed By: A.G. Kundrath

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay ▶ $2,368.25

876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521-AC 419

Our Order No. | Your Job No. | Customer No.
53

Customer Name and Address: Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Service Location and Address:

Attention: R.W. Williams Stanley Car Shop

Job/Service No.	Qty.	Line Description	Hours	Units	Price/Unit	Price Extension
		Rental; Derailment #PC456121, Engine #CR3816, #CR 22825, #CR515363, #CR218659 Stanley Yard 2/15/78				
1	1	90 Ton Lima Crane w/crew	7½	ST	130.50	978.75
			½	OT	167.75	83.88
2	1	permit		each		50.00

Page 3

Tickets Signed By: J.H. Einhart

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay $1,112.63

Trucking Excavating Waste Disposal
876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521-AC 419

February 21, 1978 | 26862

Our Order No.	Your P.O. No.	Customer No.
		53

Customer Name and Address: Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Service Location and Address:

Attention: R.W. Williams Stanley Car Shop

JOB/SERVICE DESCRIPTION Line No.	Qty.	Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSION
		Rental; Derailment #ATSF700062, #TTBX965030, #TTBX 962005, #TTBX940157, #C&O490172, #SOOLINE70711, #CR 889441, #CR886716, #CR887505 Stanley Yard 2/16/78				
1	1	65 Ton Lima Crane w/crew	1	ST	96.25	96.25
			13	OT	133.00	1,729.00
2	1	Permit		each		50.00

Page 33

Tickets Signed By: S.J. Koscuczyk

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay ▶ $1,875.25

[illegible] Enterprises Inc.

Trucking - Excavating - Waste Disposal

876 OTTER CREEK ROAD
OREGON, OHIO 43616
Phone 726-1521-AC 419

February 27, 1978 | 1 | 26925

Our Order No.	Your P.O. No.	Customer No.
		53

Customer Name and Address: Consolidated Rail Corporation
P.O. Box 1011
Toledo, OH 43697

Service Location and Address:

Attention: R.W. Williams Stanley Car Shop

JOB/SERVICE DESCRIPTION Line No.	Qty.	Line Description	HOURS	UNITS	PRICE /UNIT	PRICE EXTENSI
		Rental: Derailment #C&0490122, #PC279458, #PC263540, #MP376406, #PC18229, #DTI25234 2/17/78				
1	1	90 Ton Lima Crane w/crew	8	ST	130.50	1,044.00
			4½	OT	167.75	754.87
2	1	Permit		each		50.00

Page 3

Ticket Signed By: S.J. Koscuczyk

All accounts subject to 1½% monthly FINANCE CHARGE (equivalent to 18% ANNUAL PERCENTAGE RATE) on unpaid balances after 30 days after invoice.

Please pay ▶ $1,848.68

Again, I must reiterate that ConRail many times every day pays 3 times for the same work of correcting derailments. When ConRail engages a contractor with the contractors crews they must pay the ConRail crew plus the equivalent number of ConRail employees who are at home, as that used by the contractors. Following are examples of only some of the payments made to ConRail wreck forces paid for staying at home because outside contractors crews were used. Millions are wasted because of ConRail mnagements' atrocious appetite for contractors.

Following are listed copies of only some of the settled grievances paid by management for no work performed. These settlements of huge sums of money for no work performed are a daily occurrence across ConRail's system representing gross waste and neglect.

Attachments:

MPA—846 CARDS FOR PAYMENT OF TIME CLAIMS

Reason for claim: Employee No.: Name	Hours claimed	Date of claim	Amount paid
Violation of wrecking agreement:			
261904: J. J. Bosco	4.0	Nov. 10, 1977	$30.32
261884: J. A. Davis	4.0	do	30.32
271127: J. A. Cochran	4.0	do	30.80
277693: S. Sassic, Sr	10.5	Nov. 15, 1977	79.59
209889: R. A. Spade	8.0	Nov. 14, 1977	60.64
261869: A. Vilk	14.0	Nov. 17, 1977	106.12
Bypassed on overtime list:			
274835: M. Bostanic	8.0	Nov. 18, 1977	60.64
275205: R. J. Coleman	8.0	do	61.60
Violation of wrecking agreement:			
271303: P. M. Sassic	3.0	Nov. 22, 1977	23.10
270592: J. J. Lapic	8.0	Nov. 30, 1977	60.64
202918: D. B. Bologna	8.0	do	60.64
262021: J. A. Cochran	8.0	do	60.64
240380: R. C. Waggoner	4.5	Nov. 25, 1977	34.11
Total			644.16

MPA–846 CARDS FOR PAYMENT OF TIME CLAIMS

Reason for claim: Employee No.: Name	Hours claimed	Date of claim	Amount paid
Violation of wrecking agreement:			
209745: W. Sharpless	15.5	Oct. 26, 1977	$119.50
275102: R. J. Cavender	3.0	Aug. 8, 1977	23.10
278363: I. W. Waldron	3.0	do	22.74
274985: W. M. Burton	3.0	do	22.74
280960: C. J. Roebuck	13.0	Sept. 17, 1977	100.10
274874: E. F. Brandenburg	8.0	do	61.60
Bypassed on overtime rotation list:			
200608: B. S. Lowther	3.0	do	22.74
271303: P. M. Sassic	3.0	Sept. 16, 1977	23.10
Violation of wrecking agreement:			
276819: D. A. Matteo	11.0	Aug. 26, 1977	83.38
270883: P. A. Smedley	11.0	do	84.70
278108: J. F. Stussey	11.0	do	84.70
262764: J. Sassic, Jr	11.0	do	84.70
280960: C. J. Roebuck	11.0	do	84.70
200608: B. L. Lowther	11.0	do	83.38
271040: M. R. Sulca	11.0	do	84.70
009745: W. Sharpless	11.0	do	84.70
270190: M. S. Brady	11.0	do	84.70
233742: H. J. Hoover	11.0	do	84.70
262021: J. A. Cochran	11.0	do	83.38
270592: P. J. Lapic	11.0	do	83.38
261964: J. J. Bosco	11.0	do	83.38
261884: J. A. Davis	11.0	do	83.38
261874: K. R. Brobeck	11.0	do	83.38
271127: C. L. Cercone	11.0	do	84.70
277740: J. W. Schooley	11.0	do	83.38
271122: F. C. Anderson	11.0	do	83.38
262763: L. G. Salamone	11.0	do	84.70
262732: J. P. Kaunert	11.0	do	84.70
270234: W. K. Schohn	11.0	do	83.38
Total			2,161.12

Looking from our view and vantage point at the entire ConRail situation, we are compelled to conclude that ConRail has no chance whatever to become a self-sustaining and viable railroad in the Northeastern United States, as our 10,000 members on ConRail had worked for and hoped for. ConRail management is literally raping and stripping the railroad of its' life blood of badly needed funds that run into hundreds of millions of dollars that could give it life and make it breathe once again.

We hope that this subcommittee will investigate our allegations and stop ConRail managements' raping and stripping of the railroad's funds.

Senator McGOVERN. Mr. Morrett.

STATEMENT OF RICHARD F. MORRETT, JR., ENGINEMAN, FORT WAYNE DIVISION, WESTERN REGION, CONRAIL, AND GRIEVANCE COMMITTEE CHAIRMAN, LOCAL 95, TRANSPORTATION UNION OF AMERICA, ACCOMPANIED BY ROBERT E. MANNING, TRAINMAN, LOCAL 724

Mr. MORRETT. My name is Richard F. Morrett, Jr., and I reside at 520 Henry Street, Huntington, Ind.

I am presently employed as an engineman operating out of Fort Wayne Division, Western Region, of the Consolidated Rail Corporation. I am also a grievance committee chairman, Local 95, United Transportation Union, but I appear here today solely as a concerned ConRail employee.

With me is Robert E. Manning, trainman, Fort Wayne Division.

The information I shall give constitutes our joint prepared statement.

I am a third generation railroad engineer, and I have been working in this industry for the past 12 years. I still have some pride and self respect left in performing my duties for ConRail.

It is for this reason that I am here today to make known to this subcommittee the concerns of myself and fellow workers regarding the waste of funds and man-hours in the day-to-day operations of ConRail. Also, to aid in some way in stopping this condition and make every possible effort for ConRail to succeed as a valuable rail link from the East to Chicago and the connecting rail lines west.

I am also here today to give testimony to the fact that the morale and pride of work accomplishment of my fellow workers is at an all-time low, and if we are to have any hope of continuing in a railroad career on a viable system, some of the things we have witnessed must be stopped and rectified.

Also, that the management forces directing the ConRail system to date has failed to make any effective or lasting improvements and has demonstrated the complete ineptness by current management from nonrailroad or from limited railroad management backgrounds in the day-to-day operations of this rail system.

Regarding this lack of effective and knowledgeable management we would like to point out some areas that are in need of immediate corrective action, and if they are not corrected, they will continue to defeat the purported purpose of the ConRail system. That is, giving continued and improved service to the shippers in the Northeast United States.

Also, to charge that management fails to realize that they must have labor to operate and if they persist in their every effort to defeat the workers' integrity and spirit by their actions and policies, this system will surely fail.

I am familiar with only a small territory of this giant rail system, that is, from Chicago, Ill., to Conway, Pa., and from Toledo, Ohio, to Chicago, Ill. If what we have witnessed each day while performing our duties in our divisions hold true to form on the rest of the system, and there is basis of fact in our conversations with men from other divisions that they have waste and poor management in their localities, then this system will fail very soon.

We have seen seven great rail lines fail due in part to the misuse of assets, mismanagement of men and equipment, and the ever present nepotism. This opinion is not just mine alone, it is shared by a vast cross-section of my fellow workers.

The company officials continually convey to the press that one of the biggest roadblocks to ConRail attaining their goals is, in part, directly related to labor and their much berated agreements and present work rules. When in fact these agreements have built into them incentives for the company to make a profit, if they had competent management and for labor to receive just compensation for their services in getting the job done. Over the past decade our much discussed work rules have been revised and improved for all parties concerned, so this assertion by the company, we feel, no longer merits further discourse.

The much publicized track rehabilitation program in practice seems to be a sham. As we have witnessed during this past 2 years of an all-out effort by the maintenance of the way track gangs, the track is back to the same or worse condition than it was prior to the start of this all out work effort.

These work gangs are now out in our area redoing or patching up the sections previously worked. When we ask the track workers about this situation they state to us that they are under pressure to produce distance in track work performed per day instead of being allowed to perform quality work per day.

These men also state that the reports of distance achieved a day look better for management at all levels and that they don't care about lasting quality of work performed per day.

In view of this and as far as we can tell the track rehabilitation program is merely a patch up job at best and it results in no longer lasting improvements. It seems to be a ploy by management to gain more funds and more press coverage of distance of track work that is being completed. This procedure of performing the rehabilitation work is not only costly but lends itself to further validate our claims of lack of good management and the misuse of funds.

In the area of work trains to support this track work there exists the lack of coordination and cooperation between management and operations personnel with the track foreman in charge where the work train is to perform service. The method and practice of calling the crew members for the work trains that deliver the materials and supplies to the work location for the track gangs working in that area. An example of what takes place more often than not on one such support

work train over a 3-day period is identified as exhibit A, and is attached to my statement.

SenatorMcGovern. Without objection, it will inserted in the record at the end of your testimony.

Mr. Morrett. In the area of proper and more efficient crew utilization I must challenge some of the statements made by some ConRail management people that their cost being high and the need for more funding is due in part to labor. This is not true. If management and operation personnel of the various divisions would only coordinate their efforts between divisions it would result in faster passage of trains between and over the divisions. This is not the case in the operations on ConRail. Each division operates with indifference and contempt for the other division, and the lack of coordination wastes money, hours, and delays trains.

If the crew calling times for reporting for duty would be better coordinated with dispatching times of trains, there would be a greater reduction in the delays to trains and still more funds could be saved. By eliminating the train movement authority granted to the tower operators or in some locals, crew callers, and placing it back where it belongs with the train dispatcher or his supervisors, and by expanding the arbitrary division points would greatly improve train movements, save even more funds and reduce wasted man-hours.

Also, a greater use of side tracks for the routing of slower moving trains to allow faster moving trains that are following would stop a chain reaction type of situation. That is when the crew that is manning the slower moving train is about to or has exhausted the hours that they are able to work under the law and have not yet reached their final terminal, this will require a fresh crew being transported out of the terminal to relieve the crew that has run out of time that they are able to work.

All during this time the train that is following is being delayed and its crew could very well run out of time that they can work. This could have been avoided by the use of side tracks.

It is also very frustrating to my fellow workers when one of them makes a valid suggestion to management that would save time, money and perhaps facilitate faster delivery of goods to a customer and he is then verbally intimidated and chastised for him even thinking of making such an idea verbal, let alone making that idea known to them.

They go on to inform this man that management will run the railroad and he is to do his job. He wonders what his job is if it isn't serving the shipper and, we all begin to think what is the use of trying.

Management fails to realize that if their efforts were directed more to moving trains and servicing local and long-haul shippers, instead of harrassing and intimidating the rank and file, there immediately would be an improvement in labor relations, increased productivity, improved morale and cooperation from all concerned.

The corporate heads will rebut our charges of ConRail having inept managers, and that funds are being wasted and that these claims are false or exaggerated. They may even deny knowledge of these instances, yet at our level we know that everything that is done is monitored by corporate level personnel daily.

There also exists the needless expenditure of funds for outside contractors that are hired for track work, rerailing cars, and cleaning up derailments. There is the great reliance on private taxicab companies to transport crews and mail to various locations, sometimes in excess of 150 miles. This is another area that could be limited and result in still more savings.

One method is to use equipment ConRail already has within its system to accomplish the aforementioned tasks. It is our contention that without too much effort we could effect a saving of perhaps millions of dollars per year in our area alone.

There are other instances of waste and mismanagement that we could detail in such areas as the repair of locomotives, printing costs, and motel accommodations, paid for by ConRail for away-from-home train crews, but it would take more time than we have been given to describe these situations. Let me add that we are willing to make such information available to the subcommittee if it wishes it.

Since this subcommittee has expressed a sincere desire to be informed as to what areas are in need of improvements and where the waste and misuse of tax funds and manpower can be eliminated, this is most encouraging to me and my associates. If you will mandate and direct the necessary changes, you will give me and my dedicated fellow workers the opportunity to work for an efficient and viable railroad system.

We also believe that with the current public interest in this matter you will use your power as Senators and Congressmen to make ConRail succeed in the Northeast for the public, the shippers, and my fellow employees.

[The attachment to Mr. Morrett's statement follows:]

EXHIBIT A

On the first day that the work train was needed the train engine crew members were ordered to report for duty at 3 a.m. in Fort Wayne and then was transported via taxi cab to Colehour, Ind., a distance of approximately 110 miles.

At Colehour the crew then boarded the work train engine and then coupled to the work train cars and proceeded to the work location at Hobart, Ind., a distance of 21.5 miles. When this train arrived at Hobart it was immediately routed into the siding track where it remained the rest of the day.

The reason for putting the work train in the side track was because an electrical storm that morning had rendered the train dispatchers line inoperative.

Although the Bell Telephone System was still operational and the dispatcher could have used this means to grant the maintenance of way personnel and the work train the necessary orders to have right of track for their work of unloading ties and also to take that track out of service for all other train movements. This halted the trackmen and their machinery from working on the track that day. This could have all been avoided by the use of the Bell Telephone System by the dispatcher. This was one day wasted.

On the second day the work train crew members were ordered to report for work at 4 a.m. in Chicago and then transported via taxi cab back to Hobart a distance of 45 miles to again man the work train that was left there from the previous day. The evening before the track foreman had told us that we would not be able to do any track until after 7:30 a.m. on the second day. Thus, we had only 8½ hours to work since we were ordered for duty at 4 a.m. This is another good example in lack of management to coordinate with the foreman in the field and the train crew members of what was required on this day and in keeping costs and wasted time at a minimum.

Finally we were able to start on the second day only after the commuter trains and freight has past Hobart. The M&W foreman then granted right of track and control of that portion of track where we were to perform the task of unloading

ties that day. Due to lack of experience of the contracted help we were only able to unload 4 cars of ties. It normally would take only 30 to 45 minutes to unload a car containing ties plus we were running out of the hours we could work and still comply with the hours of service law. This day we could not work past 4 p.m. and again due to the lack of management cooperation we were delayed in being transported back to our rest facility and off duty point, resulting in additional 4 hours 10 minutes overtime pay to each work train crew member. This total pay for each of the crew members was equivalent to 260 miles.

On the third day we were ordered to report for duty at 5 a.m. and then we were transported back to Hobart and our train. This day was more productive than the previous 2 days. In that we unloaded 8 cars of ties and then placed our train on the side track at Hobart and was returned to Fort Wayne via taxi cab. This completed our tour of duty on a three day work train on this third day when we had completed what work had to be done. The transportation was there at Hobart and returned us without delay to our home terminal. This shows you that on some occasions there is hope that this corporation can demonstrate some effective management coordination but this is rare.

For the approximate 11½ hours of work conducted during this 3 day period ConRail paid a 4 man crew wages in excess of $1,500. This does not include wages for maintenance of way personnel and outside contractors.

Senator McGOVERN. Thank you, Mr. Morrett.

My understanding is that your prepared statement represents a joint statement on behalf of yourself and Mr. Manning?

Mr. MORRETT. That is correct.

Senator McGOVERN. Mr. Terriego, if we can begin our questioning with you; in part I [1] of your prepared statement, you make the assertion that ConRail paid more than $91,000 in rental to a private company for equipment that was never used.

Would you briefly explain the circumstances that led you to make this charge?

Mr. TERRIEGO. Senator, as we all know, April 1, 1976, was the day of conveyance when ConRail became a reality. Shortly after that, these outside contracts began to appear more often.

I go up to Buffalo, N.Y., and a master mechanic and the general foreman was fired alongside of him. Shortly after that, these two men opened up a repair shop in the Buffalo area, and do you know that ConRail was feeding them our work after they were dismissed from ConRail.

This gave us a little suspicion. So then we go back, we go back to March of 1977. A group of supervisors in the Pittsburgh area wrote vice president of operations Hasselman a letter, but they did not sign it. They were afraid to sign it.

They sent him a letter exposing what we have in these three briefs, briefly in this 3-page letter. It was sent to him on February 26, 1977. After several months, Mr. Hasselman or anybody did nothing in ConRail. They came to me with this letter and the invoices.

I immediately dispatched International Representative Milo Shimrak into Pittsburgh, and this is how it began. We notified the police department of ConRail who went into the Pittsburgh Sheraton Hotel in 1977, and took written statements from these individuals; sworn documents that this particular crane did not perform any work.

These are a matter of record in the hands of ConRail police department. Mr. Shimrak sat in that room and witnessed these proceedings.

[1] See part I of Mr. Terriego's prepared statement beginning on p. 85.

Of course, as you know, nothing has happened; absolutely nothing. Then we went before Congress. When they heard that they immediately took these people back into the Sheraton Hotel in Pittsburgh, but none of them changed their sworn statements. So the facts are there.

If someone can get the ConRail police, or subpena the police report, these are all a matter of record, signed documents that this thing actually happened.

Senator McGOVERN. Is that letter you refer to a part of your documents?

Mr. TERRIEGO. No, it is not, but I will submit that letter for the record.

Senator McGOVERN. Without objection, so ordered.

[The following letter was subsequently supplied for the record:]

CONWAY, PA., *February 22, 1977.*

R. B. HASSELMAN,
Vice President of Operations
Philadelphia, Pa.

DEAR SIR: Attached, you will find a copy of some of the bills[1] that a contractor is charging the ConRail for wrecking service. If you will note the one for $51,000 for Standby at Conway Yards, there is a block and tool truck charged at $20.00 per hour but the truck was never at Conway Yards. The bill at Vanport, Pa. you will note, bull dozers and a 75 ton crane was billed for and did not show up at the wreck scene. The same night a 100 ton crane was on Standby at Conway when another 100 ton Holmes crane was dispatched from the same contractor. This contractor has had a 12½ ton Pettibone Crane station at Conway for 1 year and a 1½ ton Drott, which you will note a bill. At the prices, which are being charged, why won't a company use it's own equipment where possible as $51,000 was charged for a Standby Crane with a wreck derrick setting 100 feet away, which could be manned $105.00 per hour for wreck crew and train crew at straight time rate of pay. A years rental for lifting equipment for the shops which is the Pettibone and Drott, should have been used to purchase the same equipment for ConRail and would have been a savings to the company.

It seems that the people who are calling these contractors have no regards as to the cost or how they spend the $2.5 billion loan received for the ConRail from the government. On the Pittsburgh Division of the central region, it seems, use contractors no matter what the cost or how much damage is done to equipment, just so they can show the cleanest division and must be enjoying some gratuities from the contractor involved. A 50-ton Holmes Crane at Conway is obsolete and worn out but no one ever talks about replacing it. Everytime it breaks down it takes 6–8 weeks to find replacement parts for it and this contractor is used. I understand that this Crane is rented from Excelsicor for $2,150.00 a month, which constituted a great savings if it was replaced by a 100 ton Holmes at Conway or maintained.

The Penn Erection Company is a 1½ hour drive from Conway Yards, why would they be put on standby 24 hours a day when they could be called when needed, and 90 percent of the jobs called for an engine and block truck could rerail cars and engines. The Penn Erection Company has purchased two 100 ton Holmes highway rail cranes in the last year and prior to that a 60 ton Holmes highway rail crane. They must know they are going to get the work and the ConRail isn't going to purchase new equipment or they would not invest that much money in equipment to work for the railroad.

Penn Erecton is used, it seems, everywhere on the Pittsburgh division as Mingo Junction, Ohio wreck derrick was broken down for 3–4 months now and to keep contractors working, it seems that is a long time to repair a piece of emergency equipment. The company and labor organizations sign an agreement and on its Pittsburgh division it is always violated when it comes to using company men with this equipment east of Pittsburgh and vicinity.

[1] Copies of the bills referred to may be found in ConRail files.

The contractors men are used and then the company wreckmen and extra wreckmen are also paid thru time claims at the local levels. If these agreements were adhered to the way they should, this also would be a great savings, money wise, to the company. Under title V, these men all have guaranteed wages and before paying a man for nothing it would be better to get some labor for company money. The excuses that are used, the contractors are faster but when company equipment is used, such as a wrecktrain it takes sometimes as high as three hours before train and engine crews arrive; it seems at times these delays are intentional just to justify the use of outside equipment because the longest routes at times are used to get a wrecktrain to scene of derailment.

If an accurate record of derailments and cost of rerailing were kept you would find the cost much greater on the central region than any other region and the Pittsburgh division above all other divisions on the region.

Senator McGOVERN. Mr. Terriego, in part I of your prepared statement, you cite what you call the most flagrant examples of mismanagement.

Could you detail that statement?

Mr. TERRIEGO. I will read partly from the letter I just introduced as evidence.

The bill at Vanport, Pa., you will note, bulldozers and a 75-ton crane, was billed for, and did not show up at the wreck scene. The same night a 100-ton crane was on standby at Conway when another 100-ton Holmes crane was dispatched from the same contractor.

Let me give you the picture. There is this 100-ton outside contractor crane sitting there doing nothing. A derailment occurred. They did not take that crane. They got another one. So now you have two; one doing nothing, and the other one doing the work.

Again I will read:

This contractor has had a 12½-ton Pettisone crane stationed at Conway for 1 year, and a 1½-ton Drott, which you will note a bill. At the prices which are being charged, why wouldn't a company use its own equipment where possible as $51,000 was charged for a standby crane with a wreck derrick sitting 100 feet away, which could be manned $105 per hour for wreck crew and train crew at straight time rate of pay.

They used the outside contractor. This is what we mean.

Senator McGOVERN. Again, Mr. Terriego, you assert in part I of your prepared statement that private contractors doing derailment work for ConRail provide what you refer to as lucrative fringe benefits to ConRail management.

What do you mean by that? What are the details that support that allegation?

Mr. TERRIEGO. Senator, I go back to this letter to Mr. Hasselman. They write, the supervisors at Pittsburgh:

On the Pittsburgh division of the central region, it seems, use contractors no matter what the cost or how much damage is done to equipment, just so they can show the cleanest division, and must be enjoying some gratuities from the contractor involved.

This led us to suspicions of gratuities. We have reason to believe this is common across ConRail. It is the standard joke, that one of the wrecking companies has a retreat in Hawaii which entertains top officials of ConRail free of charge. This is common.

We in the negotiating committee crack jokes many times, saying to the people in Philadelphia, we would rather negotiate with the contractors. At least we would get to the warm weather in Hawaii, instead of the cold weather in Philadelphia.

It came to us, the so-called internal audit went into Chicago to the main office to investigate these allegations. While he was doing an audit, he was propositioned to go to Hawaii. But nothing was done.

We also have reason to believe that the contractors use private planes for trips to Virginia Beach, Va., Ocean City, Md., Myrtle Beach, S.C., and one better yet, hunting and fishing in Newfoundland and Wyoming. We know it.

Some of the supervisors, if we get them to open the records, said they would receive a post card from the outside contractors saying, within 1 week or 10 days you will receive a box of coveralls as a gift. You will receive another post card stating we will deliver a side of beef to your home. Fill out the forms, and we will cut it to the size you want it.

They will tell you. This is true. The important point here, Senator, is that while this is all going on, they violate our contract, and our people are sitting home being paid. They are paying our people.

Senator McGOVERN. So you are saying in effect that instead of using their own equipment and their own employees for this repair work, that in order to receive what you refer to as fringe benefits, the various trips and resort areas, they prefer to deal with private contractors?

Mr. TERRIEGO. Automatically.

Senator McGOVERN. Is that a presumption, or do you feel you have proof?

Mr. TERRIEGO. In the last week, they dismissed one of the fellows who allegedly took one of the trips.

Senator McGOVERN. But you are saying it is considered common knowledge. Yet what I am getting at here is the difference between presumption based on circumstances, and any real proof you have of these practices.

Mr. TERRIEGO. Senator, we say, that we have here what fell off the wagon. We have no authority to rip off the canvas and look in it. If we could look in the wagon, we would find this.

Senator McGOVERN. In part III [1] of your prepared statement, you cite the case of payments made to a private contractor in the Toledo, Ohio, area. Could you elaborate on that? Give us the details that support that particular case?

Mr. TERRIEGO. Let's go down to the date and amount in the first table.

Senator McGOVERN. The first table of part III?

Mr. TERRIEGO. Yes; the date and amount. We believe, Senator, that the amounts on the left is paid automatically for a piece of equipment. We have proof of this invoice of a bill for $2,013. We believe that no matter what this particular piece of equipment gets awarded $2,013, whether it is used or not.

February 1, again we see an invoice, $2,013 for this piece of equipment; also, $1,715 and a third piece on the same day which cost them $2,898. On February 2, we see the same; and on February 3, the same.

Now, on February 4, on this particular day you will see there were two invoices submitted that day for $2,013. On February 4 and 5, then you have two more invoices—three, rather, for February 4 and 5, three invoices on this particular piece of equipment, awarded $2,013.

[1] See part III of Mr. Terriego's prepared statement beginning on p. 115.

We believe, Senator this piece of equipment is owned by an official of ConRail in his nephew's name, and no matter what happened, that crane was to be paid, because it belonged to him.

One of the things we have to look at is who owns the equipment.

Senator McGovern. Do you have other witnesses here who are prepared to verify these circumstances?

Mr. Terriego. Yes.

Senator McGovern. I understand you brought some people with you?

Mr. Terriego. Stand up, gentlemen.

Senator McGovern. These gentlemen who are with you actually verified—they saw the evidence you are talking about here today with regard to what you referred to as fraudulent behavior.

Is it my understanding that these gentlemen have also sworn statements backing up the charges?

Mr. Terriego. Let me explain something. The fellow who wrote the anonymous letter to Mr. Hasselman, the supervisors, I will give you their names, Melvin Hoover, car foreman, and the general chairman of the American Railway Supervisors Association, a fellow by the name of Lewis, wreck master, Conway Yard; Ben Nadelman train master; he was since dismissed. Allegedly, he was one with the gratuities.

Fred Brandenburg, a supervisor, and a fellow by the name of Kelly, also an officer of ARSA. We have a Jim Trimbetta, a relief wreck master. This fellow was in the Pittsburgh Sheraton with Milo Shimrak. We witnessed him signing the document that this actually exists.

This fellow has a son working there in the engine house, and a daughter who works there as a clerk. He was told, don't go to Washington. So he isn't here.

Senator McGovern. What did you do with the information you have received concerning this alleged mismanagement on the ConRail system? Did ConRail officials take any action?

Mr. Terriego. My records show, going back to October 13, 1976, when the incident happened in Buffalo—we met in Philadelphia, and we screamed about this, and we went over this. And then these invoices, with the documents, when they sent this letter to Mr. Hasselman——

Senator McGovern. You say you screamed about it. Do you mean to the ConRail officials?

Mr. Terriego. On Tuesday, May 17, 1977, again at Philadelphia, we sat across from the table from the top officials of ConRail and I am talking as I am now. When I got done, I gave them all the records, and I shoved them over to the ConRail side of the table, and I said, "Clean your house."

Senator McGovern. Did they take any action?

Mr. Terriego. Absolutely nothing.

Senator McGovern. Did you report these matters to the local police at any time?

Mr. Terriego. My understanding was that ConRail police were investigating, so we kept hands off. Let them go ahead.

Senator McGovern. We appreciate your testimony. Later today, I am going to ask Mr. Sweeney of ConRail to reply. But before we do that, I have some questions I want to converse with Mr. Morrett.

As I understand it, Mr. Morrett, you say most if not all of the track rehabilitation work in the Fort Wayne division is a sham, and that this situation probably exists throughout much more of the ConRail system.

In effect you are saying that much of the more than 1,000 miles of track rehabilitated at a cost of some $290 million does not produce real improvement in the ConRail operations, because the work was poorly performed?

Mr. MORRETT. If I may, Senator, I would like to have Mr. Tom McNally up on the stand. He has some expertise and insight in other areas.

Senator MCGOVERN. Mr. McNally, would you come forward? What is your office?

Mr. MCNALLY. I am a locomotive engineer, stationed at Elkhart, Ind.

Mr. MORRETT. To answer your question, Senator, yes, as our statement reflects. But an example of this is in an area where they put down this new track, it is now down to 10 miles per hour. When the posted speeds were at, one time, 50 and 70 miles per hour.

It was an all-out work effort to make this supposedly up to proper standards, and now it has reverted back to 10 miles per hour. It is only a 10-mile section, but many more exist.

Senator MCGOVERN. Why is that? What is the practice that makes this ineffective?

Mr. MORRETT. Again, the management wants to go for distance, and they don't let the track gangs work at it properly. These men know what to do, but are hampered in their efforts.

Just Saturday morning, there was a wreck, a train wreck, with the six rear cars derailing, injuring the train crew, although the injuries were minor. But these areas were supposedly rebuilt last summer.

The wreck was caused by the rail spreading under the train.

Senator MCGOVERN. On newly laid track?

Mr. MORRETT. I don't know if it was completely new, but it was worked on. This is absurd in our view. Our tracks are slower paced in some areas. They try to do work in three or four different locations, instead of one section of concentrated effort.

Mr. Manning has more knowledge, as he is a trainman and sees a lot more than I do.

Senator MCGOVERN. Could you comment on that, Mr. Manning?

Mr. MANNING. Exhibit A[1] points out one example of poor management. Outside contractors were used at a cost of about $2,745. We were only able to work 11½ hours out of a 36-hour period.

There can be as much as three or four work trains out per week. Also, while these trains are working, it causes delays of trains from A to B, because East and westbound have the use of the same track, while an eastbound or westbound is running from A to B—either is delayed at opposite ends.

Another area is, when company officials purposely stop the train to check crew members timetables, operating rule books, and I cannot remember when Amtrak's Broadway Limited has been on time.

Other delays come from lack of good locomotives.

Senator MCGOVERN. Can you provide the subcommittee with descriptions of other examples of poor utilization of train and mainte-

[1] See exhibit A to Mr. Manning's oral testimony beginning on p. 146.

nance, which in your view caused waste and unnecessary delays of trains?

Mr. McNALLY. In the locomotive department of ConRail, according to the statement they gave to Congress in 1977, 5,900 a month were in the shop at approximately 197 units per day, in the repair shop. One reason is there were no parts to fix the engines.

I have talked to many diesel shop employees, and they cannot get parts. They have to steal it off another unit, or rig something so the rig will work.

So part-way down the road, the unit goes to pieces because of the malfunctioning of a part they put in there that was not supposed to be on the unit itself.

As high as 2 months have gone by, or more, at one particular diesel shop, and they did not have light bulbs for the unit to see in the engine room. This is just one small example.

They cannot get any parts to fix major repairs at most diesel shops because the companies will not give—they say they cannot get them. There are no parts. They have to steal or rob them from other diesels.

Senator McGOVERN. You make reference, Mr. Morrett, in your testimony to excessive expenditures regarding motel accommodations paid for by ConRail—fees for transporting crews, as well as waste in printing costs.

Can you briefly explain what you are talking about with regard to those allegations?

Mr. MORRETT. From July 1 to July 22, Mr. Manning and his crew were deadheaded 1,223 miles in a 22-day period, when there was no reason for it. If they would cooperate or organize their needs for these crews, it would eliminate them having to be, as we call it, deadheaded.

They used taxicabs. That is the only way they feel they can transport them. But they have other means of getting them, like Amtrak, or better coordination in the moving of the trains.

Senator McGOVERN. In exhibit A,[1] you state your crew worked 11 hours in a 3-day period. I think Mr. Manning referred to this with wages in excess of $1,500. Is that a correct statement, for a 3-day period, 11½ hours work, compensated at the rate of $1,500?

If so, what is the explanation for that?

Mr. MANNING. That is correct. That is $1,500 for train crew members alone, and the M. & W. crew, which operate a 10-hour day, 4 days a week.

They make, on the average, $6.50. So for a 3-day period, it was $585. An outside contractor is guaranteed a 40-hour week at $22 an hour, so a 3-day period would involve $660, and the total was $2,744 approximately for 3 days work crew.

Senator McGOVERN. But you actually worked only 11½ hours?

Mr. MANNING. Yes, 11½ out of a 36-hour period.

Mr. MORRETT. This 36 hours, the crew is called by the dispatcher. Due to ineptness in the coordination in train movement, they were unable to get out to the work area, or have access to the track. So they were just sitting on the side track standing still, and that halted the track gangs from working, too.

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[1] See exhibit A at the end of Mr. Morrett's oral testimony, p. 146.

They were on duty, but only were productive for 11½ hours.

Senator McGOVERN. Gentlemen, I appreciate your appearance here today, and the testimony you have submitted.

We are under time constraints, but I would like to reserve the right to follow up in writing if necessary with some further inquiries.

But I do want to give you the assurance of the subcommittee that your testimony will be given serious consideration, and we will do everything we can to pursue the questioning and the allegations you have made this morning.

Mr. MORRETT. I failed to mention that these bills are running $165,000 for taxicabs. I failed to put that in.

Senator McGOVERN. It is not a small item.

Mr. TERRIEGO. They have an invoice in Pennsylvania for a taxicab, $1,006 a day.

Senator McGOVERN. Thank you.

I understand Mr. Sweeney is here. He is vice president for governmental affairs for ConRail.

Mr. Sweeney, we would be happy to give you an opportunity to testify. We appreciate your appearing here this morning. You may proceed in any way you see fit.

STATEMENT OF JOHN L. SWEENEY, VICE PRESIDENT FOR GOVERNMENTAL AFFAIRS, CONSOLIDATED RAIL CORPORATION

Mr. SWEENEY. Once again, I thank you, Senator McGovern, for providing ConRail with the opportunity to respond to questions that have been raised by others.

I will begin by stating that ConRail accepts the statement of Mr. Albert A. Terriego as one which is motivated by a good-faith concern about ConRail.

We welcome information that can help us better manage our efforts to provide a solution to the Northeast rail problem. Nevertheless, we must question the manner in which Mr. Terriego has proceeded.

More than a year ago, representatives of Mr. Terriego's union came to ConRail and presented essentially the information that is laid out in a portion of Mr. Terriego's statement. Our police department was directed to conduct an investigation.

The results of that police inquiry were provided to management, and in turn, our auditing department was asked to follow up on the findings made during the initial police inquiry. I submit the results of that investigation here. The documents include a summary report of the complete investigation along with the statements that were taken by both the police department and the audit investigation unit.

The individuals who conducted this investigation are available for consultation with members of your staff, and they will be pleased to go over with your staff not only the contents of the documents I submit today, but the tape recordings and working papers which are essential to a complete understanding of these findings but which are too voluminous to transport.

Senator, it is our conclusion that the charges that have been made by Mr. Terriego cannot be substantiated. He has compiled copies of

invoices and has also cataloged observations from employees about the nature of these invoices and if you will forgive me, Senator, those employees do not see all of the circumstances that have gone into the decisions that have resulted in ConRail's contracting for wrecking services. This leads me to my two major observations.

In 1977 ConRail paid out a total of $8.3 million for wrecking services associated with emergencies created by either weather or derailments. This contrasts with the testimony offered by Mr. Terriego in April, and I quote from his prepared statement, ". . . Conrail has expended more than $200 million of its funds for wreck and derailments in 1977. . . ." I would also note that apparently Mr. Terriego has had second thoughts about his April 13 statement. In today's testimony he has reduced that charge to "tens of millions."

However, I would revise my testimony to note that his statement today, which is somewhat of a contrast with the prepared statement to the subcommittee, he has estimated that ConRail is giving away $180 million yearly to outside contractors, when their own employees could perform the same for $20 million yearly.

I will also submit for the record—and I am sorry it is the only copy I have, but I will submit a copy of it later—a detailed estimate of the payments made for contracting services, and out of those contracting services, which total $14.8 million, the figure of $8.33 million comes for wrecking and derailment services.

Senator McGovern. Without objection, the information will be printed in the hearing record.

[The following information was subsequently supplied for the record:]

MEMORANDUM, DATED JULY 17, 1978

To: R. B. Hasselman
From: R. V. Wadden
Subject: Contractors' Wrecking Service

As requested in your letter of June 15. we have developed three lists for contractors noted by A. A. Terriego in his statement to the Senate Commerce Subcommittee.

One list shows contractors not appearing in our vendor files during the year 1977. Another list shows the contractors in our vendor files during 1977 with no payments made during that period.

The third list shows payments made to the remaining contractors during 1977. Total payments during 1977 were $14.8 million. $8.3 million was noted on the AD 9728's as incurred for wrecking/derailment service.

Mr. Sweeney. I think there is an enormous difference between the testimony which has been given on several occasions as to $180 million of wasted funds out of what is alleged to be a $200 million payment for such services, when the actual figure is $8.3 million.

I would note that similar statements were made about our alleged payroll deductions. I wish we could find out that by losing $200 million in payroll that resulted from the W–2 incidences, and the $200 million that we waste by using contractors. It would solve the problems involved in our losing $400 million a year. Unfortunately, neither is the case.

Senator, we know of no major railroad in the United States that does not utilize the services of wrecking contractors and the reason this is done is a simple dollar-and-cents matter. If you review the invoices attached to the prepared statement that Mr. Terriego has submitted,

you will find an itemized listing of the equipment which is required to handle such wrecks and derailments. They include cranes of all sizes up to 100 tons, bulldozers of all dimensions and capacity, front-end loaders, dump trucks, plant and service trucks, escort trucks, the trailers necessary to move such equipment, plus other miscellaneous equipment.

A wreck or derailment can occur at any place on our system. To invest in the equipment necessary to handle these wrecks throughout the 17,000-mile rail system would require more capital investment than anyone would consider prudent. And this does not take into account the standby manpower that would be required to be kept on our payroll to operate this equipment.

On any given day, we may have a wreck or derailment at one point in our system, and the next day a similar occurrence 200 miles away. On the same 2 days, we may have a similar occurrence on another far end of the system, and at many points in between both. We trust the judgment of our managers that it is far more economical to handle such emergencies as is presently done and we trust that this decision carries some merit given the fact that the practice is the rule throughout the rail industry.

My second observation, Senator, relates to our concern that some of the reason for our presence here today relates to a continuing dispute which we have had with Mr. Terriego about another ConRail activity. In Mr. Terriego's April 13 statement to the Senate, he made substantial reference to ConRail's decision to obtain freight cars, particularly the hopper cars in which we carry grain and coal. The largest number of people represented by Mr. Terriego's union are employed at our shop in Altoona, Pa. For a substantial period of time, the Pennsylvania Railroad constructed a number of its own freight cars at the Sam Rea Shop in Altoona. Mr. Terriego's union has requested that we revert to that practice.

There is only one way that we could return to that practice—through a significantly larger Federal appropriation. At the present time, we are purchasing these cars from carbuilders through an entirely privately financed program. Each of these manufacturers has taken what amounts to an equity position in the cars that we purchase from them. That equity position permits us to obtain private financing for the remainder of the cost and we are able to amortize the entire purchase cost through revenues which these cars produce.

Such a financing program is not available if we were to build these cars internally. This program has been discussed at length with representatives from Mr. Terriego's union. Yet it is apparent to us that we have been unable to convince him that this decision is a prudent one and could only be reversed with the infusion of substantially greater Federal funding.

In conclusion, I would point out that such a funding program would increase employment at Altoona, Pa., but would clearly diminish it in those communities wherein are located the manufacturers from whom we are purchasing the new freight cars.

Senator, I would add one final note: We did not have available to us the statements made by the two gentlemen from the Ft. Wayne

division. I will take that statement and provide detailed responses to each one of their concerns.

I would make one observation. I think for anybody who represents ConRail management to come in and say to you that we have a perfect management system that avoids the kinds of difficulties that have been cited here by the representative of the TWU would be foolish.

We know we have problems. We are trying to work on those problems. We are totally aware that other railroads which live with the same work rules that ConRail lives with avoids substantial costs where we are paying them.

However, I will tell you that there is a substantial effort underway to correct those problems.

In recent weeks, I have assumed the labor relations role in addition to my normal function, and I guess I have become particularly aware of the fact that on a number of occasions I know of, there have been problems.

I would state to the gentlemen that testified that it is my hope that we can establish a system of communication for the people who are affected, namely, those represented by the brotherhood, and that they will be given every opportunity to air their views; and I trust in every occasion, we will react in those situations in a positive and affirmative way.

We are totally aware of the fact that in recent months this railroad and its predecessors have acquired the reputation of being like the same old Penn Central Railroad, where there is little or no response to employees' suggestions.

I cannot vouch for that on a day-to-day basis. All I can tell you is that there has to be improved communication and we intend to set up a system where that can be established.

Thank you.

Senator McGovern. Of course, the hearing record will be kept open to give you a full opportunity to reply to the allegations made by Mr. Morrett and Mr. Terriego, and others that you say you did not see before the hearing today.

Mr. Sweeney, although you testified that the charges made by the Transport Workers Union cannot be substantiated, you must be aware of a document in part II, of the union's submission to the subcommittee.

That document is from the chief mechanical officer of ConRail to all mechanical officers in the field, in which he complains of excesses in cost, and the assignment of outside contract personnel and equipment to three ConRail derailment jobs, which were pulled at random from a stack of bills, and used as an example of problems which the chief mechanical officer thought was serious, and required immediate correction.

Do you think that ConRail's mechanical officer was wrong in his concern over this situation, which seems, at least to bear on some of the concerns that Mr. Terriego and his colleagues mentioned?

Mr. Sweeney. No, I do not. I think Mr. Butler is justified in his comments. When I made the statement about, without substantiation, I was referring to the fraud, the fringe benefits, the alleged conflicts of interest.

We have uncovered in the process of our investigation one positive case of evidence on that. I would make the observation that we should not have any. We intend to try to find it where we can, and put it out.

But on the kind of comments that are made, in Mr. Butler's case, they have been reviewed by others. There is always a judgment call on this. What is seen by the chief mechanical officer—who I may add is no longer the chief mechanical officer—the judgment seen by him on this subject can have a different flavor when they are viewed by the track superintendent who called out the crew for the wrecking as to whether or not he had equipment, and whether he could have gotten it to the site, because there are substantial costs attached to every one of these wrecks, and they can mount up.

It relates to what can happen if piling up of traffic occurs, in delaying trains, jamming up the yards, and so forth.

I have no comment at all on the wisdom of Mr. Butler's statement, and I probably would accept a good bit of it. But on the other side, I would like to see the call of the man who called out the crew.

Senator McGovern. You testified that although the Transport Workers have projected a figure of "tens of millions of dollars" for ConRail derailment work, that the railroad's own figures indicates that only $8.3 million is paid for such work.

Mr. Sweeney. I just stated that.

Senator McGovern. Are you aware that the U.S. Railway Association has determined that ConRail spent nearly $22 million last year, and if so, what is the explanation between the difference in the total you report and the other?

Mr. Sweeney. That is the first time I heard that figure, and we would have to talk with the people at USRA to determine the difference.

Senator McGovern. I have submitted for the record, and I will be glad to make a copy available to you, Mr. Sweeney, the U.S. Railway Association memorandum of April 24 of this year, 1978. It is to Mr. George Miller from Mr. Frederick W. Yokum, Jr., and it has to do with the Senate questions concerning ConRail oversight hearings.

They listed the figure at $21.8 million as the annual expenditure for derailment.

Barring objection, it be made a part of the hearing record, and I will see that you are furnished a copy of it.

Can you give the difference in the figure of $8.3 and the nearly $22 million? I think that would be helpful.

Mr. Sweeney. We would have to take that document and see what we can determine.

[The following information was subsequently supplied for the record:]

United States Railway Association Memorandum, Dated April 24, 1978

To: George Miller, USR–2.
From: Frederic W. Yocum, Jr., USR–8.
Subject: Senate Questions—Conrail Oversight Hearings.

This memorandum is a first installment intended to answer some of those questions raised as a result of the testimony given before the Surface Transportation Subcommittee of the Committee on Commerce, Science and Transportation, U.S. Senate on April 13, 1978. The answers to questions 2 and 3 will be forthcoming.

Attachment (a) supplies the information requested by question No. 1.

Locomotives are considered non-revenue equipment. As referred to by question No. 4, the other non-revenue equipment mentioned in Mr. Jordan's statement consists of cabooses and various items of machinery, such as surfacing, rail laying and snow removal equipment.

In response to question No. 5, here is a rundown of the total derailment costs by quarter:

1976:	
2d quarter	$8,017,191
3d quarter	7,668,916
4th quarter	6,847,813
1977:	
1st quarter	9,931,833
2d quarter	6,074,397
3d quarter	4,920,330
4th quarter	9,346,496

During the year 1977, total ConRail expense in ICC account No. 415 (clearing wrecks) was $21.8 million of which approximately $12.7 milion was paid to outside contractors, meaning that approximately $9.1 million was paid to its own employees. Members of ConRail's management have expressed the opinion that the percentage of money paid to outside contractors during 1977 was too high and that the current review and changes in procedures currently being considered by ConRail will lead to a substantial reduction in the percentage of this money which is paid to outside contractors. ConRail's Division Superintendents are supervised by General Managers. Each Superintendent (24) reports to one of seven General Managers. An eighth General Manager handles passenger service in the New York area exclusively. A ConRail Division Superintendent does not have complete control of the arrangements with regard to the clean up of derailments. Both the speed and cost of derailment clean up is monitored by the General Managers.

In turn, the Senior Vice President of Operations monitors the performance of each General Manager in this regard. In determining the method of cleaning up derailments, ConRail supervisors must consider a number of factors such as the nature of the track blocked, alternate routes, hazardous commodities involved, volume of expected business as well as lowest cost for the clean up itself in determining the method(s) to be used in restoring service.

Question No. 7 is answered by attachments b and c.

Question No. 8 is answered by attachments d and e.

If any of these answers raise further questions or if you desire any other information, please advise.

Question 1—ConRail's volume by quarters since April 1976: A carload; B. By coal as a percent of gross revenue and net income.

Attachments.

Attachment A

A. CONRAIL'S TOTAL CARLOADS, GROSS SYSTEM REVENUE, COAL CARLOADINGS, GROSS REVENUE FROM COAL, AND COAL AS A PERCENT OF TOTAL CARLOADS AND TOTAL GROSS REVENUE BY QUARTER SINCE APRIL 1976

Year	Quarter— 1st		2d		3d		4th		Annual total [1]	
	Carload (thousands)	Revenue (millions)	Carload (thousands)	Revenue (millions)	Carload (thousands)	Revenue (millions)	Carload (thousands)	Revenue (millions)	Carload (thousands)	Revenue (millions)
1976: [2]										
A. Totals			1,440	$694.4	1,349	$667.7	1,356	$666.7	4,165	$2,028.8
B. Coal			259	$91.2	224	$81.9	266	$93.3	749	$266.4
C. Coal as a percent of:										
1. Total carloads			18.0		16.4		19.6		18.0	
2. Total gross revenue				13.1		12.3		14.0		13.1
1977:										
A. Totals	1,171	$609.1	1,399	$734.6	1,295	$681.2	1,273	$681.6	5,138	$2,706.4
B. Coal	210	$75.7	264	$99.1	233	$90.5	234	$89.3	940	$354.6
C. Coal as a percent of:										
1. Total carloads	17.9		18.9		18.0		18.4		18.3	
2. Total gross revenue		12.4		13.5		13.3		13.1		13.1

[1] Annual totals may differ from sum of quarters due to rounding.
[2] Conrail began operations Apr. 1, 1976. No 1st quarter data available for 1976. Annual totals for 1976 are sum of 9 months (April–December).

Source: Interstate Commerce Commission; Quarterly Report of Freight Commodity Statistics.

B. CONRAIL'S NET LOSS FIGURES BY QUARTER SINCE APRIL 1976

[Net loss (millions)]

Quarter	1976	1977
1st		$207.6
2d	$34.4	27.6
3d	32.0	54.7
4th	139.0	76.8
Year total	205.5	366.6

Note: Annual totals may differ from sum of quarters due to rounding.

Attachment B

HEAVY CAR REPAIR PRODUCTION RECORD

	Revenue	Nonrevenue
Month—1976:		
April	1,028	151
May	894	261
June	1,088	117
July	888	122
August	794	81
September	888	79
October	1,031	89
November	1,096	34
December	1,015	27
Total, 1976	8,722	961
Month—1977:		
January	855	21
February	990	16
March	1,352	18
April	1,167	21
May	984	209
June	1,058	206
July	801	36
August	1,116	50
September	837	88
October	915	58
November	770	52
December	687	121
Total, 1977	11,562	896
Month—1978:		
January	990	23
February	997	12
Total (2 mo 1978)	1,987	35

Note: ConRail's Altoona Car Repair Shop record of production for new cars and repairs for 1976 and 1977. No new cars have been constructed at Altoona.

Attachment C

ALTOONA MEDIUM CAR REPAIRS

	Revenue	Nonrevenue
Month—1976:		
April		
May	3	1
June		
July	1	1
August		
September		
October		
November		
December		
Total, 1976	4	2
Month—1977:		
January		
February		
March		
April		
May	5	1
June		
July		
August	123	
September	261	
October	258	
November	228	
December	107	
Total, 1977	982	1
Month—1978:		
January		
February		
Total		

Attachment D

CONSOLIDATED RAIL CORPORATION—MAINTENANCE OF EQUIPMENT (BAD ORDER AND OUT-OF-SERVICE EQUIPMENT RATIOS)

[In percent]

	Freight cars			Cabooses			Locomotives		
Month	1977	1976	Over or (under) 1976	1977	1976	Over or (under) 1976	1977	1976	Over or (under) 1976
January	14.0			15.9			24.3		
February	14.0			17.1			22.7		
March	14.1			16.6			21.1		
April	14.3	13.2	1.1	15.9	NA		21.4	18.2	3.2
May	14.5	13.7	.8	15.1	NA		18.7	17.0	1.7
June	14.8	13.3	1.5	13.8	NA		18.7	18.3	.4
July	14.9	13.5	1.4	12.5	NA		19.8	18.8	1.0
August	14.7	13.3	1.4	13.2	NA		19.1	19.8	(.7)
September	15.0	13.8	1.2	7.7	20.0	(12.3)	18.6	19.3	(.7)
October	15.2	14.4	.8	5.9	18.1	(12.2)	18.9	19.6	(.7)
November	15.6	13.8	1.8	6.5	15.5	(9.0)	20.8	19.0	1.8
December	15.6	13.7	1.9	6.7	14.6	(7.9)	22.8	20.5	2.3

Attachment E

CONSOLIDATED RAIL CORPORATION—MAINTENANCE OF EQUIPMENT (BAD ORDER AND OUT-OF-SERVICE EQUIPMENT RATIOS)

[In percent]

Month	Freight cars			Cabooses			Locomotives		
	1978	1977	Over or (under) 1977	1978	1977	Over or (under) 1977	1978	1977	Over or (under) 1977
January	15.8	14.0	1.8	7.7	15.9	(8.2)	25.2	24.3	0.9
February	16.0	14.0	2.0	8.3	17.1	(8.8)	26.2	22.7	3.5
March	16.2	14.1	2.1	8.5	16.6	(8.1)	24.6	21.1	3.5
April		14.3			15.9			21.4	
May		14.5			15.1			18.7	
June		14.8			13.8			18.7	
July		14.9			12.5			19.8	
August		14.7			13.2			19.1	
September		15.0			7.7			18.6	
October		15.2			5.9			18.9	
November		15.6			6.5			20.8	
December		15.6			6.7			22.8	

Senator McGOVERN. You recently responded to some of the Transport Workers' charges in a letter to the Senate Commerce Committee. And in that letter, you state that ConRail's own records prevail, and some of the substances of the allegations simply cannot be determined.

What have you done in the meantime to clarify those records so that you feel you can be here today to give us definitive answers?

Mr. SWEENEY. I think you will find them in the answers that we have put in that document. We had our auditing department go back and review and take tape-recorded interviews with the people that were involved in the decisions that are involved here. The result is——

Senator McGOVERN. You provided us with voluminous documents. I have to tell you, and I think you can understand, that I have not had a chance to review all of that documentation; but it is very substantive, and we only got it shortly before the hearings.

But I am advised by the staff, Mr. Sweeney, that there are clear contradictory positions with regard to that submitted by Mr. Terriego and ConRail's answer, particularly as it relates to the allegations of fraud.

You have tape-recorded statements alleging that these practices did not take place, and Mr. Terriego has eyewitnesses saying they did.

I think our only recourse is to turn these over to the Justice Department and the ICC and the U.S. Rail Association. [Applause.]

I have to remind our guests that the rules of the subcommittee do not permit or allow applause or protest. We have to maintain order in the room.

But I do think where you have clearly contradictory positions, it is really the province of the Justice Department.

Mr. SWEENEY. We would welcome that look.

Second, I would point out that in his prepared statement Mr. Terriego stated that what he was citing as a fine statement is precisely the statement that I have submitted.

Senator McGOVERN. In your letter to the Senate Commerce Committee, the letter I just referred to, you state that statements taken by ConRail employees support, in part, some of the union's charges.

In light of your statement here today, how do you explain that?

Mr. SWEENEY. That is no question——

Senator McGOVERN. You have no doubt that there is some wrongdoing?

Mr. SWEENEY. No question. We do think, however, that there is enormous contradictory testimony.

Senator McGOVERN. You have also stated that it would not be prudent for ConRail to purchase its own rigging and rerailing equipment.

USRA has determined that such purchases would cost approximately $30 million. Why would it not be prudent—and I ask this as a point of information—to purchase, a good portion of this equipment, when the indications are that it would pay for itself in a couple of years' time?

Mr. SWEENEY. I think primarily for several reasons. $30 million, we do not believe, would guarantee coverage. We believe we would still have to come to Congress.

The primary reason is that if you purchase all this equipment, then you have to man them yourselves. These are emergency situations that are occurring on periodic bases. To keep that kind of standby force would be prohibitively expensive in terms of additional labor costs.

Senator McGOVERN. To go into that matter on the specific incidences that Mr. Terriego raised concerning the Conway yard, would you explain to us how ConRail was able to determine that the union's charges are invalid?

Mr. SWEENEY. I think a perusal of the statement we submitted indicates that that claim was indeed invalid.

Senator McGOVERN. In order words, you deny the charge that $91,000 was paid for a piece of equipment that was not in fact used?

Mr. SWEENEY. Let me put it this way: There is not anybody that I would describe in top management who makes these decisions but we feel that where we have conflicting testimony one side of that conflicting testimony should be given more credit than the other.

There is substantial evidence that the crane was in use by people in charge of it. So we have to assume that their testimony is valid.

Senator McGOVERN. Even though it conflicts directly with the union officers' testimony?

Mr. SWEENEY. Yes.

Senator McGOVERN. These are matters that we will have to pursue further. But I think it is clear from your testimony here today, Mr. Sweeney, that you are not denying all of the charges, but that they have, in some cases, been exaggerated; but admittedly, there is some fraud and mismanagement allegations that are true.

Mr. SWEENEY. I will make the one admission that we did discharge a man because we found that he had accepted what is described as fringe benefits.

Senator McGOVERN. As I indicated to the previous witness, we may want to follow this up with questions in writing. But that is all that time permits us for today.

Thank you.

Mr. SWEENEY. Thank you.

Senator MCGOVERN. Mr. Sweeney, before you came in the room, Senator Javits got a unanimous consent request to submit questions to you for answers in writing.

Mr. SWEENEY. Fine.

Senator MCGOVERN. We turn now to the second part of our hearing this morning, which is a look at the larger problem of the railroads as a whole.

We have two expert witnesses who are here to testify on those matters.

I would like to call Mr. Arthur Grotz, transportation consultant, and Mr. Clifford Worth, general traffic manager of Westvaco.

Mr. Grotz and Mr. Worth, I think we will let each of you proceed with your testimony, and then after you have finished, we would like to question you.

STATEMENT OF W. ARTHUR GROTZ, TRANSPORTATION CONSULTANT, BALTIMORE, MD.

Mr. GROTZ. Your invitation to testify at this hearing suggested that I address ways in which National Railroad Policy should promote initiatives by government, management and labor to improve labor productivity and railroad operating efficiency as well as rate and regulatory flexibility. In addition, you invited my view as to whether the thrust of National Railroad Policy should be toward a greater role for government in the operation of railroads or toward revitalizing the rail industry wholly within the private sector.

As background for my response, I urge that the Congress view railroads not as a distinct industry but as an indispensible part of the Nation's total transportation resources. Transportation spending for equipment and services is said to be 20 percent of the gross national product. Railroads are a minority among thousands of public and private carriers of all modes that everywhere compete for freight and passenger movement.

This intense competition is conducted moreover under greatly varying regulations, from highly regulated railroads to largely unregulated transportation of agricultural commodities and bulk cargoes by other modes of agricultural commodities and bulk cargoes.

From the ownership and maintenance by railroads of rights-of-ways to the use without cost by waterway operators of ways provided by government.

I respectfully submit that most of the railroads' problems stem from inadequate earnings aggravated by the fragmented Federal role in transportation. The rate of return on railroad investment has been as high as 3 percent since 1966. In 1977 it was only 1.26 percent. The reason is not that there is not enough traffic for the railroads. It is that transportation has proliferated under various governmental policies, so there is not enough traffic for efficient utilization of all modes.

In December 1977, the Senate Committee on Governmental Affairs published a study on Federal regulation. I commend to your subcommittee its excellent chapter on "Transportation Regulation," of which the first conclusion states, "A unified, logical, comprehensive and equitable national transportation policy is the essential with your testimony, and then after you have finished, we would prerequisite for an effective transportation regulatory system." The policy should establish national goals and priorities for Federal responsibilities in transportation.

In my opinion, no development in transportation would be more reassuring to the vast majority of shippers, investors, management, labor and the American public than the early enactment of such a policy. I recognize that there are vested interests in some areas of transportation that regard any change to be a threat to their interests. Obviously, these interests must be fairly provided for in a unified policy.

Pursuant to such a policy, the Federal programs dealing with transportation should be coordinated by the Secretary of Transportation. The unified transportation budget recommended by Secretary Adams, by his predecessor, Secretary Coleman, and by the Senate study above referred to, should be adopted to help achieve equity in Federal spending among competing transportation programs.

Long range, intercity planning of transportation needs and resources on a coordinated basis should be promptly initiated. Its full implementation may take decades.

Consider, for example, the replacing of railroad rolling stock and terminals, which have long lives. But this is an added reason for getting started now.

Federal planning should be conceptual but forceful, leaving the practical application to be worked out by affected private interests. Obviously, planning must be a continuous process, and have the flexibility to accommodate unforeseen shifts in demand, energy availability, and technology.

The transportation policy I have described would go a long way toward creating the favorable regulatory atmosphere needed for the development of balanced and better transportation. The role each mode would play would depend to a greater extent than at present on an objective evaluation of the contribution it can be expected to make to the national well-being, under evolving conditions. Transportation executives would be freer to innovate in service, efficiency, interroad coordination, and intermodal development. Investors would be encouraged to provide capital for the new facilities justified by the magnitude of the market for transportation. The public would benefit from higher standards of service and more rational allocation of Federal funds.

My emphasis on policy reflects my conviction that a unified transportation policy and budget are essential to the acceleration of the railroad initiatives to which your letter of invitation specifically referred.

The promotion of initiatives, whether by government, management, or labor—hopefully by all three—is basically a matter of

psychology. Initiative is defined as the taking of the first step toward change. It requires a subjective conviction that the change will be beneficial and that it has the probability of success.

It also requires motivation—getting off dead center. While a sense of achievement motivates some people, and more certain motivation involves financial rewards or advances in grade for the attainment of higher goals, and in the case of labor, the expectation of a fair share of savings.

Incentive plans are widespread among private managements. While similar plans may not be feasible in government, some degree of recognition for innovators in governmental agencies is vital for maximum performance. The interest of private enterprise in employing proven innovators has brightened the prospects of their future employment in industry. Government must meet this challenge.

A major deterrent to innovation is the fear of incurring the displeasure of a superior. Provisions for sharing in credits and rewards between innovators and their superiors must be clearly stated by government and industry.

The promotion or stifling of railroad initiatives is profoundly affected by the way in which railroads appear to be regarded in Washington. Several recent events seem to indicate a more positive Federal attitude toward the rail industry. While much more must occur to establish a favorable trend, it is appropriate to recognize the following events:

The evidence of Federal conviction of the need for railroads shown by the creation of ConRail and appropriation of funds to meet its initial deficits and rehabilitation;

Other provisions of the 4–R Act of 1976;

Self-examination by the Interstate Commerce Commission and its awakening to the need for expedition in rate and other proceedings;

Initiatives of the Federal Railroad Admiinstration and of the Rail Services Planning Office of the Interstate Commerce Commission as to merger criteria and offers of assistance in railroad restructuring;

FRA's operating and intermodal studies, its railroad testing at Pueblo, Colo., and its contribution to improving management information systems and equipment utilization; and

Pilot experiments financed by Government in modifying labor seniority districts and rules, as a means of improving performance.

Stimulated by the modest increase in confidence stemming from such events, there is an increase in railroad innovation, particularly in respect of mergers and intermodal service. Innovation can be accelerated by further evidences of Federal interest, such as these hearings by your subcommittee, and, most importantly, by enacting a unified policy.

Your invitation requested also my views on whether the thrust of national policy should be toward a greater role for Government in the operation of railroads or toward revitalizing the rail industry within the private sector.

Should Government at some future time acquire the rights-of-way of one or more railroads, it is my view that such ownership should be

passive. I am firmly of the opinion that the continued operation of railroads as competitive, private, for-profit enterprises will best serve the Nation.

Private enterprise has demonstrated beyond doubt its capacity for effective use of capital and manpower. The potential for increasing meager railroad profits under more equitable regulation and promotion will stimulate faster and more dependable service—dollar-for-dollar—than under Government operations. Government is simply not suited to the competitive or crisis decisions so common to railroading.

Moreover, a Federal takeover of railroad operations on any extensive scale would irreparably damage the American political philosophy of private enterprise. It would be a giant step toward socialism, which could be cited as a precedent for future incursions by Government into such activities as banking, communication systems, and insurance.

In preserving private operation in an industry as disturbed by inadequate earnings and bankruptcies as has been the railroad industry, Government has a significant role to play in restoring the confidence:

Of labor in the aggregate job opportunities of an improving railroad industry and in federally aided programs to retrain and place personnel displaced by technological advances in the art of railroading, as in the case of smaller train and engine crews, or by railroad restructuring;

Of management in access to Federal financial aid in track and equipment rehabilitation and in meeting the social costs of unavailable personnel separations consistent with national transportation goals; and

Of investors in their reasonable expectation of a fair return on investment. In this connection, I suggest consideration of ways in which tax incentives roughly equivalent to those which have made the financing of railroad rolling stock attractive to investors may be extended to the financing of fixed assets. The capital needs of railroad plants are currently at least as great as those of equipment.

Senator, and subcommittee members, this concludes my direct testimony. I compliment you on the timeliness of these hearings.

Thank you very much.

Senator McGovern. Thank you very much, Mr. Grotz, for your testimony. It is a thoughtful statement, and we appreciate your being here for it.

We turn now to Mr. Worth. You may proceed in any way you wish.

STATEMENT OF CLIFFORD L. WORTH, GENERAL TRAFFIC MANAGER, WESTVACO, NEW YORK, N.Y.

Mr. Worth. My name is Clifford Worth. I am general traffic manager of Westvaco, a manufacturer of paper and kindred articles. Sales last year were over $1 billion and the annual transportation bill is about $100 million.

During the past several years, there has been a significant diversion of traffic—in my company, in the paper industry, and in industry in general—from rail to truck. The facts have been presented very

carefully, and I think quite thoroughly, to railroad senior management and to their traffic and operating officers. They are fully aware of what has happened—and is now occurring—and have some understanding of the reasons. But, the critical steps needed to bring about a major reversal of the trend do not occur.

In considering this unfortunate situation many thoughtful industrial traffic executives have come to realize that the subject of railroad labor productivity is at the very core of the list of reasons why the diversion trend continues and is at the very root of the problem of the gradual deterioration of the Nation's railroad system. This, in turn, led to the formation of a totally unstructured project carried on most informally by an ad hoc group of about 30 industrial traffic managers from widely differing companies and geographically located throughout the country.

In our own limited way, we sought opportunities to communicate directly with railroad labor leaders—usually in company with railroad management people—and to attempt to convey to them, one, the reasons why the volume of rail traffic is declining to the jeopardy of their own livelihoods and the people they represent, and two, the link between these reasons and the subject of rail labor productivity, and three, to attempt to interest them in making changes in their own way and in their time of work rules, customs, practices, and traditions so as to create new levels of rail labor productivity in their own self interest.

My personal participation in this effort has been most interesting and included many such discussions. In none of them did any rail labor leader or management executive express any resentment about our presentations. In fact, I have been invited to return several times for further communications.

Our little ad hoc group will probably never know the results of our efforts, and whether or not we did, in fact, have any impact on either rail labor or rail management thinking. But, we certainly tried to the extent of our limited capabilities and time.

I was delighted to be invited to participate in this hearing today, because it provides an opportunity for me to tell you directly what we have been presenting to rail labor and management leaders. It may well work out that you will then be able to see first hand that these concepts are critical to any real and long-lasting solution of the railroad problem. And later, I will offer some ideas and suggestions for legislative consideration.

The list of causes for the demise of Penn Central and other Eastern bankrupt railroads and of the Rock Island and Milwaukee and for the general deterioration of most rail service is long, varied, complex, and subject to much argument. But, right at the top of the list is the simple fact that there just isn't enough freight to support the rail system as it is now constituted. And this is despite the vitality and vigor of the economy as a whole.

Great attention is given to proposals for mergers, consolidations, track abandoment, and creation of new "ConRails" and even the specter of nationalization. But none of these can ever be a permanent solution unless there is the volume of freight needed to support it. And that

will not come so long as railroads offer services that shippers do not want and at prices that shippers are not willing to pay.

Some idea of the extent of the traffic loss is afforded by exhibit 1 [1] which I have attached to my statement. Despite rate increases of 56.9 percent, rail revenues have increased only 47.8 percent. The clean cut explanation is a decline of 1,600,000 carloads of freight per year. As a corollary, rail employment is down by 61,000 people.

I realize very keenly that the diversion of traffic from rail to truck reflected by this data is caused by literally thousands of day-to-day operating decisions of people like me and our staffs as to whether some particular quantity of freight is to move by rail or by truck. But no matter what the specifics may be, all of these reasons fall into three precise and easily identified categories. They are: One, unreliable and erratic transit performances; two, inadequate car supply; and three, noncompetitive pricing—freight rates.

I will develop each of these separately, from the standpoint of ordinary carload freight movements as contrasted to the circumstances involved in huge concentrations of freight that move in unit trains, and the like.

Between any two railroad stations between which there is a large repetitive movement of freight, there is always a range of transit performance. The more terminals a car may pass through enroute, the greater the variation, the unpredictability, and the unreliability. As indicated in my attached exhibit 2, a few cars make the trip in a short time, and the number of cars which take longer rises to a peak which ultimately declines to that one final car that seems to take forever.

Typically, the variation for a specific repetitive movement may be from 4 to 11 days. The practical outcome is that rail service is a viable shipping alternative only for merchandise going into storage or inventory and cannot be used successfully whenever there is any type of delivery urgency. And as rail service deteriorates as it has over the past 7 years, the number of even those opportunities progressively diminishes as industry comes to reckon with inventory costs and with customer pressures to order and expect delivery of only the quantities needed for current operations. Rail is just not a practical choice when any kind of delivery constraint exists in the underlying commercial transaction.

The second point on my list was car supply. While this testimony is being offered in the context of car supply for commercial transportation usage, there is an even larger overtone. As a nation we face a critical shortage of rolling stock. There just is not enough equipment available to care for industry's needs; let alone those of national defense.

I can state here unequivocally that not one of Westvaco's numerous plants, mills, factories, or other shipping points receives all of the empty cars it wants all of the time. Not one. I cannot even say that most of the plants receive most of the cars they need most of the time. Car supply is the one most irksome, aggravating, and frustrating problem faced by an industrial traffic manager.

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[1] See exhibits 1–6 at the end of Mr. Worth's oral testimony beginning on p. 174.

The result is that the certainty of the availability of trunk equipment weans away from rail enormous quantities of business which quite ordinarily and logically should have been shipped by rail.

Now, let me refer to the third item of rail disability—freight rates. In the 1960's for the most part truckload freight rates were considerably higher than the corresponding rail rates. Industrial traffic managers could make rational choices. You pay low rates and get slow and uncertain rail service; you pay high freight rates and secure "premium" truck service.

As a result of rail rates having been increased since those days at a much more rapid pace than the rates of companies which specialize in truckload transportation, more and more current truckload rates are at levels that are below—or are at—or are but slightly higher than the corresponding rail rate. Today, when such a balance exists, there is no choice.

Put somewhat differently, there are enormous quantities of freight which are now entirely economic to move by truck that never would have been in that position a few years ago. This circumstance is pictured in my exhibit 3. What is needed now are rail rate reductions to restore a competitive balance—not further self-defeating increases.

When all three of these factors I have been describing are considered together, you can better understand why the man who fills out the bill of lading and the man who directs how shipments are to move are forced to make more and more decisions in the direction of truck and away from rail.

Underlying each of these three groups of railroad disabilities are numerous causes and subcauses and contributory factors, all of which get a lot of publicity and study and sometimes action. But the root cause common to all receives little, if any attention. It is the subject of railroad labor productivity. Please allow me to demonstrate:

STABILIZING RAIL TRANSIT PERFORMANCE

Rail management makes no bones over openly stating that in order for railroads to survive, labor costs for train crews must be reduced. This is accomplished by running fewer trains, but with each containing more cars. This, in turn, leads to schedules that do not meet and to monumental delays in terminal yards, which, in turn, result in the present uncertainty and unpredictability of transit performance shown in exhibit 2, attached.

A clearer understanding of what is involved here will probably follow from a brief explanation of how freight actually moves from one place to another. Please refer to my attached exhibit 4. This crude drawing is supposed to represent the way a railroad or a group of railroads looks to a shipper. Each of the little circles represents a terminal point, and the lines are intended to indicate the trackage that connects them.

I want to describe a theoretical movement of a carload of freight from Point A to point B. The freight does not move directly from point A to point B. It moves first in a "way train" to one of the terminals on either side of the shipping point depending on whether that day's way train happens to be going one way or another. And at the first terminal the car is held, switched from track to track, classified,

and is given minor repairs and eventually is placed on a hold track to await the accumulation of enough cars to justify a trip to the next terminal.

Then, when the car gets to the second terminal it is switched out of the inbound train, classified, shuttled around, put on various tracks and eventually assembled into a train to move to the next terminal, and the next, and the next. The movement of the car from point A to B really represents a series of rather convulsive jerks from one place to another with long pauses in between.

If, in the roulette wheel of fate, a particular car happens to land at each one of the terminal points at an optimum moment to meet an outbound train from that terminal going to the next one on the route, then the car will move through—swish.

That will be the shipment that has the 4-day transit performance.

On the other hand, if a car is one, which by the roulette wheel of fate, happens to sit at every one of those terminal points awaiting whatever, then it will move in a pattern that will result in the 11 days of transportation. All railroad freight falls some place along that bell-shaped curve of transit performance mentioned earlier.

The establishment of predictability and reliability lies in rail labor coming to understand that productivity improvement is required so as, (a) to allow shorter trains to be run more frequently and for the cars to be processed more rapidly in terminal yards; and (b) to allow deferred track work and other maintenance to occur at costs that can be financed which, in turn, will speed the movement of freight.

Improving car supply: All of the factors that relate to the delays which now occur with loaded car movements apply with equal force to the movement of empty cars. Improvement of labor productivity is as much or more of a factor in assuring an adequate supply of cars as dollar investment in new equipment.

The fact is that most freight originates at locations far removed from the places where loaded cars terminate. It is a key part of the railroad system to move vast numbers of empty cars for long distances to the site of the next load.

Labor productivity changes that will hasten that process are a critical necessity. Also, monumental numbers of railcars sit idle because management cannot finance needed repairs. Improved shop labor productivity would alter this situation and quickly make available a "new" fleet of needed cars out of literally miles of out-of-service cars now held on storage tracks.

Freight rates: The only way that rail freight rates can be reduced to levels which are truck competitive—and will thus reattract traffic to rail, as shown in my attached exhibit 3—is by internal reductions of operating costs. And these will only come from rail labor productivity improvements.

I am quite confident that Congress cannot successfully legislate rail labor productivity improvements. Nor can this goal be achieved by order of the Department of Transportation, or the Interstate Commerce Commission.

Nor will creation of new "ConRails," merging railroads, abandoning lines, creating national railroad systems, restructuring, subsidies, or even nationalization keep the American railroad system going un-

less these actions are supported by significant rail labor productivity improvement.

The only real answer lies in the direction of a process of education and enlightment so that rail labor, from the man with his hand on the throttle to the national leader of his union will come to see that their own self interests lie in improving their own productivity. Similarly, rail management from the straw boss of the track maintenance crew to the chief executive officer, must come to realize that confrontation and compulsion will not produce the essential results.

This task is exactly what my efforts and those of my ad hoc shipper friends have been directed toward. Exhibit 5 attached, refers to but two of the many communications sessions which have been held. Its purpose is to show our efforts to reach the top key rail labor and management leaders in addition to those on many individual railroads.

But this project is too big and too vital for Congress to leave in the hands of any single small group such as ours. Ample evidence of the significance and importance of the subject of improving rail labor productivity from impartial, unbiased, and prestigious sources is included in the quotations reproduced in attached exhibit 6.

This, then, brings me to the conclusion of this presentation and to the point of offering ideas and suggestions for legislative consideration.

Overall, the Congress should support well-conceived programs of the Department of Transportation and the Interstate Commerce Commission which will directly address the three deficiencies of current rail transportation: (a) unreliable and erratic transit performance; (b) inadequate car supply; and (c) noncompetitive pricing—freight rates.

Specifically, a means should be developed to supplement the traditional approaches to these subjects with a process of communications and education so as to encourage rail labor and management to voluntarily agree to changes that will have affirmative impacts. Indeed, unless this is done, there is no way this subcommittee can reach its objective of finding "which way is up."

The Congress should specifically stress the national defense consequences of not facing up to this challenge. Our Nation would be in dire straights, because of the demise of the rail system, if during a national emergency we could not move men and materials and still keep the esssential economy running.

What is so clearly needed is legislation that, one, will firmly place responsibility on rail labor and rail management to move ahead and find voluntary agreement on a wide range of significant productivity improvements, and two, will provide the basis for aid and encouragement of this process by innovative continuation of the kind of dialog that has been started.

Senator McGovern. Thank you very much, Mr. Worth, for your fine statement.

[The exhibits attached to Mr. Worth's statement follow:]

EXHIBIT I

SELECTED RAILROAD STATISTICS[1]

1. FREIGHT REVENUE

1976	$17,422,405,000	
1971	11,786,064,000	
Increase	$ 5,636,341,000	(47.8%)

2. FREIGHT RATE INCREASES (1971-1976):

ICC Designation	Approximate Amount	Effective Date
X-265	6%	11/20/70
X-267	3%	4/12/71
X-281	3%	10/23/32
X-295	3%	8/19/73
X-299	2.8%	3/16/74
X-303	4¾%	3/9/74
X-305	10%	6/20/74
X-310	7%	4/27/75
X-313	5%	6/20/75
X-313	2.5%	10/11/75

Cumulative Total Effect 56.9%

(Note: 1976 Freight Revenue would have been $18,492,234,000, a difference of $1,069,829 if the full increases had been achieved over 1971.)

3. REVENUE CARLOADINGS

1971	25,265,569
1976	23,638,376
Down	1,627,193

4. NUMBER OF EMPLOYEES

1971	544,333
1976	482,882
Down	61,451

[1] Yearbook of Railroad Facts - 1977 Edition
(Economics and Finance Department, Association of American Railroads)

EXHIBIT 2

RAILROAD TRANSIT PERFORMANCE

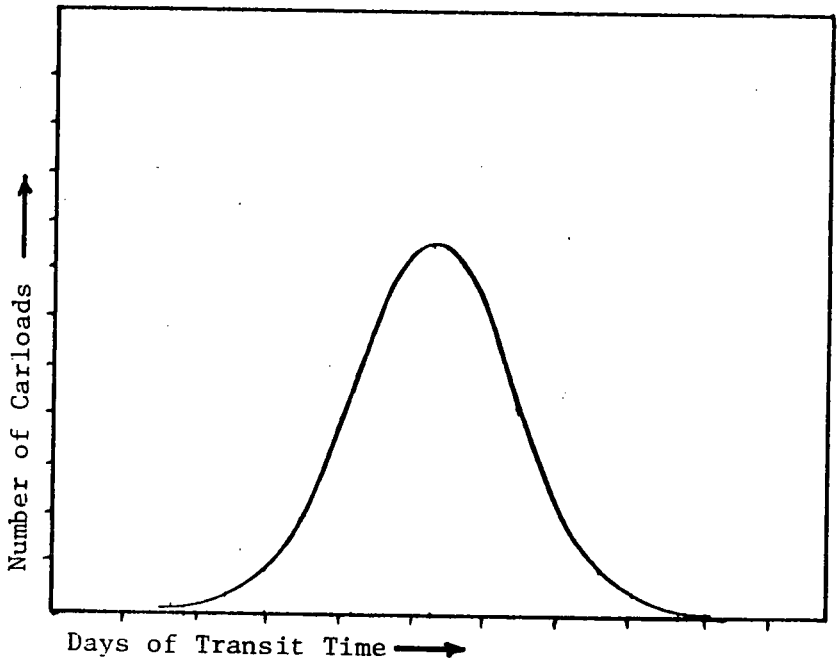

EXHIBIT 3

RAIL VS. TRUCK FREIGHT RATES

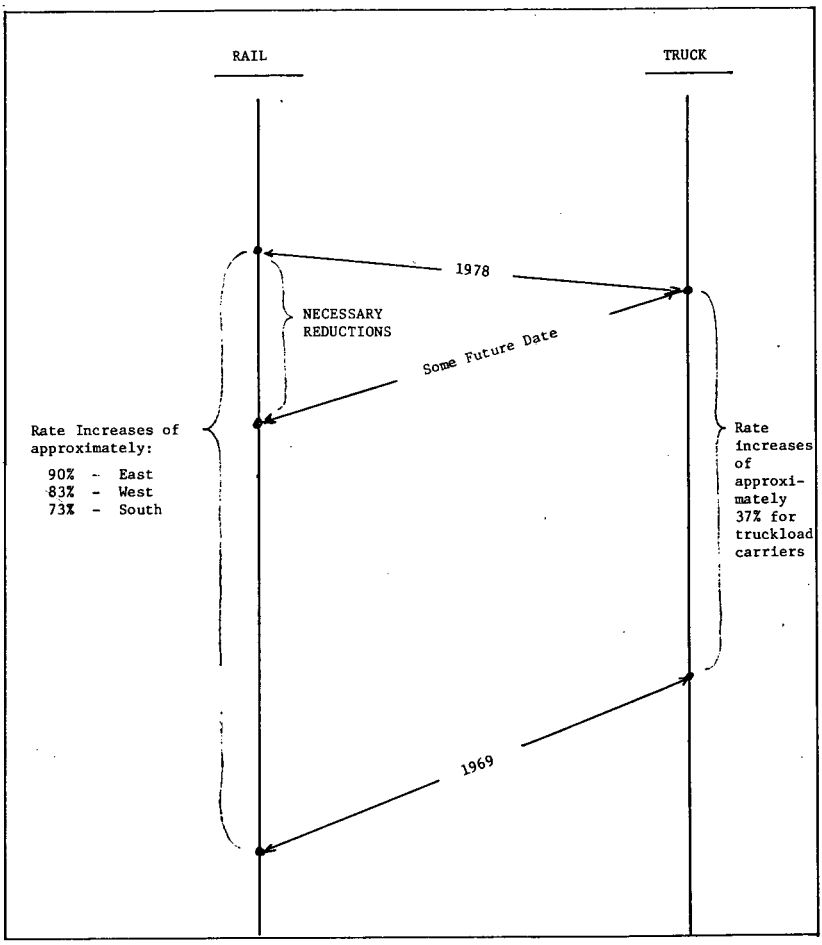

EXHIBIT 4

HOW FREIGHT MOVES THROUGH

THE RAIL SYSTEM

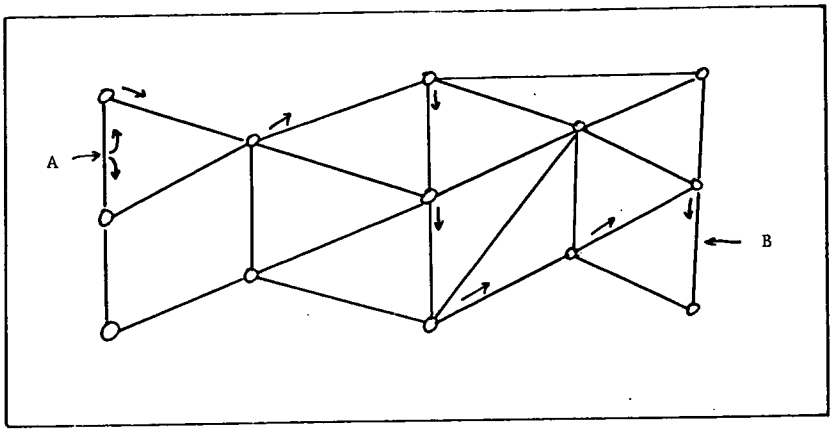

EXHIBIT 5

REFERENCE TO SELECTED "AD HOC" PRESENTATIONS TO
NATIONAL RAILROAD LABOR LEADERS

1. March 10, 1977 (Railroad Industry Labor - Management Committee - Washington, D.C.)

Attendance List:

UNION REPRESENTATIVES	RAILRAOD PRESIDENTS	"AD HOC" SHIPPER GROUP
Mr. A. H. Chesser President United Transportation Union	Mr. L. Stanley Crane President Southern Railway System	Mr. J. R. Scoggin Vice President, Traffic Peavey Company
Mr. James E. Yost President Railway Employees Department, AFL-CIO	Mr. John Reed President Santa Fe Railway Company	Mr. John H. King Director of Transportation Georgia-Pacific Corporation
Mr. Harold C. Crotty President Maintenance of Way Employees	Mr. Richard D. Spence President Consolidated Rail Corp.	Mr. A. P. Davis, Jr. Assistant Vice President Carnation Company
Mr. Fred T. Knoll International President Brotherhood of Railway, Airline & Steamship Clerks	Mr. Louis W. Menk Chief Executive Office Burlington Northern	Mr. Clifford L. Worth General Traffic Manger Westvaco
Mr. Donald S. Beattie Director, Governmental Affairs Railway Labor Executives Association	Mr. John P. Fishwick President Norfolk & Western Railway Company	
Mr. James R. Snyder National Legislative Director Unted Transportation Union	Mr. John C. Kenebick President Union Pacific Railroad	
	Mr. William H. Dempsey President Association of American Railroads	

EXHIBIT 5 - Continued

2. July 6, 1977 (Railway Labor Executives' Association - Chicago, Illinois)

Attendance List

UNION REPRESENTATIVES

Mr. A. H. Chesser
President
United Transportation Union

Mr. H. C. Crotty
President
Maintenance of Way Employees

Mr. D. S. Beattie
Director, Governmental Affairs
Railway Labor Executives Association

Mr. B. C. Hilbert
President
Train Dispatchers Association

Mr. O. W. Jacobsen
President
Railway Carmen

Mr. A. T. Otto
President
Yardmasters

Mr. Andrew Ripp
Vice President
International Brotherhood of Electrical Workers

Mr. J. F. Peterpaul
Railway Labor
Executives Association

Mr. J. E. Yost
President
Railway Employees Department, AFL-CIO

Mr. Fred J. Kroll
International President
Brotherhood of Railway, Airline and Steamship Clerks

Mr. F. Ferlin
President
Railway and Airline Supervisors Association

Mr. J. F. Sytsma
President
Brotherhood of Locomotive Engineers

Mr. J. C. McNamara
President
Firemen and Oilmen

Mr. R. T. Spann
Director of Railroad Division
Boilermakers and Blacksmiths

Mr. C. J. Chamberlain
Railway Labor
Executives Association

Mr. C. M. McIntosh
Railway Labor
Executives Association

EXHIBIT 5 - Continued

"AD HOC" SHIPPER GROUP

Mr. A. P. Davis, Jr.
Assistant Vice President
Carnation Company

Mr. J. R. Scoggin
Vice-President, Traffic
Peavey Company

Mr. C. L. Worth
General Traffic Manager
Westvaco

EXHIBIT 6

SELECTED QUOTATIONS ON
RAILROAD LABOR PRODUCTIVITY

(1) "Excessive crew sizes and other limitations on work that can be performed by individual crews inflate the cost of operating trains. Management's national response is to operate fewer and larger trains and to construct automated yards. The reduction in train frequency causes a deterioration in the speed and reliability of delivery and lowers freight car utilization."

(2) "It is widely felt that a mutually agreed solution to the work rules problems described above is one of the two or three most important opportunities before the railroads. It is extremely difficult to put a dollar figure on these problems, but the cost equivalent of restrictive work rules in terms of lost efficiency is estimated to be on the order of $500 million to $1 billion per year. This is not to imply that labor would be asked to take a loss of $500 million to $1 billion in wages -- or any loss at all -- if restrictive work rules were negotiated away."

Source of (1) and (2):

November, 1973 Final Report of the Task Zone on Railroad Productivity to the National Commission on Productivity and the Council of Economic Advisors.

(3) "Management and labor unions have had difficulties in agreeing on an appropriate sharing of the labor productivity gains that have resulted from technological innovation, merger, route abandonments, and reorganization of work. In general, labor unions have been put in the position of standing on job definitions known as work rules to protect work from uncompensated loss of jobs. By inflating the perceived cost of labor, these work rules have induced management to minimize the use of labor whenever possible; for example, by substituting capital and purchased labor services for hired labor and by reducing train frequency to such a point that competitive, long-haul traffic is lost to trucking."

Source: "Railroad Revitalization and Regulatory Reform" produced in 1977 by the American Enterprise Institute for Public Policy Research in Washington, D. C.

EXHIBIT 6 - Continued

(4) "Incentives for work rule reform did not develop as part of the recent legislative programs. Work rules disputes, in fact, thwrated the implementation of the USRA's Final System Plan and resulted in a monopoly situation for ConRail in some major markets. Further, ConRail is faced with negotiating work rule changes to achieve the full benefits of reorganization and rehabilitation that may well turn out to be essential to ConRail's survival as a private enterprise. The planning for reorganization of the bankrupt Northeast Railroads carefully excluded work rule modernization from the scope of its Final System Plan. Planning mandated by the RRRR Act also excludes this area."

(5) "If this historic labor-management lag is not eliminated, the approach that has been launched by recent legislation may very well fail to achieve its goals. The results would likely include a transportation system where the role of railroads is drastically different from the one envisioned by the present plan."

Source of (4) and (5):

Chapter VII of "National Transportation Trends and Choices to the Year 2000" issued by DOT in January, 1977.

Senator McGovern. Mr. Grotz, I have just a few questions for you that I wanted to get into before I yield to my colleagues.

In your testimony, you refer to the need to establish a national transportation policy, and a unified transportation budget. You would not deal with the railroad people in a vacuum, but as part of an overall transportation policy, involving all modes of transportation.

Generally speaking, what essential changes in the treatment of railroads do you think should be produced by a national transportation policy that you refer to? Can you just give us a summary of what you regard as the most compelling need we should keep in mind as we attempt to approach the railroad industry as part of a unified system?

Mr. Grotz. Briefly, the decline of the prosperity of the railroads started about 1920. The Congress at that time was aware that there were serious problems in the return of railroad from Government in a wartime operation back to handling.

Efforts were made at that time to deal with the thing, with these problems, globally. The Interstate Commerce Commission was directed to take action to restructure the railroads in a limited number of systems; but about the same time the motor carriers came of age, and for a period of approximately 15 years, grew more or less at random until the passage of the Motor Carriers Act in 1935.

Meanwhile, the developments were occuring in other modes of transportation, notably the development of extremely powerful vessels for moving large barges on the Inland Waterway.

Congress generously made available for the motor carriers and for the water carriers enormous amounts of money accumulated to improve transportation, but not as a part of a model concept of what the national objective in transportation should be.

They dealt separate and sort of on an ad hoc basis on the need for highways, the need for improved waterways.

The point I am making is, in this development, the position of the railroad industry, its ability to earn a reasonable return on its investment so it could attract funds with which to maintain and operate its property, to expand its railcar fleet, was seriously hurt by the aid which was being made available under the Government appropriations for other forms of transportation.

So I feel it is not too late to correct this, to examine the future needs of the United States, to say, what kinds of transportation systems should we have in the year 2000, in the year 2050?

What are we really expecting to have at that time in light of the energy resources, in the light of evolving technology? Will we need a sixth way of transportation like the railroads, or will we need a flexible means of transportation like a motor vehicle which can run in any direction without regard to a fixed way, somewhat more expensive, but perhaps the flexibility is desirable.

I have no particular claim that the railroads should remain here. I feel that what should be examined are the future needs of the United States. I believe that you will find that a railroad network is of the utmost necessity.

But I believe that that is up to the planners, and up to the Congress. But my point is that there should be a unifying of the Federal expenditures, regardless of the fact that this may cause some erratic practices.

But to make sense in the long run, and to preserve the railroads, if that is what you intend to do, I feel that it is necessary to have a unified policy.

Senator McGovern. Thank you very much.

Mr. Worth, you contend that the key to poor rail service is inefficiency of labor productivity.

Specifically, what work rule changes are needed in your judgment to achieve better productivity in the rail service?

Mr. Worth. I would like to reply by giving you a list of work rule changes that are needed. The list I will give you is not in any priority. These are just selected at random.

As I understand it, throughout the Nation there is a "crew consist" requirement that normally includes an engineer, conductor and two trainmen on every train. There are some exceptions, but that is the general rule. There is a wealth of literature available, and many personal discussions I have had with railroad operating people indicate that trains can be run with one, two, three, sometimes maybe four men and sometimes five are needed.

But in any event, the minimum requirement forces unproductivity.

There is the so-called 100-mile day under which people are compensated for either 100 miles or 8 hours, whichever occurs first. This quite often results in employees working 2, 3, 4, 5 hours, and being paid for 8.

There are shop craft rules that prevent, for example, a mechanic from doing an electrical job related to his task. There are other distinctions that, for example, prohibit a car inspector from using a sledge hammer to straighten a bent rung of a defective ladder.

Those kinds of shop craft rules create unproductivity.

There are minimum manning requirements for clerical employees which inflate the number of people needed to get the work done.

There are work rules that relate to maintenance-of-way work which determine how many miles from home base a particular crew can be dispatched.

There are work rules that establish distinctions as to what kind of service can be done by road crews as contrasted to yard crews, each of whom might be very near the site of a needed job, but other crews must be brought in because of these requirements.

There are bases of pay so that the number of engines used to pull a train determines the wage scale of the employees. It makes little difference whether the engineer is controlling the throttle of one engine or four or five acting in a slave kind of arrangement.

There is a rule that freight trains must have a caboose although that equipment serves no purpose with today's technology.

I might give you an idea of the impact of these and related rules, but I grabbed the wrong file in my office. I would like to refer you and your staff to a report that is issued monthly by the Interstate Commerce Commission Bureau of Accounts, "Wage Statistics of Class One Railroads in the United States. No. 300." I have here a report for an old month, and just multiplying these figures by 12, will give you some idea of annual magnitude, which is all I am trying to do. This report shows the time actually worked and then the time actually paid for for various categories of railroad employees. For mainte-

nance-of-way and structures people, the number of hours paid for in excess of the time actually worked is in the magnitude of 24 million hours a year. For transportation people, being the train and engine service people, the number of hours actually paid for exceeds the time actually worked by 112 million hours a year. For other transportation people, which would include dispatchers, clerks, laborers, a whole large category of people, is of the magnitude of a million hours a year; and for all three of these categories of employees, the number of excess miles paid for versus those actually run is of the magnitude of 21.5 million miles a year, which is about 16.5 percent of the total.

This is what I mean when I speak of labor unproductivity, and the need for the people that are involved to sit across the table from each other and work out improvements that will change the course of the current system.

Senator McGOVERN. Thank you for your testimony, Mr. Worth.

Senator Sparkman, do you have questions?

Senator SPARKMAN. Well, I was thinking of this: You mentioned those difficulties and those things that you described as irregular from the way it ought to be done. What are you doing to cure those things?

Mr. WORTH. Senator, in my belief, the only way they can be cured is through a process of education and enlightenment of the railroad labor people, that they come to recognize that the time is here for change. Until they come to that level of understanding, there isn't going to be a reversal, and it has to come by education, by impartial studies that are presented to working men for their understanding and enlightenment, and for them to come to realize that there should be no impairment to their earnings, but they should work full days, that there should be no minimum requirements and job-creating requirements which inflate the cost of rail service to the point that it becomes unusable to the public.

This will only come through their coming to realize that their own self-interest lies in that direction.

Senator SPARKMAN. What puzzles me is how are you going to get them to come to that realization?

Mr. WORTH. Our little group has tried.

Senator SPARKMAN. What?

Mr. WORTH. Our little ad hoc group I have described here has tried. That effort is like the tip of an iceberg. A way must be found to reach every working man on the railroads by seminars, by discussion, by development of facts, by studies by impartial people, and by the Government perhaps financing experimentation to improve productivity. This is a process of education, starting from square No. 1 that is needed, Senator.

Somehow or other we have got to find a way to persuade people that protecting what they now have is deadly, and there must be some new level of negotiation and agreement.

Senator SPARKMAN. I don't know what it would be.

I appreciate your presentation.

Mr. WORTH. Senator, let me try once more to be even more specific.

It would seem possible for impartial studies of the impact of these work rules to be made so that the man working for a railroad could understand that if the current level of unproductivity continues, he

isn't going to be working for a railroad. Somehow or other, there is an automatic belief that seems to pervade the system that ultimately—no matter what else happens—there lies some sort of government nationalization which will protect what labor now has. That idea must be dispelled by a process of education so railroad people understand that, even though the railroads were nationalized, people like me can't use them so long as their services are forced to levels that are unattractive and impossible to live with. That is the process that I hope you can come to understand and encourage.

Senator McGovern. Thank you.

Congressman Brown.

Representative Brown of Ohio. Gentlemen, did we take the wrong turn when we established ConRail? Should we, instead, have put the Federal dollars into the maintenance-of-way and then let the various companies run where they wanted to run? That is, could those lines that are efficient provide the cars when they are needed and provide on-time pickup and delivery service and do it at a reasonable price—compete among themselves—and keep the Federal Government out of the operation of actually running the engines and the cars?

Mr. Worth. Senator, that is a big question.

Let me respond to a piece of it. Was a mistake made in creating ConRail?

I think a mistake was made in that productivity was not addressed. It was carefully side-stepped and avoided in all the enabling legislation. The end result was that all of the nonproductivity built into the former work rules and customs and traditions of Penn Central and the other bankrupts was just built into and was made part of ConRail; and all of these things are gnawing away every day at the possibility of ConRail ever succeeding; and that was a mistake.

Representative Brown of Ohio. But you really didn't address my question. Mine was a conceptual question, whether Government would be better off operating the railroads somewhat as it addresses the problem of water transportation and the highways.

Mr. Grotz, do you want to try that question?

Mr. Grotz. Well, as to the operation of a number of railroads over a particular set of tracks, let's take the 17,000 miles in ConRail as an example. If we were to permit anyone who wanted to engage in railroad operation over those tracks to get a certificate of convenience and necessity to do so, you would get enormous operating problems which are not present in highways.

The very nature of the fixed track means that you can't just cut out and go around the truck ahead of you or take a side road to avoid a bottleneck. The very nature of fixed track requires unified operation to make sense.

It might be possible to do on a larger scale what is called granting trackage rights, under which a railroad that owns the track, or is the major occupier of the track provides the dispatching for trains that come through from other railroads. But there must be centralized authority over the operations on that railroad.

To some extent, the Delaware and Hudson has trackage rights in the ConRail setup, so that the use of trackage rights was recognized there. But if you visualize more extensive scramble for operations

of particular railroads, some thinking that they can profitably get into a new market, may try it, and then 2 or 3 years later say, "That isn't working out. We want to pull that service out," or, "We want to beef up that service."

That kind of operation flexibility, so common on the highways, is impossible on a railroad.

Representative BROWN of Ohio. Well, it occurs to me that we have a pattern that is similar between barge lines, highways, and airways. The Federal Government is in the business of maintaining the right-of-way for the system, and then the private lines maintain the service within it. The Government maintains the safety radio systems, and the air traffic controllers provide the service at airports and along the airways.

Yet, we are doing something entirely different with the railroads, and I am wondering if our organizational structure of the railroads was at fault from the beginning, or perhaps it is just that the railroads are passé.

I don't think any of those other systems have the cost of destructive accidents that the railroads have. Would that be a fair statement?

Mr. GROTZ. I don't have any numbers, so I can't say whether that is a fair statement or not, obviously; an airplane wreck may be far more costly. They don't occur very frequently, but could be far more costly than a railroad wreck.

Representative BROWN of Ohio. Let me try it from a different standpoint. I don't think that any of the other systems are as unpredictable or have the constraints of the system bottleneck that railroads have.

What I am getting at is this: The speed of an airplane is sometimes slowed up by a traffic controller situation in a community or a weather situation. The barge line may get tied up at a lock or some location so that it has to get in line to go through because of the nature of the traffic in that area.

But the railroads seem to have hundreds and hundreds of miles in which the capacity, the speed of the train is limited by the capacity of the track, and, therefore, the efficiency of the system is adversely affected. At least that is true in the East, where ConRail operates, and one of the reasons for the establishment of ConRail was to obtain more efficient maintenance-of-way.

But we don't seem to be catching up or keeping up in terms of maintenance-of-way. The result is that we have never been successful in establishing the kind of passenger service in many communities that the Amtrak undertaking was supposed to accomplish, and, if Amtrak trains can't run on the track at any reasonable speed, I am sure that heavier freight trains cannot run on the track at an efficient speed.

So, aren't we on the wrong track?

Mr. GROTZ. If I may reply, the capacity of a railroad track is very much higher than most people believe. It is a fact that we have a lot of railroad capacity in the tracks which is greatly underutilized.

Representative BROWN of Ohio. You are talking about the volume of equipment that can move over it.

Mr. GROTZ. The frequency of trains and so on.

Representative BROWN of Ohio. Provided the track is maintained in a condition that a heavy train can go over it. If it isn't maintained

in that condition, doesn't it mean all the trains that go over it, even if there isn't much space between trains, have to go over it slowly lest they wind up in the ditch?

Mr. GROTZ. Yes; the Federal Railroad Administration imposes limitations on the speed at which you can operate over tracks that are not fully maintained.

Representative BROWN of Ohio. Does anybody have any statistics on how much trackage there is in the ConRail system, just to pick one that we should know something about? I think the question is probably not going to be answered, however. But we do know how much of that trackage is less than adequately maintained so that its use is limited.

Mr. GROTZ. I don't have that figure now. In other words, that would be a question of how many miles of slow orders do they have on their, say, 17,000 miles of track. How many miles of that is subject to slow orders? I don't know.

Representative BROWN of Ohio. Do you know, Mr. Worth?

Mr. WORTH. I don't have the data, but you can get it in an instant by contacting the Federal Railroad——

Representative BROWN of Ohio. I have never gotten anything in an instant by contacting them.

Mr. WORTH. Maybe I shouldn't have said instantly; but the data is available.

Representative BROWN of Ohio. If you didn't have modern highways, if you were still operating on mud roads or gravel roads all around the country, if you didn't have the Interstate Highway System that had the capacity to carry these giant trucks that we have, you wouldn't have an efficient trucking system.

If you didn't have the locks and dams that maintain the waterway, you wouldn't have an efficient waterway system, and yet we are trying to build a rail system by changing the 100 mile, 8-hour day to 150 miles. Yet a train frequently cannot go that 100 miles in the day because it has to go 5 miles an hour over track that is about to splay out and dump the new cars in the ditch beside the rail line.

Mr. WORTH. Let me try to help, Congressman Brown, and I am trying to be constructive here.

We are talking about apples and oranges. There are in the United States a very small number of airports. I don't know what the number is, but I think it is 600. Most of those are——

Representative BROWN of Ohio. We have 84 airports in Ohio; and I would venture to say 600 is a little low.

Mr. WORTH. It is some number like that. It is a small number of airports on which a lot of control is exerted.

The other extreme is the highway system, which serves hundreds of thousands of communities, with few controls. There are minimum controls. The two systems function because one requires a great deal of control and the other requires none.

Now, railroad transportation is somewhere in the middle, and historically there was an attempt made——

Representative BROWN of Ohio. I would put railroad transportation somewhat in the same range because they are both fixed systems. Barges do not run up the creek to get to the little factory. The barge

line carries only along main routes where you already have a river improved by the lock and dam systems. Isn't that right?

Mr. WORTH. True. Now, there was a time in history——

Representative BROWN of Ohio. But it has been a growing system.

Mr. WORTH. Right. There was a time in history when the Federal Government proposed to provide the rights-of-way of railroads, and the individual roads would use the tracks.

Representative BROWN of Ohio. You mean there is nothing new under the Sun?

Mr. WORTH. This is not new. It failed quickly because of making it work mechanically.

Representative BROWN of Ohio. Did we ever do it?

Mr. WORTH. There was a time in the early days of the railroads, in the days of the land grants, when the Government planned to do what I am describing. The process was changed to where the railroads were given land on which they could build and operate their own railroads. Let me continue for just a moment.

Representative BROWN of Ohio. Let me say that I think that is an unfair comparison, because the reason you gave the land grants, and I think it is fairly common knowledge, is because you wanted to develop the territory. You wanted people to move out there. You wanted to have the opportunity to get their grain back to the eastern markets and to be able to send it to where the people could use the crops that you were growing.

Mr. WORTH. Congressman Brown, the land grants were a second alternative. The first alternative was for the Federal Government to build the tracks on which people would run their carts and trains.

Representative BROWN of Ohio. You say it failed, but it wasn't ever really tried, was it?

Mr. WORTH. Well, I haven't got all the history books in my head, but it didn't proceed.

Representative BROWN of Ohio. Go ahead.

Mr. WORTH. You mentioned that restrictive speeds on tracks are a major problem, and they are, and that problem can be dealt with only by restoring some measure of profitability in the railroad business to where the work will be done in logical, businesslike systems and procedures. That will only happen when the things that I described in my testimony begin to occur, and that is the area to which attention should be directed.

Representative BROWN of Ohio. Well, it seems to me that argument, with all due respect, puts the cart before the horse. In other words, it says that what you need is a push system rather than a pull system, and I just have to tell you that I think you are not going to get it, given the kind of government we have. What we do is spend money a lot easier than we tell people that their cushy job is going to be cut out. Maybe Mussolini could do it in Italy, but you will not do it here simply because it isn't the way the system works.

People that have got a nice, easy job are going to keep a nice, easy job until the economy simply puts them out of business altogether. If we want the railroads, it is my belief that you have to do something about the railroad rights-of-way.

ConRail was the first step that got us through that very painful process of eliminating a lot of unproductive trackage, and maybe kept some unproductive trackage. But after that, we haven't kept up with the trackage that is left, and it seems to me that if ConRail could have the track on which to operate and not make a success, then the argument that you have to have is either to break the railroad unions, and that would be a very painful process, or use totally automated systems, and so forth, or abandon the whole system, because it isn't going to work.

Now, let me go back to a fundamental question that maybe you can answer.

Does the mechanical system of the railroad, that is, two tracks, their size, the wheels on the train, the whole business, provide the most efficient method of moving a car on a fixed track that is available to us—the most efficient mechanical method?

Would we be better off with a monorail system? Would we be better off with some other kind of mechanical system?

I would like to rethink the whole railroad process, frankly, because I think everybody is trying to hold onto something that was done in 1840 in a 1980 world.

Does anybody know anything about mechanics?

Mr. GROTZ. I am inclined to think that we can look to the rest of the world which is thinking about this problem, too, and perhaps thinking further ahead than we. Perhaps the construction of a new Trans-Siberian Railroad at the cost of several billion dollars is an evidence of some long-range thinking on the part of the Soviet Union.

Representative BROWN of Ohio. I doubt it.

Mr. GROTZ. Perhaps it is the kind of thing which the State of Alaska is now beginning to get enthusiastic about—building an 1,100-mile railroad into Canada to connect with the Canadian railroads.

There is some basis for believing that the fixed rail, and incidentally the two-rail system has been demonstrated over many years—they have been experimenting with monorails and they have never come up with a convincing demonstration that a monorail is an effective means of transportation.

Representative BROWN of Ohio. OK. That is an answer to my question.

Mr. GROTZ. The stability of two rails is definitely superior, and the movement by railroad of a single vehicle is probably not any more efficient than the movement of a single vehicle on the highways, but the movement of an accumulation of vehicles, the movement of a train, is demonstrably the most efficient way to move quantities of commodities.

I think one of the developments of superior technology in the next few years will be to accelerate the movement of cars so that the turnaround time of freight cars is less than Mr. Worth suggested.

In other words, that we can improve the turnaround time of cars——.

Representative BROWN of Ohio. What do you mean by that, Mr. Grotz? Are you talking about the onloading and offloading of the cars, or the movement of the car from point A to point B?

Mr. GROTZ. The movement of the car from the shipper's dock. We can't control the time it takes to unload and load at the shipper's dock

but I think we can improve the utilization of the cars, and I think this is receiving intensive study by the Association of American Railroads.

Representative BROWN of Ohio. Well, how are you going to do that when the state of the trackage means you can't drive the train over it more than 5 miles an hour?

Mr. GROTZ. By more effective policing of the car fleet. I think this is happening and will continue to improve. Getting the cars over the track, even if there are some places with 5-mile-an-hour slow orders, and there aren't too many of those, the transit time is not the big factor. The big factor in car utilization is really the delay at terminals.

Therefore, there is a desire on the part of the railroad industry to run more frequent trains, but in order to do that you get into this question of, if we run more frequent trains, can we afford to do it with four- or five-man crews, or should we definitely plan to run it with two-man crews, or three-man crews, but get the stuff over the railroad expeditiously.

I think we are coming to that. I think there will be sensible talks, increasingly sensible talks, between management and labor on this question and this matter.

Mr. WORTH. Congressman Brown, if you would ask your staff to secure a document called, National Transportation Trends and Choices to the Year 2000, that was issued by the Department of Transportation on January 19, 1977, and review chapter 7, there is a great deal of statistical information about the kind of thing you are talking about.

The problem with railroad transportation isn't nearly so much the length of time that it takes a car to get from one terminal to another as the delays at the terminals.

Now, if a way could be found for railroads to sufficiently reduce their internal operating costs——

Representative BROWN of Ohio. Wait a minute. Let's get away from the operating cost thing for just a minute.

I know from your testimony that operating costs are a very great concern of yours, and I follow that, too, as part of the problem; but you mentioned the point and left it, and that was the problem at the terminal. What is the problem at the terminal in offloading? Do we not have the systems? You know, there are a lot of procedures that we suddenly discover we are doing as hand labor that could be done mechanically or by computers a lot more effectively.

Is there a method to unload train cars quicker than we now have? Could you design the car differently?

Mr. WORTH. Let me try again. That isn't the place the problem is.

Representative BROWN of Ohio. I thought it was.

Mr. WORTH. The problem is in the many terminals through which the freight cars must move. That is the problem, and it is a far bigger problem than delays at either origin or destination, or while the car is actually moving. That is a very complex subject that is dealt with in considerable detail in the Department of Transportation publication I just mentioned. It is quite adversely affected by the various labor agreements that I referred to earlier. If you want. I can read chapter 7 aloud. It is a long chapter dealing with this subject in great detail. There is a lot of information here on that very subject.

The point that I was trying to make to you, and I seem to have trouble stating it—let me try once more.

If labor productivity in railroads could be improved to the point that operating costs would permit rate reductions today of the magnitude of 10 to 15 percent, something like that, it would become economically possible for people to use the rail system as it now exists with all its infirmities, and it would be possible for railroads to create the kind of internal profits so that the tracks would be improved, the work would be done, and so on, and so on, and on and on.

But, until that first step it taken, the process is doomed to the course we are now charting.

Representative BROWN of Ohio. Let me conclude my questioning, and the Senator has been quite patient with me; I really don't know that much about the railroad industry. I am interested in it, because when I was a kid, I got my worst licking for going down and watching the railroad switch through our little town. Now, we hardly have the railroad going through that town. I am hardly there any more.

I know of an industry that had not changed in 300 years, the printing industry, but it has changed very rapidly during my adult lifetime from a hand labor type of business, where you pick up the individual letters and put it into the stick and put it all together that way, to where it is all now done photographically by machine. The industry has exploded in that period of time.

Now, many of the jobs that were formerly done in that industry no longer exist. A linotype operator is a thing of the past. It is a much more diverse industry, I grant, than the railroad industry, where there are a few large companies that employ most of the people in that industry. Perhaps it is much more flexible. In fact, the people who moved to offset printing put the other people out of business, and the unions to which they belonged, to some extent.

Now, the question is, is there a mechanical change in the railroad industry that could help modernize the industry; maintain the employment, but modify the method by which the employment is done, and resolve the labor problem that way?

Without that, I think your prediction that we will all watch the railroad industry and its job opportunities quietly fade from the American scene is probably accurate. It will be like the cowboy. It will be like the romantic era, but when World War III somes, we won't have it to help deal with the problem.

Mr. WORTH. It is true there have been limited technological changes in the railroad industry in your lifetime and mine. There have been some, the automated humpyard for one, and communications sytems improvement.

What is needed is a great deal more money spent on research and development. There is a very limited amount of money spent in that regard today to develop new technology for moving freight by rail. People don't know a better way now. Perhaps it could be found. Congress should encourage the research and development fund increases sought by the Department of Transportation.

Representative BROWN of Ohio. Thank you, Senator.

Senator MCGOVERN. Gentlemen, both Congressman Brown and Senator Sparkman have expressed what I think is the prevailing skepticism about how you get at this problem of changing the productivity and changing the work rules and so on.

Mr. Grotz, in your testimony you referred to the fact that maybe one way to do it is through giving workers a greater share of industry savings. But since rail workers are already among the highest paid in the work force, why do they need additional incentives to improve productivity?

Mr. GROTZ. I feel that if you want their cooperation, if their cooperation is regarded as important, and I assume the alternative is facing a showdown in a massive strike, you have got to deal with the fact that the labor is organized, that it is, therefore, under some compulsion to ask for more, and I know of no way of avoiding that kind of confrontation if you want to change basic labor rules of the sort that have been described here.

I think you have to say, "Let's sit down together and see if we can't work it out so that we will both get something."

Representative BROWN of Ohio. Senator, would you yield?

I have a question on that.

Are railroad workers among the highest paid in the transportation industry?

Mr. WORTH. Industry in general.

Representative BROWN of Ohio. I think the airline pilots.

Mr. WORTH. I have statistics.

Representative BROWN of Ohio. I think that would be good to have in the record——

Senator MCGOVERN. Yes. If there is a presumption that the rail workers are at the top of the industrial pay scale—I don't know whether that is true or not.

Mr. WORTH. I have factual data put out by the Transportation Association of America, and I will be glad to supply that for the record.

Senator MCGOVERN. Without objection.

[The following information was subsequently supplied for the record:]

AVERAGE ANNUAL EARNINGS AND TOTAL COMPENSATION PER FULL-TIME EMPLOYEES

	1975[1]		1976[1]		1977	
	(a)[2]	(b)[3]	(a)[2]	(b)[3]	(a)[2]	(b)[3]
Transportation	13,596	15,993	14,825	17,552	15,999	19,062
Railroads	15,363	18,694	17,128	20,922	18,530	22,864
Local and intercity bus	9,299	10,861	10,004	11,775	10,494	12,441
Trucking and warehousing	12,709	14,673	13,828	16,089	14,943	17,476
Water	14,247	16,308	15,599	17,934	17,342	20,016
Air (common carrier)	17,084	20,484	18,452	22,313	20,049	24,404
Oil pipeline	16,765	19,412	17,833	20,833	19,444	22,889
Allied services	11,233	12,767	11,935	13,638	12,453	14,300
Manufacturing	11,903	14,180	12,838	15,443	13,892	16,834
Communications	13,726	18,149	15,298	20,446	16,684	22,524
Electric, gas, and sanitary services	14,056	17,175	15,467	19,055	16,743	20,787
Finance, insurance, and real estate	10,619	12,489	11,480	13,595	12,260	14.605
All industry total	10,835	12,519	11,602	13,514	12,372	14,507

[1] Revised.
[2] (a) Average annual earnings.
[3] (b) Average total annual compensation including value of supplemental benefits.

Source: From the Quarterly supplement—January 1979, "Transportation, Facts & Trends," Transportation Association of America.

Mr. WORTH. This is a tabulation of average annual earnings and total compensation per full-time employee, and the latest data are for 1976.

For railroads, it shows the figure $17,180. The only higher paid labor is air common carrier employees, $18,484, and oil pipeline employees, $18,000.

Now, all the rest are lower numbers, and I will read the categories: Trucking and warehousing, water—as part of the transportation industry—manufacturing, communications, electric, gas, sanitary services, finance, insurance, and real estate, and the average for all industry is $11,623.

Senator MCGOVERN. Let me ask this question, Mr. Worth: Are part of the productivity problems in your judgment the result of the management structure, particularly with reference to ConRail? In other words, is some of this problem built into the structure of the ConRail management?

I would like to have either you or Mr. Grotz reply to that.

Mr. WORTH. As I understand it now, all of the subject of rail labor productivity was entirely sidestepped and avoided in the legislation that created ConRail. It was not dealt with. So that ConRail began operations with all this conglomerate of rules and regulations from the six bankrupts, and, as I understand it, no substantive changes have been made, and all of these leaks still are dragging ConRail down today.

I would like to give you and Senator Sparkman and Congressman Brown an idea.

If I were ever to be hired by the railroad unions to represent them, and this will never happen, but if I ever was, I would sit down with my counterpart from the railroads across the table and say something like this: "We are prepared to make a bargain with you under which the number of railroad employees is to be increased over the years at some rate, like 5 percent. The compensation of our people is to at least stay even with the inflation and perhaps be improved for the next period ahead. In return for your assurance on that part, we will agree to let you run your business."

From that kind of discussion will come the answers. But that kind of discussion cannot occur in the present atmospheres and intransigencies. They have to be overcome.

Senator MCGOVERN. Let me turn to another matter.

We had passing reference to it in Mr. Grotz's testimony I believe, that the possibility of Government ownership of railway rights-of-way, and Congressman Brown speaking of the Government assisting in the maintenance of way.

Are there any circumstances where you could see that the Government should take over railway rights-of-way?

Mr. GROTZ. I don't see any situations where the Government should take over the rights-of-way. I believe there has been some considerable expression in New England that they would like to see that happen, that there will be a study shortly, as noted in the press, a study between the New England Regional Council, I guess it is called, and shared in by the Federal Railroad Administration, to look into the whole problem of New England railroads, and as part of that there

will be a consideration in this study of the advantages and disadvantages of Government ownership of rights-of-way.

Senator McGovern. What was the experience during the World War I period? Was that a successful operation?

Mr. Grotz. No. The Director General took railroads which were operating profitably and by reason of the necessities of the war and of employment practices, greatly built up the payroll. The payroll of the railroads considerably expanded during government operation, so that, if my memory is correct, there were something like 2.2 million people working for the railroads at the time the Director General left office.

The result was that the railroads operated at a very large deficit. Moreover, there developed on the railroad properties a very considerable amount of deferred maintenance during World War I, during Federal operation, so that that one experience with Federal operation has probably colored our viewpoint ever since. The railroads were returned to private ownership and have operated since in private ownership.

Now, there is, as I said in my direct testimony, there is a possibility that at some time in the future the Federal Government may be the owner of rights-of-way, of one or more railroads, and I see no particular problem about this, except that I feel that in doing so the Federal Government should not involve itself either in the operations or in this question of entry. That is, in saying, "We own it now, and we will let anybody who wants to come in and serve the communities along this stretch of track do so."

I feel the entry problem is a very difficult one, and one that I would certainly object to. I feel that the ownership by Government of rights-of-way, leased back to the company from which they were bought—in other words, a sale and leaseback sort of arrangement—could be worked out.

But I sincerely hope that it will never involve the Federal Government in the actual operation of the trains.

Senator McGovern. Mr. Worth.

Mr. Worth. Senator, all, or substantially all, of the work rules that I have been discussing today came into being during that period of government operation and control of the railroads in World War I, and those work rules were designed very carefully to provide a motivation for railroad employee efficiency with the technology and the operation of the railroads as they then existed. It was probably one of the most successful bits of business judgment that was ever accomplished, because these work rules, when they were instituted, freed up the railroads to the point where the war economy and the military movements occurred, and the freight got moved. It was an enormous success.

Now, what has happened is that the whole technology has changed. We don't have steam-operated locomotives. We don't have 100-mile days. The whole world is different, but the rules remain, and that is what is dragging the railroads down.

What is needed is a new insight into work rules that will provide the same excitement and push to be productive as existed during World War I, during the Government control of the railroads.

Senator McGovern. I think I will ask a question on an entirely different matter now. It may not be one you are prepared to comment on today.

I think you gentlemen are aware that on Friday we had some new inflation information released by the Commerce Department showing that we are back in double-digit inflation, 10.1 percent. I noted that one of the items that leads the way in the inflationary spiral is food. It has gone up at an annual rate of some 17 percent. We have been doing some work in our office with the Department of Agriculture in trying to determine the factors that influence the inflationary spiral on food. One thing that has come out is that about one-third of the $200 billion that we are spending now annually in this country on food, about a third of that cost is the transportation cost, getting the food from where it is produced on the farm, finally in processed and packaged form to the consumer at the checkout counter.

Further, about half of that transportation cost is the rail costs.

The question I am asking is: Isn't there strong implication in all of this that, if we could develop a more efficient rail industry in this country, it would be one thing we could do to attack the whole question of inflation, especially as it relates to the movement of food?

Mr. Worth. You couldn't be more accurate and right on the trail you are pursuing.

May I impose on you? Would you look at exhibit 3 attached to my statement?

That lefthand line is intended to indicate in a graphic way how railroad rates have increased, let's say 90-odd percent, or 85 percent, or whatever the average is, from 1969 to today. That has had an impact on food costs. There is no question about it, and truck freight rates, which are equally involved in the cost of food, have gone up by a far lesser amount. There is no question about the impact of these freight rate increases on food costs.

Now, you ask what would happen if a way could be found to reduce railroad freight rates. The whole world would change.

The impact of transportation on inflation is right here in this chart, if it could be gotten out and dealt with.

Senator McGovern. Mr. Grotz.

Mr. Grotz. Excuse me. I would like to put this in its proper perspective. I noticed you said that half of the transportation costs are said to be rail.

Senator McGovern. At least half of food is moved by rail.

Mr. Grotz. If you take $200 billion, a third of that would be roughly $70 billion for transportation costs, total transportation costs. In 1977 the railroads' total revenue from moving farm products, all farm products, and all food products, that is, all processed foods, was $4 billion. So that it was somewhat less than 6 percent of the total transportation costs involved in your food numbers.

Now, of the $4 billion which the railroads got out of the $70 billion, $1.8 billion was for handling farm products. That is all farm products.

But a large part of that is for export grain, which does not affect our domestic consumer, except that the sales to foreign governments of grain may push the price of grain up. But, from a transportation standpoint, export grain should be excluded from the $1.8 billion.

The movement of food products, that is, the manufactured food, canned foods and the frozen foods, and so on, amounted to $2.2 billion.

The movement of meats, fish, chicken, and so on, amounted to $100 million. It is very, very small. We have lost almost all the movement of chicken, fish, meats, and so on. They are not moving by rail, and that can be almost ignored. It has been lost to the highways.

We have lost almost all of the fresh fruit and vegetables business, and within the next 5 years we will be handling no fresh fruits and vegetables. That is rapidly disappearing.

So that the things that we are handling in food products are largely processed foods, soups and canned goods and frozen foods that are packaged.

I see no essential difference in the handling of the present volumes of farm products and manufactured foods and in handling any other general merchandise.

In other words, I feel that any improvement in railroads' economics generally will help the shippers and the consumers of foods, along with the shippers and consumers of other products.

The effect of railroad transportation on the cost of foods—let's forget the export part and assume that it is all for our consumers—at the maximum of $4 billion, is only 2 percent of the $200 billion price of foods.

Even if the railroad rates were cut in half, it would not have a significant effect on the price of foods. That is the point that I wanted to make here.

Senator McGovern. Senator Sparkman, do you have other questions?

Senator Sparkman. Yes; I want to go back. I remember quite well the operation of the railroads during World War I. Would you call it a successful operation?

Mr. Worth. I wasn't there at the time, but everything I have read——

Senator Sparkman. What?

Mr. Worth. I wasn't there at the time, but everything I have read indicates to me that the problems of congestion and of the inability of the railroads to move both military and commercial freight were changed around, and that both categories of freight were indeed moved.

Senator Sparkman. They were moved?

Mr. Worth. Yes; and by everything I have ever read and studied in the operation, it was done effectively.

Senator Sparkman. You know, believe it or not, I worked for a railroad right at that time, and I saw them moving, and in fact it was part of my job to see that they moved; and I felt, regardless of how we feel on government operations of railroads, or any other kind of business, I felt that it was a good operation, because we got supplies and materials and munitions where they needed to be. We got them there on time.

Mr. Worth. That is correct. Let me refresh your memory with one thing. The only reason why the Government moved in and assumed control of the operation was that there had been a prior history of enormous port congestion and of internal congestion throughout the

Nation, which railroad management at the time seemed incapable of solving within the time constraints.

So the nationalization, if you want to call it that, of the railroads was kind of a desperation move to get on with the war, and it succeeded, as you commented.

Now, is that an approach for today's world? And the answer is "no."

Senator SPARKMAN. I wasn't saying that.

Something else I remember when I was a boy; I lived out in the country, and we used to talk about the railroad lands, quarter sections, as I recall. I believe the Government had given them those lands in order to help build the roads. Had they not?

Mr. WORTH. That is exactly right.

Senator SPARKMAN. I remember talking about trading land, and it would be said, "Those are railroad lands."

Of course, it has no bearing on this, but it shows how things do change with time.

Mr. WORTH. Yes; some of those railroad lands given are now enormously productive in timber and oil and other resources.

Senator SPARKMAN. There wasn't oil in my section, but there was a lot of timber and farming land, but in the custom of the communities, we referred to them as being by railroad lands.

Mr. WORTH. They still exist.

Senator SPARKMAN. That is in the Western part now, isn't it?

Mr. WORTH. I am trying to visualize the map of the lands. The biggest piece runs from Minneapolis out to Seattle, Wash.

Senator SPARKMAN. And in the Southwest.

Mr. WORTH. From Kansas City down to Albuquerque is another big piece of it.

Senator SPARKMAN. I was referring to where I live in Alabama, and they went into private ownership, I think, pretty fast.

Mr. WORTH. I can't draw up in my mind the image of that map of Alabama, but I am sure there was a lot of railroad land in Alabama.

Senator SPARKMAN. There was. I think it eventually became private land.

Senator MCGOVERN. Thank you, gentlemen.

It is 12 o'clock, and we will adjourn the hearing. We appreciate your testimony.

Mr. WORTH. Thank you for allowing me to come.

[Whereupon, at 12:03 p.m., the subcommittee recessed, to reconvene at 9:30 a.m., Wednesday, July 26, 1978.]

[The following written questions and answers were subsequently supplied for the record:]

RESPONSE OF JOHN L. SWEENEY TO ADDITIONAL WRITTEN QUESTIONS POSED BY SENATOR JAVITS

Question 1. Why hasn't Conrail established a tariff for container movements to the Brooklyn waterfront at a total line haul rate equal to the corresponding rates to the New Jersey railheads?

Answer. Conrail's container rates to New Jersey are geared to meet highway competition. Conrail has no choice but to try and meet this vigorous competition. The extent of this competition is made clear in the preliminary report of the Rail Services Planning Office of the Interstate Commerce Commission issued

July 7, 1978, entitled "Rail Rate Equalization To and From Ports". On page 31 of this report a table showing the model distribution from the Port of New York indicates that 56.2 percent of the tonnage moving 301–500 miles (Buffalo-Pittsburgh range) moved via truck and 66.2 percent of the tonnage moving 751–1000 miles (Illinois, Indiana and Michigan range) moves via truck. Similar statistics for export traffic are shown on page 33. Conrail's container rates must be competitive.

In an effort to reduce the rail cost to a minimum, and therefore meet this competition, the rates were made on a "frill-free" basis, i.e., ramp-to-ramp rates. By way of explanation, "ramp-to-ramp" means that the shipper, steamship company, broker, etc., must arrange his own transportation to one of our ramps in New Jersey. Likewise, the receiver, for instance at Chicago, must arrange to pick up the trailer at our ramp in Chicago. This system allows Conrail to completely control its cost as all of the service provided by the railroad is provided by railroad personnel without the added expense of outside draymen, etc.

Our only means of reaching Brooklyn via rail would be in connection with either the New York Dock Railroad or the Long Island Rail Road. The existing rates to New Jersey are not sufficiently compensatory to allow us to divide the revenue with these carriers. On the other hand, if we raised the rates to a level that would allow us to divide the revenue, then we would not be competitive with the trucks.

The existing rate structure provides the New York-New Jersey port with the best possible container service. Container service to Brooklyn would either force Conrail to absorb losses or be too high to attract traffic. Conrail has therefore not set container rates to Brooklyn equal to rates to its New Jersey ramps.

Question 2. In light of what New York Dock Railroad tells us is their cooperative attitude toward working with Conrail, how do you see that relationship working out?

Answer. Conrail has always tried to be cooperative with this firm and they now operate the Greenville, N.J., float bridge. As another example, both carriers agree that we need to negotiate a new divisional basis and Conrail has offered to make a detailed study of waybills selected by the New York Dock for use by both parties.

Question 3. As you know, the current distance-based railroad tariffs discriminate against New York City and do not reflect actual costs. The mountain routes to the Middle West from Baltimore probably use more energy than do more efficient routes from New York City along the old Erie Canal. Moreover, the greater volume from New York City probably lowers per units costs. Given these factors, why isn't equalization of container rates approximate, pursuant to the existing precedent of equalization of box car rates?

Answer. Box car rates were equalized because the railroads felt it would improve their competitive position. The rates were equalized over the initial opposition of other ports and the Interstate Commerce Commission. The rates were equalized because the railroads advocating port equalization thought that it would improve their competitive position. At that time, there was sufficient flexibility in the rate structure that the New York Central, the advocate of port equalization, could lower its rates to New York to make New York competitive with Philadelphia and still earn adequate revenues from that traffic. This flexibility in the rate structure existed primarily because the box car rates on import/export traffic were not highly competitive with the trucks. Box car rates are not equalized for domestic traffic because the railroad cost structure never justified equalization of the rates. Similarly, the railroad cost structure does not justify equalization of trailer on flat car (TOFC) rates. The trailer on flat car rates are basically domestic rates, they can be applied on import/export shipments; but it is impossible, because of the containerized nature of the traffic, which moves under rates covering freight of all kinds, to distinguish between domestic and import/export traffic. The TOFC rates and container rates are established to meet motor carrier competition. As the motor carriers predicate their rates on a mileage basis, the rail carriers must do likewise to remain competitive.

There are five levels of rates applying on TOFC or COFC (Container-On-Flat Car) shipments. Conrail has single trailer and two trailer rates applying from Boston, New Jersey ramps (New York), Philadelphia and Baltimore. These rates are strictly mileage related and designed to meet highway competition. Conrail also has rates applying from New Jersey ramps (New York) and Phila-

delphia on shipments of 10 trailers, 30 trailers and 60 trailers (the charges per trailer get progressively lower as the requirement for trailers per shipment increases). From Baltimore we also have 10 and 30 trailer rates. The 10, 30 and 60 trailer rates were originally published from only New Jersey ramps (New York) to Chicago and E. St. Louis, Ill. Under Section 4 of the I.C.C. Act, Philadelphia received the same rates as published from the New Jersey ramps as Philadelphia is directly intermediate on the short tariff route to Chicago and E. St. Louis. The Chessie System then published the 10 and 30 trailer rates from Baltimore at the same level applying from the New Jersey ramps. The PC likewise published from Baltimore to be competitive. Additionally, effective September 24, 1978, the Chessie System has published 2, 10 and 30 trailer rates from and to Staten Island. This history is given in order that you might see that the rates were originally published from New Jersey ramps (New York) and that Philadelphia and Baltimore were merely granted the same rates as applied from the New Jersey ramps. In view of the level of the rates, the only way the eastern railroads could afford to equalize was on the New Jersey ramp basis. As a matter of interest, these 10, 30 and 60 trailer rates move most of the traffic from the New Jersey ramps. These rates recognize the benefits of high volume from the New York Port.

Question 4. Why is the track on the Bay Ridge Division in Brooklyn, New York, in such disrepair?

Answer. This track was "inherited" by Conrail in poor condition and its minimal activity has not warranted a high priority in our multi-year rehabilitation program.

Question 5. New York Dock Railroad has requested a tariff for conventional box cars to the Brooklyn docks via the existing overland route. Why should Conrail not agree to institute such a tariff? Given that the Conrail answer is too little demand will be available to sustain such a service, what evidence is available on this point? If such a tariff were instituted, presumably it should be the same as to the New Jersey terminals. Comment?

Answer. The overland route does not exist today, but we have heard that it will be in place about October 15, 1978. As we mentioned in our response to question No. 2, we have been negotiating with this firm to have in place a line of divisions of revenue for use via this line. The primary delay at this moment is securing copies of waybills from the New York Dock for the study. We had previously made a study of 1,592 cars interchanged in May and June 1978, but they prefer an additional study made exclusively on traffic moving from and to the section of line involved. As to the question as to the level of rates, the import/export box care rates via the overland route will be the same as to the New Jersey ports.

Question 6. When New York State has completed its program to insure horizontal and vertical clearance, a tariff would also be required for the overland route to Brooklyn for containers and/or trailers on flatcars. Again, agreement would be required with New York Dock Railroad on the splitting of the tariff which should again be the same as the corresponding tariff to New Jersey. Again, comment is requested on the proposal implied by these remarks. If the response is that there is no demand for the movement of freight, the question is, again—what evidence is there that the demand will not be present?

Answer. All of Conrail's TOFC rates to the New Jersey ramps are severely depressed as a result of truck competition. The revenues from these rates do not significantly exceed variable costs and fall far short of fully allocated costs. In order to provide TOFC rates via the overland route to Brooklyn, Conrail would have to receive the same contribution over its costs from the traffic to Brooklyn, that it receives today to and from the New Jersey ramps. ConRail is willing to establish rates at that level. It is unwilling, however to establish rates to Brooklyn at the New Jersey level because it cannot afford to handle this traffic at less than cost. The circumstances which govern the establishment of TOFC rates to the New York Port Authority and Conrail's views on the general issue of Port Equalization, are further outlined in the attached copies of testimony on behalf of Conrail before the House of Representatives and the Rail Services Planning Office.

Question 7. Is there any reason why the Brooklyn waterfront should not be marketed aggressively by ConRail on the same basis as is the New Jersey waterfront.

Answer. It is ConRail's policy to aggressively market its services wherever it can attract profitable traffic that can be moved over ConRail and its connections.

Question 8. How much has been invested by ConRail per railroad mile in New York City as compared with Baltimore on facilities to be used for freight handling alone? For mileage and facilities used both for freight handling and passengers?

Answer. Comparable figures are not readily available, as ConRail uses MTA trackage to reach New York yards and Amtrack trackage to reach Baltimore yards. Within those yards, ConRail's own maintenance costs are approximately equal per track mile.

Question 9. I understand that Westchester County believes that increased service demand on the commuter rail line above North White Plains warrants electrification. I further understand that ConRail only operates the system. I would, nonetheless, appreciate your views about reliability, heating/air conditioning failures, and old, worn-out cars on any high demand nonelectrified lines you operate in New York State.

Answer. Because of the recent financial problems and bond market affecting New York State, as well as other government jurisdictions, the State's Metropolitan Transportation Authority had to delay long-standing plans to electrify the Harlem Line north of North White Plains, as well as that portion of the Hudson Line north of Croton-Harmon. In the last several months, however, MTA, together with Westchester County, UMTA and representatives of the Governor's office, in coordination with a council of Upper Harlem Line commuters, has reached an agreement in principle and is close to financing a plan to provide for electrification in five to ten years. This plan also provides for interim rebuilding, reconditioning and reassignment of the older coaches and locomotives to the line. These short-term efforts should start having significant improvements by the end of summer 1979. ConRail, working with MTA and the other parties, has pledged an all-out operational effort this winter with the present old equipment to keep the service going. As this response is prepared, however, the plan does rely critically on Congressional appropriations sufficient to meet UMTA's projected level for permitting the Westchester improvement in next fiscal year projects. All those concerned in the State are asking their legislators' support to this end.

Question 10. ConRail has recently requested in additional $1.3 billion in appropriations beyond those which the Congress initially determined to be required to insure a solvent ConRail system. Please explain the economic, administrative, or other difficulties which require the additional appropriations.

Answer. Enclosed is a summary of the most recent ConRail Five Year Business Plan which addresses in some detail the need for an increased investment in ConRail.

NATIONAL RAILROAD POLICY: WHICH WAY IS UP?

WEDNESDAY, JULY 26, 1978

CONGRESS OF THE UNITED STATES,
SUBCOMMITTEE ON ECONOMIC GROWTH AND
STABILIZATION OF THE JOINT ECONOMIC COMMITTEE,
Washington, D.C.

The subcommittee met, pursuant to recess, at 9:10 a.m., in room 5110, Dirksen Senate Office Building, Hon. George McGovern (member of the subcommittee) presiding.

Present: Senators Sparkman and McGovern.

Also present: Philip McMartin, professional staff member; Mark Borchelt, administrative assistant; Robin Carpenter, member, Senator McGovern's staff; Charles H. Bradford and Robert H. Aten, minority professional staff members.

OPENING STATEMENT OF SENATOR MCGOVERN, PRESIDING

Senator MCGOVERN. This session of the subcommittee's hearings on National Railroad Policy is going to focus on the issues which the industry spokesmen here today regard as central to the future strength and character of our rail system.

These issues are: Reform of ratemaking regulations; reducing or eliminating the competitive advantage bestowed by Federal highway and waterway subsidies on truck and barge competitors of railroads; and the methods by which increased worker productivity can be achieved.

The critical financial condition of the rail industry as a whole—the lowest net operating income since 1933, the lowest net return on investment in its history—requires that both management and labor approach this problem with a willingness to respond to their mutual, legitimate interests. The concern registered by union leaders and Con-Rail workers at Monday's hearing regarding the possible waste of railroads' resources reflects what I think is the clear recognition on the part of most rank and file workers that they must and will perform a day's work for a day's pay in order to do their part to assure profitability and to protect their jobs and pay levels. I think the time has come for replacement of adversary posturing on the part of management and labor with a sincere intention on both sides to fashion the conditions allowing railroads to run efficiently and competitively.

Our witnesses today are Lawrence Cena, president of the Santa Fe Railroad; Donald C. Cole, president of the United States Railroad Association; William H. Dempsey, president, and chief executive officer, American Association of Railroads; J. W. Gessner, president, Missouri Pacific Railroad; Arnold McKinnon, vice president, Southern

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Railroad; and John F. Sytsma, president of the Brotherhood of Locomotive Engineers.

Gentlemen, I wonder if you would all take your places now at the witness table. We have nameplates at your chairs.

To conserve time, because Senator Sparkman and I and other members of the subcommittee are on call at any time to go to the Senate for votes on the international security assistance bill, I will ask you all to give 10-minute summaries of your prepared statements. The entire prepared statement will, of course, be made a part of the record, but if you could hold your opening presentations to not more than 10 minutes apiece, that will get us through, I think, in time for some questions.

We will begin with Mr. Cole and then hear Mr. Dempsey, Mr. Cena, Mr. Gessner, Mr. McKinnon, and Mr. Sytsma in that order.

So, Mr. Cole, if you would wish to proceed, you can do so in any way you see fit.

We are happy to have you all here before the subcommittee today. We know you are all very busy and we know you have a great deal of wisdom and knowledge about this industry that we think would be helpful to us. So we do welcome your presence here today.

STATEMENT OF DONALD C. COLE, PRESIDENT, UNITED STATES RAILWAY ASSOCIATION, ACCOMPANIED BY FRED YOCUM, VICE PRESIDENT OF OPERATIONS AND MARKETING

Mr. COLE. Senator, I am happy to be here to represent the U.S. Railway Association today. The U.S. Railway Association, as you know, is basically the Federal banker for ConRail. The central focal point of the railroad industry's problem today, as it has been for the last 8 years, is the Northeast rail system, and now ConRail. The U.S. Railway Association has been the entity through which Federal funds flow to ConRail and which is charged with the monitoring and evaluation of ConRail's performance.

I think it is appropriate, to begin with, to place an emphasis on ConRail. Then the panel will be able to look at the broader picture of the rail industry in toto.

Today, I want to cover ConRail's role as part of the railroad industry and USRA's part in making certain that ConRail acts responsibly in light of the Federal investment in the carrier. As you pointed out in announcing these hearings, "There has never been a more urgent need for Congress to reevaluate the role of railroads in our national transportation network" than today.

Contributing to this urgency is ConRail's inability to achieve the results forecast over its first 2 years of existence and, even more, the problems which appear to lie ahead which will require additional Federal funding for the Northeast rail system.

While the amount of Federal investment over the first 2 years was only slightly more than projected, financial results became worse during the past year. The future looks much bleaker than we had ever anticipated. It seems certain that ConRail will need considerably more Federal funding for the following significant reasons: lower volume, poorer fleet condition, and poorer rates of car utilization.

One of the association's major concerns has been the continuing deterioration of the service provided by ConRail. Currently ConRail is not meeting all its customers' needs. While the corporation has placed a high priority on improving service, the association is concerned that its service programs need to be adequately coordinated.

The service situation was so bad this winter that by February, ConRail's problems affected the entire rail industry. At one point ConRail had nearly one-third of the Nation's 50-foot boxcars on its property and more than twice the number it owned.

ConRail continues to be an extremely important economic element in the Northeast. In addition to measuring its importance by the size of the markets it serves, some of them exclusively, we should point out that ConRail is doubtless the most important single company in the highly interrelated U.S. railroad network.

It accounts for about 9 percent of all U.S. railroad route miles, 11 percent of all track miles, 19 percent of all railroad employees and participates in about 22 percent of all railroad shipment. Even by the most pessimistic projections, ConRail in its present form is expected to handle 255 million tons of freight in 1982.

This background information is something Congress understands from the period 1973 to 1976 when it wrestled with the rail problems of the Northeast. The key question we have to face in the future with respect to the Northeast rail system then is: What do we gain from the lessons learned during this period?

I would submit, and I think the panel would probably agree, that the major economic facts about the Nation's railroads have remained much the same over the past few years. We have learned that the Nation's railroad problem is more serious and widespread then we thought or at least hoped.

The railroad industry's 1.28 percent rate of return last year is a clear indication of the seriousness of the problem in the broadest economic terms. While there is a difference between the situation of poor Midwestern carriers and ConRail, for example, there are also similarities. Railroads are both capital- and labor-intensive. In addition, they are influenced by several competing modes which are regulated and funded in substantially different ways and to different degrees. Beyond these similarities, there are strong interrelationships.

The degree of interdependence suggests strongly to us that the problems of the railroads should be dealt with on an industrywide basis rather than to single out ConRail. Preferential treatment of ConRail could well jeopardize the position of solvent competing carriers, the Chessie System and the N. & W., while increasing the politicization of ConRail, which would inevitably pull ConRail away from other railroads on many issues of mutual importance.

As I stated earlier, ConRail's problems are becoming more serious. Part of the association's role in monitoring ConRail is to review the overall adequacy of the corporation's internal audit procedures, certified financial reports, General Accounting Office audit reports, and Interstate Commerce Commission reports.

In addition, we have undertaken independent studies of selected areas which were identified in reports as needing improved procedures

and controls. We intend to provide the results of these studies to Congress periodically in the next year.

In addition, the board of directors has taken stronger actions to fulfill its responsibilities in overseeing ConRail. Our board intends to meet regularly with the ConRail board to review the problems that ConRail faces.

I might point out at this time in light of some of the previous hearings you have held, Senator, that the USRA board does have a role in selecting ConRail's management. Six members of the ConRail board are chosen by the USRA board, which has attempted to fill those positions with strong corporate managers.

In fact, one recent resignation from ConRail was that of G. William Miller who is now the Chairman of the Federal Reserve Board.

His replacement, Joseph W. Barr, is a former Secretary of Treasury under President Johnson and former chairman of the American Security & Trust Co. in Washington, D.C.

As we move into the next year, the United States Railway Association intends to continue monitoring ConRail as well as to look for alternatives for ConRail in dealing with the transportation problems in the Northeast.

It is imperative in light of ConRail's projected Federal funding needs that different approaches be taken in an attempt to reduce substantially the several billions of dollars that are contemplated at this time as additional Federal funding for ConRail.

Senator, the United States Railway Association stands ready to assist Congress with regard to the Northeast rail system. I hope that this background on ConRail will provide one side of the issue for your consideration this morning. When the panel concludes, I will be happy to answer any questions that you may have.

Thank you.

Senator McGovern. Thank you, Mr. Cole.

[The prepared statement of Mr. Cole follows:]

PREPARED STATEMENT OF DONALD C. COLE

Senator, I want to thank you for this opportunity to appear and discuss ConRail's performance, its role as part of the U.S. railroad industry and USRA's part in making certain that ConRail acts responsibly in light of the Federal investment in this carrier. As you pointed out in announcing these hearings, "there has never been a more urgent need for Congress to re-evaluate the role of railroads in our national transportation network."

Contributing to this urgency is ConRail's inability to achieve the results forecast over its first 2 years of existence and, even more, the problems which appear to lie ahead. While the amount of Federal investment over the first 2 years was only slightly more than projected, financial results became worse, rather than better. Furthermore, the future looks much bleaker, since it seems certain that ConRail will need more Federal funding. There are several reasons for this need, the most significant being: lower volume, poorer fleet condition, and poorer rates of car utilization than originally forecast.

One of the Association's major concerns has been the continuing deterioration of the service provided by ConRail. Currently, ConRail is not meeting all its customers' needs. While the corporation has placed a high priority on improving service, the Association is concerned that these programs need to be adequately coordinated.

Our monitoring indicates that ConRail's service has continued to deteriorate. The low point appears to have been reached during February of this year. The situation in February was so serious that, until the end of April, ConRail's problems affected the entire Nation's car supply. Although severe weather played a

part in this crisis, ConRail's poor locomotive maintenance and its failure to respond quickly in a forceful way were also causes. At one time, ConRail had about one-third of the Nation's 50-foot box cars on its property, more than twice the number it owned.

ConRail continues to be extremely important to the economic life of this Nation. In addition to measuring its importance by the size of the markets it serves, some exclusively, we should point out that ConRail is the most important single company in the highly interrelated United States railroad network.

It accounts for about 9 percent of all U.S. railroads route miles, 11 percent of all U.S. track miles, 19 percent of all U.S. railroad employees and participates in about 22 percent of all U.S. railroad shipments. By the most pessimistic projection, ConRail, in its present form, is expected to handle 255 million tons of freight in 1982.

This background material is much like the information shared with the Congress in the 1973–76 era. The key question is: what have we gained from the lessons learned over this period?

I would submit that while many of the major economic facts about our Nation's railroads have remained the same, we have learned a great deal. We have learned that the Nation's railroad problem is more serious and widespread than we had thought or at least hoped. The railroad industry's 1.28 percent rate of return last year was a clear indication of the seriousness of the problem in the broadest economic terms. While there are differences between the situation of poor Midwestern carriers and ConRail, for example, there are also similarities. Railroads are both highly capital- and labor-intensive. In addition, they are influenced by several competing modes which are regulated and funded in substantially different ways and to different degrees, inevitably leading to the possibility of unequal modal treatment.

Even beyond these similarities there are strong interrelationships. The degree of interdependence suggests strongly to us that, as much as possible, the problems of the railroads should be dealt with on a unified basis rather than to single out ConRail. Preferential treatment of ConRail could well jeopardize the position of solvent competing carriers, the Chessie System and the N&W, while increasing the politicization of ConRail, which inevitably pulls ConRail away from other railroads on many issues of mutual importance.

ConRail's problems are becoming more serious. Part of the Association's role in monitoring ConRail is to review the overall adequacy of the Corporation's internal audit procedures, certified financial reports, General Accounting Office audit reports, and Interstate Commerce Commission reports. In addition, we have undertaken independent studies of selected areas which are identified in reports as needing improved procedures and controls. Also, we evaluate other ConRail systems and procedures on a selective basis. Our selections are usually based on analyses of information reported by ConRail, submitted periodically in accordance with our Financing Agreement. The results of these reviews provide the basis for reports to the Association's Board of Directors, management at ConRail, appropriate Federal agencies and the Congress.

The USRA board of directors has taken stronger action to fulfill its responsibilities to oversee ConRail's performance during the last year as the divergence between performance and projections widened. For example, the board recently decided to initiate a series of informal meetings with the ConRail board of directors. The members of our board anticipate that closer interaction between the two boards will improve USRA's monitoring ability. ConRail's ultimate management is in the hands of a Board of Directors, six of whom are appointed by the USRA Board. These USRA selections have consisted of strong corporate managers including G. William Miller, a member of ConRail's Board until he was selected by President Carter as the Chairman of the Federal Reserve Board. His replacement is Joseph W. Barr, former Secretary of the Treasury under President Johnson, and former Chairman of the American Security and Trust Company in Washington, D.C.

In addition to expanding the direct interaction of our two Boards, the Association has begun to examine the range of options and alternatives for ConRail that would increase its prospects for attaining financial self-sufficiency or reduce its need for additional federal funding. Before requesting funds for ConRail beyond the $1.3 billion now under consideration, the Association will present the results of these studies to Congress. At this time, the Association is

preparing to analyze three areas in which some alternatives to ConRail's present system might be considered. These are (1) ConRail's plant size and configuration, (2) ConRail's markets, and (3) equipment options.

Senator, USRA stands ready to assist Congress on these matters in accordance with our overriding responsibility to protect the public's investment in this company. We hope that these thoughts are useful to you and stand ready to assist you and the Congress in addressing these complex issues. This concludes my prepared remarks. I would be pleased to answer any questions that you might have.

Senator McGovern. Now we will turn to Mr. Dempsey.

STATEMENT OF WILLIAM H. DEMPSEY, PRESIDENT, ASSOCIATION OF AMERICAN RAILROADS, WASHINGTON, D.C.

Mr. Dempsey. Thank you, Senator.

I am pleased to be here to speak on behalf of the railroad industry at large with respect to the problems of the railroad industry.

I will touch upon the highlights of my prepared statement and try to give a general overview of the situation as we see it in the industry.

My associates, Mr. Cena, Mr. Gessner, and Mr. McKinnon, will speak with more particularity to more detail in our staff analysis and also speak to the situation as it exists on their own railroads.

Let me begin by an overview of the financial picture of the industry by giving you some of the key financial data. Last year, 1977, was for American industry in general a pretty good year, but for the railroads it was close to a disaster.

Our rate of return on net investment declined to 1.26 percent, and unhappily that is representative of the last several years, in 1975 and 1976 our rates of return were 1.2 and 1.64 percent respectively. The 1975 and 1977 rates of return were even lower than the depths of the depression in the midthirties where our rate of return, at one point, was 1.37 percent.

I would like to by way of comparisons simply look to our rates of return on equity as against those on other ICC-regulated carriers and then look, after that, to the outside world. But so far as ICC-regulated carriers are concerned, this was the picture in 1976, the last year for which data are available:

Class I railroads, 1.8 percent return on equity.

Motor carriers, 23.67 percent.

Water carriers, 17.18 percent.

Pipeline companies, 26 percent.

And, again, railroads, 1.8 percent.

The situation is the same if one looks outside ICC-regulated carriers for industry in general. In 1977 we find an average 14-percent rate of return for all industries; manufacturing corporations, 15 percent; public utilities—another regulated sector of the economy—12.1 percent; and railroads, again, 1.9 percent. We ranked dead last in a listing of 73 industrial groups, and that is the position we hold with regularity.

In the first quarter of this year we find a situation that is even worse. We had our worst quarter, not just our worst first quarter, but our worst quarter in history with the largest operating deficit that we have ever had.

And the consequences for the 12 months ending March 31, our rate of return dropped to 0.6 percent, which is, I expect, the lowest rate of return for any four-quarter period in recorded railroad history.

Now, as you know, the individual railroad representatives that are here before you this morning come from relatively prosperous railroads, but as an examination, for example, of Mr. Cena's prepared statement will indicate, even for the relatively prosperous railroads, the amount of earnings that they have been able to generate over the long run, unless relief is obtained somehow, will be inadequate to meet the capital needs even, as I say, of these railroads. More importantly, the fact is that, as Mr. Cole has indicated, this industry is so interrelated in terms of the transportation of commodities with over 70 percent of the freight we transport being moved over two or more railroads, that the anemia that afflicts important sectors of the railroad industry has had and will have an adverse impact upon the entire industry.

Let me turn now to what we regard in terms of public policy as some of the most important causes of this situation in which we find ourselves.

We believe based on our considered analysis that the problem that the railroads face has been generated in large part by perverse public policies that fall under two general headings; first, the subsidization of competing modes of transportation; and, second, outmoded, inequitable, and burdensome regulation.

The subcommittee is fully aware of the problem as it exists with respect to the subsidizing of competing modes of transportation, so I won't deal orally with any of the details except perhaps by way of illustration, for example, to note that the Congressional Budget Office has determined that with respect to the barge lines that Federal assistance there has the net effect of providing 41 cents of taxpayers' money to match every dollar paid by those who ship by waterway.

A comparable subsidy for the railroad would run in the range of $8 billion a year. We, of course, must maintain our rights-of-way and pay property taxes on them. The adverse impacts upon the railroad of this subsidy is enormous in terms of diversion of traffic and depression of our rate structure.

The situation with respect to highways is even worse because highways are a more serious competitor than barge lines so far as the industrywide situation is concerned. Every study that has been made that we are aware of indicates that heavy trucks pay much less than their fair share by any method of reckoning.

The most recent authoritative study has been made by the Urban Institute, and it looks like we are looking at a shortfall in terms of heavy truck user charges that run into the billions of dollars a year.

Now, it's simply not possible for the railroad industry to compete in an effective way with industries that are so heavily subsidized by the Federal Government.

Let me turn now to the question of regulation.

I begin with rate regulation. The 4–R Act was passed in 1976 in recognition of the reality that regulation by the Interstate Commerce Commission was strangling the industry.

The ICC has managed to eviscerate the key portions of the 4–R Act. I am sure that the subcommittee is fully aware of the interpretation that the ICC placed upon the most important market dominance provision of the act. Its interpretation makes that provision virtually useless to the industry.

But beyond that, the Congress directed the Commission in the 4–R Act to maintain standards and procedures that would provide for the establishment of adequate revenue levels for the industry.

On that, the Commission has signally failed. I point to several examples. In its decision of June 28, 1978, dealing with not the last rate increase, but, the 5-percent rate increase just before that, which was designed not to increase earning levels, but rather simply to cover only part of the escalated cost that the industry faced, the Interstate Commerce Commission required us to roll back that rate increase on seven major commodity groups and to make refunds of approximately $25 million.

The consequence will be a shortfall of about $200 million a year in covering our inflated costs.

The Commission also announced that it would look with disfavor in the future upon general increases. It suggested that we concentrate upon selective commodity increases, and I will say to the subcommittee that that is simply impossible. There is no way for this industry or any other regulated industry in times of rampant inflation to cover cost increases that are running in the range of close to $2 billion by the time-consuming, selective rate increases.

The Commission also indicated that it would apply an arbitrary standard of 180 percent of variable cost in testing commodity rate increases. This, too, is wholly unrealistic. Moreover, in its most recent action the Commission rolled back proposed increases in coal rates from 7 to 4 percent, thereby indicating that it would look with disfavor upon increases in those commodities which can stand those increases.

There is no place left for the industry to turn with this kind of repressive regulation.

My conclusion is that the Interstate Commerce Commission has clearly failed to carry out the mandate that Congress gave it in 1976 and that further action will be necessary.

The other types of regulation—my time is almost expired, so I will simply label them for you—that penalize the railroads, for example, include the ICC's efforts to deal with the freight car shortage through car service orders. Their car service orders are unrealistic; they are impossible to comply with; but worse yet, if we did try to comply with them, literally we would be confronted with a much more serious car shortage than we have at the moment.

We have safety regulations which proceed from the FRA that are costly and that are nonproductive, and only marginally related to safety, and we have proposed legislation along the same lines; and all of that is indicated by the conclusions that have been reached by the recent report of the Office of Technology Assessment to which I direct the subcommittee's attention.

Labor relations is an area that we have been asked to discuss. Before I assumed my present position I was chief labor negotiator for the

industry, and it is an area therefore in which I have some expertise, and I may say that I am happy to be appearing on the same panel with Mr. Sytsma, head of the Locomotive Engineers, who is certainly one of the most farsighted and responsible labor leaders in the railway movement.

I will simply say that we do have problems, as I am sure the subcommittee is aware, in terms of work rules; we have been able to work a number of them out. I am hopeful that we will be able to continue that sort of progress in the future.

We have legislative problems as well in terms of the way that the Railway Labor Act has been construed. All of those matters are set forth in my prepared statement, and I would be glad to respond to any questions at the conclusion of the panel's presentation.

Thank you very much.

Senator McGOVERN. Thank you, Mr. Dempsey, for your testimony.

[The prepared statement of Mr. Dempsey, together with an appendix, follows:]

PREPARED STATEMENT OF WILLIAM H. DEMPSEY

My name is William H. Dempsey. I am president of the Association of American Railroads, with headquarters in Washington, D.C. The railroads which are members of the Association operate 92 percent of the line-haul mileage, employ 94 percent of the workers, and produce 97 percent of the freight revenues of all railroads in the United States.

I welcome the opportunity to appear before you today to present the views of the Association on the problems of the railroad industry, the subject of these hearings. It is altogether appropriate, given the present grossly inadequate financial condition of the railroad industry as a whole and the responsibiiity, in substantial measure, of misguided Federal policies for that condition, that the Joint Economic Committee consider the plight of the railroads.

The concerns of this subcommittee were highlighted in the staff analysis, The Railroad Industry: Basic Issues and Problems, released on June 22, 1978. The three executives of the railroad industry who accompany me and myself are here to respond to those concerns. Speaking first, I will describe the overall financial condition of the railroad industry and several of the more important causes of that state for which Federal policies are at fault. Mr. Lawrence Cena, president of the Santa Fe Railroad, will touch upon railroad productivity, the industry's capital requirements, and the ways in which government regulation of the industry and inflation are hampering the industry in achieving its potential in an energy-short economy. Mr. James W. Gessner, president of the Missouri Pacific Railroad, will respond to various concerns about railroad operations raised in the staff analysis, including labor work rules and car utilization. Finally, Mr. Arnold McKinnon, executive vice president of the Southern Railway, will touch upon several other issues raised in the staff analysis.

CURRENT RAIL EARNINGS LEVELS ARE GROSSLY INADEQUATE

These hearings, as you gentlemen are well aware, are hardly Congress' first expression of concern over the insufficiency of railroad earnings. Indeed, the Congress reacted to this problem in 1976 by passing the Railroad Revitalization and Regulatory Reform, or 4–R Act. A major purpose of the 4–R Act was to increase rail earnings to adequate levels by relieving the carriers of some of the regulatory restraints against their pricing practices and other burdensome Federal policies. Although the 4–R Act became law over two years ago, that purpose has clearly not been achieved. To realize this objective, it is estimated the industry would have to earn approximately $3.5 billion in ordinary income annually. This figure represents the levels necessary if the railroads are to achieve adequate earnings—i.e., those which will insure financial stability and the capacity to render service. The actual record of the industry provides a sad contrast to these objectives.

For the economy as a whole, 1977 was a good year. But for the railroad industry, rapid cost inflation and other factors put severe pressure on earnings. Net railway operating income—already at inadequate levels—dropped to $346.6 million—the lowest level in 45 years. Its rate of return on net investment declined to 1.26 percent—one of the lowest in history and less than one-eighth of what is considered necessary in most regulated industries.

Unfortunately, the industry's poor 1977 earnings are not a temporary phenomenon. The fact is that the industry's rates of return on net investment for 1975 and 1976 were 1.20 and 1.64 percent, respectively. The 1975 and 1977 rates of return are even lower than the 1932 depression year figure of 1.37 percent, the previous all-time low.

Measured in comparison with other industries with which railroads must compete for investment money, railroad earnings remain chronically weak. Other freight carriers under Commission regulation earn five to twelve times as much as do railroads, as shown below for 1976, the latest year for which comparable data are available.

RATES OF RETURN OF ICC-REGULATED CARRIERS, 1976[1]

[In percent]

	Return on net investment	Return on equity
Class I railroads	1.64	1.80
Motor carriers of property	19.23	23.67
Water carriers, inland and coastal	16.03	17.18
Pipeline companies	7.59	26.00

[1] Rail data from annual reports of railroads (R-1); other modes from data in the 91st annual report to Congress (ICC).

Other industries also enjoy rates of return much higher than that of the railroads. The average return on net worth for leading corporations in 1977 was 14.0 percent. Manufacturing corporations averaged 15.0 percent and mining, 9.5 percent. Public utilities, which are also regulated but which operate in less competitive markets than do the railroads, averaged 12.1 percent. Railroads averaged only 1.9 percent and ranked dead last in a listing of 73 leading industrial groups.[2]

Poor as earnings have been in recent years, industry profits for the most recent period for which data are available, the first quarter of 1978, are worse. The effects of the harsh winter, the coal miners' strike and continuing inflation on the railroad industry during the first quarter were, in a word, disastrous. Based on quarterly reports filed with the Commission, the Nation's railroads emerged from the first three months of 1978 with deficits of $156.2 million in net railway operating income and $274.0 million in ordinary income before extraordinary items. The net railway operating income deficit was the biggest loss of any quarter in railroad history. The losses in ordinary income were also the largest for any quarter for which data are available.

The drastic downturn in earnings swept through the industry, with few exceptions. Declines in ordinary income were registered by 28 of 36 reporting roads. Half of the 36 carriers had deficits in the first quarter of 1978.

As a result of the first quarter, the rate of return on net investment for the 12 months ended March 31, 1978, dropped to 0.6 percent which is probably the lowest return for any four-quarter period in recorded railroad history. The certain prospects of continuing high levels of national inflation and pending labor negotiations will add further negative pressures.

Some of the consequences of eroding railroad profits have become readily apparent over the past decade: inadequate capital investment, lower standards of rail service, deferred maintenance, and even rail bankruptcies. While these problems, in full measure, are not common to all major railroads, they do affect at least one-third of the industry and occur in all regions of this nation. However limited the worst of these conditions are, their consequences cannot be isolated. With 70 percent of all railroad freight revenues involving traffic that must be

[2] Citibank, Monthly Economic Letter, April 1978.

carried over two or more railroads, the interdependent nature of the U.S. rail system dictates that the stronger carriers also are impacted adversely whenever they interline traffic with the weaker elements. In such an environment, it becomes extremely difficult to contain this malaise. Unless something is done to improve the overall profitability of the railroads, these problems will only become more serious, and impose escalating demands on your time and the Federal budget.

FEDERAL SPENDING POLICIES CONTRIBUTE TO THE GROWING RAILROAD PROBLEM

As you are well-acquainted with the probable consequences of a continued financial deterioration of the railroad industry, let me turn to some of the causes and solutions to the problem. There are steps that the railroad industry must take itself to improve its service, hold its costs down, and restore its profitability. But I believe that these measures, even when taken to the fullest extent, will be unable to overcome the serious handicaps created by misguided Federal policies toward the railroads.

Perversions of public policy damaging to railroads are of two primary forms: (1) subsidization of competing modes of transportation; and (2) outmoded, inequitable and burdensome regulation. I will discuss each in turn.

Barge competition is heavily subsidized

No firm or industry can remain profitable or healthy if it must compete with others that are heavily subsidized with public monies. Congress has affirmed, in the 4–R Act and elsewhere, the necessity of creating and maintaining an open and competitive market in transportation, in which all modes compete on equal terms, and market shares are governed by customers' preferences based upon service and full economic costs. Ongoing massive Federal subsidies to inland navigation continue to frustrate this Congressional objective.

During the decade from 1965 through 1975, the Corps of Engineers alone has spent nearly $3.6 billion in operating, maintaining, and constructing our system of inland waterways for navigational purposes. The commercial waterway carriers, who are the direct beneficiaries of these Federal expenditures, have paid no licensing fees, user charges, or any other fee for the use of these publicly-provided rights-of-way. According to the Congressional Budget Office, these policies and programs have the net effect of providing forty-one cents of taxpayer money to match every dollar paid by those who ship by waterway.[3] The recipients of the massive subsidy are principally the oil, steel, chemical, coal and export grain companies whose scale of operations can generate shipments in bargeload lots of thousands of tons each. It is primarily these industrial giants, in fact, who own the private and unregulated barge companies that account for two-thirds of total barge traffic.

These waterway subsidies are both inequitable and unsound economic policy. The railroad industry and rail shippers cannot but be seriously disadvantaged by a policy which provides such large public subsidies to the commercial waterway industry which is in direct competition. Nor can it withstand the long-run effects of a program which provides, wholly at public expense, for further extensions to the waterway system and for continuing additions to the capacity of the present system such as the Tennessee-Tombigbee Waterway and the proposed improvements to Locks and Dam 26.

During the same 11 years that the Federal government spent $3.6 billion on waterways, the railroads had to spend about $19.7 billion of their own revenues for construction and maintenance of their own roadway. In addition, they paid nearly $2 billion more in taxes on roadway and track property. Consequently, while waterway shippers were receiving a government subsidy for right-of-way of about 41 cents for every dollar they paid to ship by water, railroads had to spend about 20 cents of each revenue dollar to maintain their right-of-way. Adding a competitive return on the railroads' investment in their right-of-way brings the total costs to almost 36 percent of the railroads' annual operating revenues.[4]

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[3] Some waterways, such as the lower Mississippi, receive far lower subsidies relative to traffic moved. On the other hand, Federal subsidies for operations, maintenance and repair (OMR), actually exceed by a wide margin the dollars spent by shippers for freight movement on such waterways as the Arkansas, Allegheny, Missouri, and Ouachita.

[4] See Appendix A for costs and taxes on right-of-way in 1976 for the four principal modes of transportation.

These subsidies penalize the railroad industry in two ways. First, freight traffic is diverted from railroads to barges because barge costs and therefore barge rates are artificially reduced by the magnitude of the public subsidy. The second effect of these subsidies is to depress the railroads' rate structure and, hence, our profitability not only on water competitive routes but also on products moved by rail from points far removed from the waterways but which compete with products moved by rail or barge on competitive routes. Given the inadequate level of earnings on even the strongest railroads,[5] the effects of these subsidies have been to penalize railroad investors, rail management, and rail shippers. As a consequence, investors have restricted the availability of equity funds and increased interest rates, managers have had to reduce capital and maintenance budgets and rail shippers have had to tolerate the resulting service deterioration or divert traffic to other modes.

It is impossible to say with precision what the financial impact has been on the railroads of this diversion of traffic and lowering of railroad rate levels; but our estimates are that the waterway subsidy currently robs the railroads of hundreds of million of dollars per year in pre-tax earnings. And that damage will increase sharply in coming years unless corrective action is taken.

The "free ride" that government navigation expenditures give to barge operators in the absence of user charges is not only unfair to railroads, other competing modes and many shippers; it is also unsound economic policy. The total absence of any investment responsibility on the part of commercial waterway users leads to decisions to make major public investments in the waterway system which are not subject to any meaningful commercial tests such as those which Congress reasonably expects will govern investments in other parts of our national freight-carrying system. For example, if the costs of the Tennessee-Tombigbee Waterway project are computed using a 6¼ percent interest rate, the total benefits from the project return only 64 cents for each dollar spent. And those benefits, I might add, will occur only if one accepts the highly favorable assumptions used by the project's builders.

The artifical economies of subsidized water transport induce industry to locate new plants at waterside locations, distorting patterns of industrial location and injuring communities that cannot offer subsidized water transport. The depression of railroad earnings that can be attributed to subsidized water transport also hurts shippers and communities that must continue to rely on railroads. For with inadequate earnings the railroads lack the funds to maintain and modernize their plant. The irony is that Congress may ultimately have to spend billions on railroads to undo the physical and financial havoc wreaked upon the railroad system by the billions it has spent on waterways and the billions more it plans to spend. Only a full system of adequate user charges can prevent such a costly system of compensating taxpayer subsidies.

Large trucks do not pay their fair share of highway costs

As onerous as it is, the burden on railroads imposed by the failure to charge barges the cost of the waterways pales beside that created by the failure of large trucks to pay their share of highway costs. As the scale of truck competition and highway expenditures is so many times greater than that of barge competition and waterway expenditures, so too is the dimension of the problem.

A study of highway expendtures and offsetting user-charge receipts (fuel taxes, license, fees, tolls, etc.) shows that between 1956 and 1975, Federal, State and local governments spent about $125 billion (in 1975 dollars) more on roads and highways than was returned in any form of user charge. Virtually all of this deficit was incurred on rural and intercity roads and highways—that part of the road network that offers direct competition to railroads. In fact, user charges on urban roads exceeded expenditures by about $10 billion during this period, so that the deficiency on rural and intercity roads was actually about $136 billion.[6]

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[5] Under the new ICC-prescribed method for calculating rate of return, only four major railroads earned a rate of return in excess of seven percent in 1977. None earned as high as nine percent, which itself is far below the 12.5 percent the industry would need to achieve to meet its current cost of capital and earn a fair return.

[6] Bhatt, Kiran, Michael Beesley, Kevin Nee's. An Analysis of Road Expenditures and Payments by Vehicle Class (1956–1975), The Urban Institute, Washington, D.C., March 1977.

But that is only part of the picture. When we examine what each of the various vehicle classes have contributed to that fraction of the highway bill that users have paid, we find that heavy trucks pay much less than their fair share by any method of reckoning. Total highway costs can be divided into categories: those that can be directly assigned to a specific user or class of users; and those that cannot be so assigned. The latter category, those costs that cannot be directly assigned to specific users, make up about 80 percent of total highway costs. The most recent, authoritative study of highway costs and user charges, performed by the Urban Institute, concludes that while user charges on heavy trucks defray that portion of the 20 percent of the total highway costs that can be attributed directly to them, they contribute virtually nothing beyond that.[7] That is, heavy trucks make virtually no contribution whatsoever toward the remaining four-fifths of highway costs.

To deal with specific amounts, autos, buses, light and medium trucks contributed $231.9 billion (in 1975 dollars) to these unassignable costs of the highway system during the 1956–1975 period, while heavy combination trucks contributed a mere 0.1 billion dollars. Thus, the trucking industry, which is in direct competition with railroads for shippers' freight, receives its right-of-way at absolutely minimal expense to itself.

The shortfall in user charges paid by the biggest trucks in recent years has escalated rapidly as heavier axle loadings have been authorized on Federal and state highways. This caused a geometrical increase in the damage to highway surfaces. In Illinois, for example, one study found that a 73,280 pound truck causes as much damage as 2,900 automobiles but that the same vehicle with a 5 percent heavier load causes as much damage as 10,000 cars.[8]

With bigger trucks and overloading a common and seldom policed practice, the Nation's highways are wearing out far faster than originally scheduled and far ahead of the ability of the current user charge systems to finance their replacement.

ICC RATE REGULATION DENIES RAILROADS ADEQUATE REVENUES

If subsidies to its water and highway competition may be said to bind one arm of the railroad industry in its effort to compete profitably for freight traffic, then a welter of regulations binds the other. The railroads have been complaining about capricious regulation to the Congress for many years. The financial condition of the industry has now begun to reveal the effects of that regulation. It is evident that the railroads have not been "crying 'wolf' ".

To illustrate the type of regulatory nonsense the railroads must contend with I have no need to draw again on the old "horror stories" of regulation that you have heard many times previously—but practices which persist nevertheless. The events of the past few months, even weeks, provide ample new illustrations of how regulation is strangling this industry.

In passing the 4–R Act, Congress recognized that railroads no longer possess monopoly power over large segments of the freight market, so that the tight control over the rail industry which the ICC has historically exercised may no longer be required by the public interest, and may instead have become an unnecessary burden on the railroads which have to compete with unregulated motor carriers and barges.[9]

One of the regulatory problems that cries out loudest for solution has to do with ratemaking. The railroads cannot survive unless they have the freedom and flexibility to adjust their rates more promptly as economic conditions change and sound business judgment dictates. The Congress surely recognized this in enacting Section 202 of the 4–R Act, which is the keystone of Congress' reform of rate regulation. That section contains provisions designed to enable railroads to lower and raise rates in response to competitive forces and also eliminates

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[7] An Analysis of Road Expenditures and Payments by Vehicle Class (1956–1975), The Urban Institute, Washington, D.C., March 1977 and Congressional Intent and Road User Payments, The Urban Institute, Washington, D.C., March 1977.

[8] Press conference, November 25, 1974, Siamund C. Ziejewski, District Transportation Engineer, Illinois State Department of Transportation.

[9] Only about 44 percent of intercity truck traffic is regulated by the ICC. Less than 8 percent of inland waterway traffic is so regulated (91st Annual Report of ICC). Where the railroads' competitors are regulated, ICC rules are generally less restrictive than comparable rate regulations.

railroad maximum rate regulation whenever a carrier lacks market dominance. Under Section 202, Congress ordered the ICC to establish "standards and procedures" for determining whether a railroad possesses market dominance and expressly directed that these rules be designed to permit a "practical determination without administrative delay."

Had the Commission heeded Congress mandate, it would have created a balanced set of market dominance standards and procedures reflecting the competitive realities of surface transportation. Instead, the Commission has adopted a series of "presumptions" that market dominance exists. The railroads, joined by the Department of Justice, have objected strongly to the Commission's ruling. The presumptions represent a virtual repudiation of Congress' decision to emphasize competition as the best regulator of price. The Commission, in an effort to retain total control of railroad rates, has simply refused to follow the Congressional mandate and has instead based its regulations on the false premise that the rail industry is nearly as monopolistic as it was 90 years ago.

The importance of the market dominance proceeding to the health and welfare of the railroad industry cannot be emphasized too much, and the frustration that the Commission's decision has brought cannot be ignored. We did, of course, challenge the Commission in Federal Court, and the Department of Justice joined us by confessing error on the part of the government. The Court, however, determined that it ought to defer to the Commission's "expertise."

The point is that this litigation should not have been necessary. In the last analysis, what is most needed today is a change in the Commission's regulatory philosophy, a change which would recognize, as Congress did in enacting the 4–R Act, the fundamental transformation in competitive realities and in the trend of government economic regulation.

Congress directed the Commission in the 4–R Act to develop and maintain "standards and procedures for the establishment of revenue levels adequate under honest, economical and efficient management to cover total operating expenses, including depreciation and obsolescence, plus a fair, reasonable and economic profit or return (or both) on capital employed in the business." [10] Congress commanded the Commission to "make an adequate and continuing effort to assist the carriers in attaining such revenue levels." [11] And yet, the Commission has recently erected serious roadblocks in the way of the industry's attainment of adequate revenues.

I refer first to the Commission's decision of June 28, 1978 in Ex Parte No. 343 in which the Commission had under review a nationwide increase of five percent in rail freight rates and charges, which was tentatively put into effect on November 30, 1977.

That rate increase was designed to offset only part of the proven increases in operating costs which the industry had sustained. If the rate increase had been approved in full, the industry would still have fallen short of its cost escalations by $150 million annually. This increase was not designed to improve earnings, but simply to cushion in part inflationary price increases and thus prevent further erosion of rail earnings.

In its latest report in this proceeding the Commission recognized that the railroads needed additional revenue and that the revenues produced by the increase would fall short of the railroads' additional costs. The ICC even recognized, as it has in recent years, that the railroads' earnings were well below acceptable levels. Yet the Commission directed the railroads to roll back the increase by significant percentages on seven major commodity groups and to make refunds of approximately $25 million to affected shippers. The Commission's action by its own calculations will result in a loss to the industry of $50 million annually. Added to the built-in shortfall of $150 million this produces a cost-revenue gap of significant proportions which the railroads can ill afford to absorb in view of their marginal earnings.

In explaining its action, the Commission announced that it is of the view that the railroads should de-emphasize general increases and look to selective rate increases on individual commodities to promote revenue adequacy. It also served notice that it will not favor such selective increases when the carriers have what the Commission deems to be already adequate earnings on the commodities in

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[10] Interstate Commerce Act, Section 15a(4). Originally enacted as Section 205 of the 4–R Act.

[11] Ibid.

question. In other words the decision relegates the railroads to individual rate increases and those only where the rates in question now generate merely marginal or relatively low earnings. Obviously, most of this traffic carries such rates because of competition where the railroads' ability to raise rates is severely limited.

The industry cannot properly function under these newly announced policies. Although there are some situations where selective increases make sense, given today's inflationary climate every regulated utility in the United States, not just the railroads, must rely upon general increases to promptly offset their cost escalations. No privately owned regulated industry and certainly no railroad can remain viable unless its increased costs of providing service can be offset by general increases. With 10 percent annual increases in material prices and labor costs, it is ridiculous to believe that selective rate increases on individual commodities will effectively allow the railroads to recoup $1.8 billion in new revenues each year. Sole reliance on selective increases is a time consuming, expensive process; it would produce intolerable delays in recapturing increased costs. Losses to the railroads would mushroom.

Incredibly, the Commission has adopted these new views at a time when the railroads' earnings are reaching new lows and when the congressional mandate to improve those earnings was never clearer. It is axiomatic that earnings cannot be improved until these cost increases are offset. Express recognition of this economic fact of life is contained in Section 205 of the 4–R Act, which provides that rail revenues should be adequate to "cover the effects of inflation." Even prior to enactment of the 4–R Act, the Commission itself specifically recognized the need for general increases to combat inflationary cost increases. In Ex Parte No. 262 it said: "In this economic climate a horizontal increase applied to all rates is the fairest means of distributing the burden of providing additional revenue."

This observation was made in 1970 and it is just as true today. It is the Commission's thinking, not the economic climate, that has changed. The new attitude places the railroad industry in jeopardy. In electing to pursue a policy de-emphasizing general increases, the Commission would partially substitute selective increases as a palliative for the industry's financial ills. The remedy is grossly inadequate. As an illustration, the Commission's $50 million revenue rollback in Ex Parte No. 343 is almost twice as much as the total additional revenues that the railroads have obtained from all of the section 202 and 206 rate proposals filed since the 4–R Act became law. This is progress in reverse.

Another aspect of the Commission's decision in Ex Parte No. 343 is equally bad. The rates on which the Commission ordered a roll back were among those where, allegedly, most of the revenue earned on the movements resulted from rates which were in excess of 180 percent of variable operating costs. To keep this action in perspective it must be pointed out that variable costs are significantly less than the fully allocated costs of transportation. If a carrier earned only variable costs on all of its traffic it would inevitably go bankrupt. The fully allocated costs are the break even point, leaving no room for profit.

In the recent past the Commission has recognized that rail earnings on certain commodities must necessarily be greater than on others if the industry is to continue to remain solvent, let alone improve its earnings. In its January 31, 1978 decision in Ex Parte 338, the proceeding required by Congress to formulate the standards and guidelines for the establishment of adequate railroad revenue levels, the Commission said: ". . . although equality of contribution may be desirable as an ideal in an emergency or cost based general increase where revenue adequacy is lacking, it would be inappropriate to place undue emphasis on cost/rate ratios. Because of differing demand and competitive circumstances a greater contribution is available from some commodities than from others."

This statement, which recognizes the realities of railroad economics, is belied by the Commission's rollback in Ex Parte No. 343. It appears that the Commission is placing an undue emphasis on cost/rate ratios. It is also clear that the Commission's restrictive regulatory policies will be continued unless Congress intervenes.

In the most recent general increase proceeding, Ex Parte No. 349, the Commission rejected the industry's proposal for a seven percent increase on coal rates by rolling it back to four percent. This means a loss of $47 million in revenue annually, plus an additional $9 million in other rollbacks. The Commission has also placed under investigation the same commodities which it rolled back in Ex Parte No. 343 and added others as well. The railroads are fearful

that the investigation will terminate in an order similar to that in Ex Parte No. 343—another substantial cutback in revenues. Where then are the railroads to turn? They cannot hope to achieve the needed six-fold increase in earnings by selective rate increases on commodities where profit margins are thinnest. Much of this rail traffic is subject to pervasive water and highway competition which is often the reason that the rates are depressed in the first place. There is a possibility, indeed a probability, that significant traffic losses in this class of traffic will ensue if the rates are raised to any material extent.

The amounts of revenue to be gained from increasing the rates on this category of traffic are limited in terms of the earnings gain the railroads must achieve. In addition, although the Commission has admonished the railroads to increase marginal rates, it has also inconsistently denied carrier proposals seeking to accomplish that result. For example, last year it rejected a nationwide increase in lumber transit charges even though it found that the existing transit charges were marginal or non-compensatory. (I. and S. Docket No. 9139, decided March 22, 1977). Thus, railroads are by no means assured of obtaining adequate additional revenue from any source, given the present thinking of the Commission.

OTHER FEDERAL REGULATIONS FURTHER PENALIZE RAILROADS

It would be troublesome enough for the railroads if the Commission's regulation were confined to telling the industry what prices it could and could not charge. But recent actions take the Commission beyond the realm of rate regulation and into the realm of railroad operations. Here Commission meddling is sadly counterproductive to the railroads and to the shippers and consumers who rely on rail transportation.

Again, events of the past few weeks provide plenty of examples.

Recent ICC freight car controls are counterproductive

In a thoroughly misguided response to an apparent car shortage, the Commission is insinuating itself more and more deeply into the business of freight car management. ICC Service Order No. 1309 requires the railroads to place, remove, forward, clean, weigh and give light repairs to system and foreign cars, both loaded and empty, within 24 hours. Compliance with this arbitrary time standard is economically unfeasible on most railroads and a practical impossibility on some.

The order does not recognize the everyday realities of railroad operations. Even in the best equipped and staffed terminals or yards, which handle thousands of cars daily, there will normally be some cars on hand in excess of 24, 48, or more hours from arrival to departure time. In the expedited handling of many hundreds of thousands of cars daily, as required by this Order, delays in forwarding them could be caused by missed connections, adverse weather conditions, equipment failures, dertailments, strikes, plugged grain elevators, congestion at ports or terminals and other real-life day-to-day occurrences.

I believe that the railroads have made a good faith effort to comply with Service Order No. 1309. However, the Commission recently announced in the press that it had assessed the largest fines in its history, totalling over $7 million, against three major railroads for many thousands of violations of this Order, and similar action has been threatened against other railroads. Not only is such an order, and the resulting fines, grossly unfair; they do not serve their intended purpose. Service Order No. 1309 will aggravate current freight car shortages. For railroad personnel will be more concerned with trying to comply with the Commission's Order than with moving freight, which should be their primary concern. Nor does it appear that ICC meddling in car management will end there. There are indications that the Commission is considering such further restrictions on railroad car fleet management as the complete discontinuance of unit grain train operations, the suspension of all shipper-assigned specialized equipment, and even the suspension of AAR Car Service directives requiring the empty movement of freight cars to correct for directional imbalances in loading that cannot be dealt with in any other way. Any such draconian measures would predictably have a chaotic impact on the utilization of the nation's freight car fleet.

The interference and delays that ICC regulations impose on other aspects of railroad operations mergers, line abandonments, accounting, finance—are too well known to require recounting at this time.

Misguided safety regulations increase

The industry is also pervasively regulated in terms of safety. I do not suggest that this is an improper subject for regulation. But the form of the regulation is all too often infirm in the extreme. The fault lies sometimes with the Congress and sometimes with the regulations designed and enforced by the Federal Railroad Administration, as the recent report by the Office of Technology Assessment—"An Evaluation of Railroad Safety"—concluded.[12] I refer the Committee to that report for a detailed analysis of the problems to be found in this area of regulation.

One recent example that will illustrate the problem involves a recent FRA regulation requiring lighted rear-end markers on freight trains. It is perfectly clear from the history of the relevant legislation that the Congress did not intend to require lighted markers, but rather merely markers that are "highly visible." The bill originally introduced would have required lighted markers on both freight and passenger trains.[13] The railroad introduced evidence relating to the high cost of lighted markers and their extremely remote utility as a safety device, and the Congress accordingly modified the provision so as to require only "highly visible" markers on freight trains, but lighted markers on passenger trains.[14]

The FRA, in its proposed rule, plainly perceived the Congressional intent.[15] But then, in its final rule, the FRA unaccountably reversed its position. The result is that, unless the courts overturn the regulation or the Congress restates its original intent in terms that the FRA cannot ignore—though it is hard to see how they could have ignored the original provision—the industry will have to spend some $11 million to no useful purpose. This is but one example of many. The industry is saddled with a maze of regulations in the name of safety that have little to do with safety but that have a lot to do with the financial anemia of the industry.

FEDERAL INTERVENTION COMPLICATES RAILWAY LABOR RELATIONS

Labor relations is another area in which the railroad industry is adversely affected by governmental action in unique fashion. There is no other industry in this country in which collective bargaining and other aspects of labor relations are so pervasively governed by law. I will cite several examples:

First, virtually alone among American industries, the railroads are obliged to finance strikes against themselves. Under the Railroad Unemployment Insurance Act, unemployment benefits are paid to striking employees after a seven day waiting period. Only in two states, Rhode Island and New York, are similar benefits paid and then after waiting periods of 8 weeks and 7 weeks respectively.

Second, the railroad industry is the only industry in which the government prescribes and administers a retirement system supplemental to Social Security. In all other industries, such additional benefits are subject to collective bargaining. The pernicious effects of governmental intrusion into areas best left to collective bargaining was dramatically illustrated when the Railroad Retirement Commission—a body specially created to examine the Railroad Retirement Sys-

[12] Report dated May 1978 was prepared in conformity with The Federal Railroad Safety Authorization Act of 1976 which required the OTA to evaluate the effectiveness of Federal efforts to improve the safety of our Nation's railroads.

[13] The provision read as follows: "The rear car of all passenger and freight trains shall have highly visible markers which are lighted during periods of darkness or whenever weather conditions restrict clear visibility. . . ."

[14] The provisions read as follows: "The Secretary shall, within 180 days after July 8, 1976, issue such rules, regulations, orders, and standards as may be necessary to require that * * * (2) the rear car of all passenger and commuter trains shall have one or more highly visible markers which are lighted during periods of darkness or whenever weather conditions restrict clear visibility; and (3) the rear car of all freight trains shall have highly visible markers during periods of darkness or whenever weather conditions restrict clear visibility."

[15] The FRA observed, quite correctly: "The distinction in the language used in each of these subsections leads to the conclusion that Congress intended to allow for different means of marking the rear end of passenger and commuter trains on the one hand and freight trains on the other. Thus while lighted devices would, of necessity, be required on passenger and commuter trains, unlighted, yet highly visible, passive markers such as reflectorized or fluorescent devices would be permissible on the rear car of freight trains if they meet the test established for such trains.

"While there is no legislative history directly addressing the meaning of these distinctions in statutory language, the additional provision of the statute which provides that existing State laws which relate to lighted markers on freight trains, and which were in effect on July 8, 1976, may continue in full force and effect confirms our conclusion that passive markers would not be barred by the marking requirement for freight trains."

tem—reported in 1972 that the system was fast headed for bankruptcy, and that one of the principal causes was the fact that the Congress had imposed upon the railroads a bizarre condition—the so-called "dual benefit"—that gave windfalls to persons who worked both for railroads and other employers. The Congress eliminated those benefits prospectively in 1974 after the Commission's report. but by that time the railroads had already lost $4 billion because of these benefits.

Third, similarly, the railroad industry is one of the few in which sickness benefits are prescribed by statute. Only 5 states have comparable laws.

Finally, the Railway Labor Act, which applies to only the railroads and the airlines, interferes with efficient operations. Under that act, lengthy procedures—procedures the Supreme Court has called "almost interminable"—are required before changes can be made in "rates of pay, rules or working conditions" (Sec-procedures the Supreme Court has called "almost interminable"—are required ment most restrictively, so that it is very difficult to change operations even where the written contracts do not stand in the way.[10] The unions are likely to contend that the change involves an established "condition of employment" and therefore cannot be made without service of formal notice, mediation by the National Mediation Board, proffer of arbitration, and compliance with the various cooling off periods prescribed by the act. I cannot believe this was Congress' intention. Clarifying legislation that would make it plain that operations could be changed unless barred by written contractual provisions would be most helpful in permitting more efficient operations.

To be sure, such a legislative measure would not solve our labor productivity problems, since we have numerous work rules that inhibit efficient operations. Some prominent examples are the rules that prohibit yard operating employees from doing work ordinarily performed by road operating employees and vice versa (the so-called road-yard issue) ; the requirement that there be two brakemen on every crew (the so-called "crew consist" issue) ; the method of pay under which road operating employees are paid a day's wages for every 100 miles with the consequence that they often earn three or four days pay in eight hours or less ; and the work classification rules in shops that, with some exceptions, prohibit one type of mechanic (a machinist, for example) from performing work "belonging" to another type of mechanic (an electrician, for example).

At the same time, it is also true that very substantial progress has been made in recent years in eliminating such impediments to productivity. A number of changes were made in the road-yard rules in the 1971 contracts, for example ; and in those same contracts the railroads were given the right to establish so-called "interdivisional runs" so that crews did not have to be changed every 100 miles or so. Most importantly, in 1972, the long-standing fireman dispute was settled, so that now railroads are not required to hire new firemen except to the extent necessary to have a pool of persons who can be promoted to engineer. Efforts are continuing to modify the remaining restrictive rules and practices, and I am hopeful that these efforts will be productive. It should be emphasized, however, that the attainment of more productive labor practices requires an absolute minimum of Federal interference in the process of collective bargaining. Sufficient gains will not be forthcoming if there are expectations that the final rules will be struck in a government forum.

CONCLUSION

Nearly a century ago, railroads were—with few exceptions—all this nation had for long distance transportation. Railroad monopolies, rate wars and the rise of populism soon gave birth to economic regulation by the Federal government.

Regulatory statutes multiplied with abandon. Provisions were enacted to prevent rail rates from being too high ; others were designed to curb excessively low rates. Controls over rail services, the construction of new lines and the abandonment of unused track followed. Then railroad mergers were assigned to regulatory scrutiny while new Federal guidelines discouraged mergers of railroads with other transportation firms.

At the same time, the Federal Government decided to intervene permanently in the field of rail labor relations. Special procedures for handling labor management disputes were concocted. Pension rights were legislated by Congress as were unemployment and sickness benefits.

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[10] See *Detroit & Toledo Shore Line* v. *United Transportation Union*, 396 U.S. 142 (1969).

As the web of Federal rail regulations and policies became larger and stronger, new or rejuvenated forms of transportation began to play vital roles in the Nation's commerce. Generally spared most of the extensive regulations controlling their rail competitors, barge and truck operations soon became the recipients of growing Federal subsidies, designed to stimulate these fledgling industries.

By the 1960's, these competitors had become mature, prosperous industries and serious inroads had been made into the railroads' traffic. Despite the growing success of their competitors under promotional Federal policies, the railroads were kept under the biting bridle of outmoded regulatory policies. In fact, the multitudinous holds which the Government exerted on the railroads made them sitting targets for further burdens.

Rail rates on agricultural products were held down to help the farmers while barge and truck rates jumped 100, 200 and even 300 percent at peak shipping periods.

Track abandonments—most of which involved less than one millionth of the traffic on the national system—were examined interminably.

Outmoded passenger services were ordered continued far beyond the time they served any rational national purpose as the losses climbed to the hundreds of millions year after year.

Pending mergers languished for years under regulatory review while some of the proponents headed toward insolvency. Extensive labor protection was imposed by Federal fiat when restructuring did take place.

Recent years have spawned new governmental handicaps on the railroads. Recyclable goods have been given special statutory privileges. Fresh fruits and vegetables have received lower rates. National energy needs are cited as justifying lower rail rates for coal.

Whatever justification some of these policies might have had, they are hardly appropriate for an industry in the throes of intensive competition with the lowest earnings of any major segment of the American economy. Gentlemen, there are only so many bites out of the turnip. We have simply reached the point where Federal policies are suffocating the railroad industry.

The railroad industry believed the 4–R Act was a start toward reversing outmoded Federal regulatory and spending policies. To date, the benefits we saw in that legislation, particularly in the area of rate regulation, have either been whittled away to almost nothing or turned into meaningless regulations by Federal authorities. At the same time, the Interstate Commerce Commission has embarked on a series of irrational, punitive actions which would have made railroad survival extremely difficult 20 years ago when we had a much more dominant and financially secure posture than we do today.

All of this is not to say Federal policies are the cause of all the railroads' difficulties. Obviously, any industry whose profits have ranked last in the nation for a decade must inevitably spend far less for equipment, plant, maintenance, service modernization and research than it would have had earnings been adequate. But the substantial changes in the Federal policies I have outlined here are the keys to creating a railroad turnaround.

With petroleum supplies dwindling, with other transport systems becoming congested, with coal production on the rise, the public need for a sound railroad system with its low cost, energy efficient services and substantial amounts of unused capacity is greater than it has been for years. But to attain that promise, railroad managers, employees, shippers and investors needed to be subject to Federal policies that reflect the present and the future, not chained by the antiquated laws of a long-gone era.

Appendix A

COSTS AND TAXES FOR RIGHT-OF-WAY—REGULATE INTERCITY CARRIERS, YEAR 1976

[Dollar amounts in thousands]

Item	Class I railroads		Class I intercity motor carriers				Total domestic airlines		Class A and B water carriers	
			Carriers of property		Carriers of passengers					
	Amount	Ratio to revenues	Amount	Ratio to revenues	Amount	Ratio to revenues	Amount	Ratio to revenues	Amount	Ratio to revenues
Total operating revenues	$18,536,482	100.0	$18,360,338	100.0	$974,866	100.0	$13,887,991	100.0	$776,978	1000
Right-of-way costs and taxes:										
Annual carrying charge on investment in way	[1] 3,451,320	18.6								
Maintenance expenses—way	[2] 2,812,837	15.2								
Crossing protection and drawbridge operation	25,609	.1								
Payroll taxes	180,250	1.0								
Property taxes—way	[3] 161,600	.9								
User taxes:										
Gasoline, other fuel and oil taxes	([4])		[5] 275,400	1.5	15,300	1.6				
License, registration fees, mileage tax, etc			[5] 238,700	1.3	7,200	.7				
Tolls: Bridge, tunnel, highway, ferry			[6] 129,500	.7	6,200	.6				
Other Federal excise taxes			[5] 40,800	.2	[7] 2,590	.3	[8] 838,977	6.0		
Total costs and taxes for right-of-way	6,631,616	35.8	684,400	3.7	31,290	3.2	838,997	6.0		

[1] Based on 22.6 percent pretax cost of capital calculated by J. Rhoads Foster, Verified Statement No. 2, ex parte No. 349, before the Interstate Commerce Commission. (Depreciated investment in roadway and track represents 51 percent of total net investment in road and equipment and does not include stations, offices and other facilities not part of road or yard tracks.)

[2] Includes maintenance of crossings and crossing protection devices; excludes maintenance of stations, shops, office buildings, etc.

[3] Estimated at 38 percent of local taxes based on AAR survey for 1975.

[4] Not available. Fuel taxes paid by railroads are charged to cost of materials and are not reported as taxes.

[5] Estimated amount based on 1975 ratio to revenues. Data for 1976 not available.

[6] Apportioned to class I motor carriers of property on the basis of Bureau of Public Roads' estimate of $1,327 million in total toll receipts in 1976.

[7] Estimated at 49.8 percent of Federal fuel taxes.

[8] Treasury receipts from Federal excise tax (8 percent) on domestic airline tickets of $793,597,000 and (5 percent) on freight of $45,400,000 as reported by Internal Revenue Service. According to the U.S. budget, total user taxes from all sources received into the airport and airway trust fund (established by Public Law 91-258) amounted to $1,054 million in fiscal 1977.

Source: Interstate Commerce Commission annual reports of class I railroads, Air Transport Association, National Association of Motor Bus Owners, and other sources as shown in footnotes.

Senator McGOVERN. Mr. Cena, we will turn to you now.

Senator SPARKMAN. Senator, before we move to the next witness, as you know, I am managing the bill that is on the floor of the Senate, and the Senate has just gone into session. I think I better go over there. I will see you there later.

Senator McGOVERN. Thank you, Senator Sparkman.

Mr. Cena.

STATEMENT OF LAWRENCE CENA, PRESIDENT, THE ATCHISON, TOPEKA & SANTA FE RAILWAY CO.

Mr. CENA. Senator, I am Larry Cena, President of the Atchison, Topeka & Santa Fe Railway Co. I, too, am glad to have the opportunity today to testify before this subcommittee with respect to the problems of the railroad industry.

I have a prepared statement which was made available to the subcommittee last week, and you have asked me to summarize those comments briefly, and I shall do so.

We have all heard a great deal about the problems of the railroad industry. In many areas the physical condition of plant and equipment is inadequate to handle efficiently and economically the large volumes of rail traffic tendered.

There are chronic car shortages and even the supply of locomotive power is often inadequate to move cars and trains promptly. And, of course, there have been numerous bankruptcies during the last decade.

These problems, often highly publicized, have led some people to suppose that the railroads are inherently in a state of decline and that only direct involvement of the Federal Government will serve to revitalize the industry and assure availability of adequate rail transportation service.

We on the Santa Fe emphatically disagree with this line of thinking. The fact of the matter is that the demand for rail service has never been greater. Indeed, this unprecedented demand is, itself, the cause of some of the problems the industry has had with equipment supply and the ability to move traffic as promptly as desired.

In 1977, for example, Santa Fe handled almost 50 percent more traffic than it did in the peak year of World War II.

Moreover, the demand for rail service is going to increase still further as a result of the Nation's concern over its energy requirements. Specifically, we anticipate a substantial increase in trailor-on-flatcar and container-on-flatcar business, since the railroads offer a more energy efficient form of transportation than long-haul, over-the-road trucks.

We also anticipate a tremendous increase in coal traffic resulting from the conversion from gas and oil to coal as a primary energy source, particularly for the generation of electricity.

In the face of this ever-increasing demand for rail service, it is simply wrong to think that the industry is in a state of decline. What is in a state of decline is the railroads' ability to generate reasonable profits in order to raise the truly enormous quantities of capital that are necessary to provide quality rail transportation.

In my prepared statement I have documented Santa Fe's capital requirements. Since 1945 we have spent almost $3 billion for capital improvements, and we anticipate making over $1 billion in capital expenditures at current price levels over the next 5 years.

I also documented how Santa Fe's continued ability to raise capital is threatened by inadequate earnings, despite the fact that we are a comparatively healthy railroad.

Our rate of return is below the current cost of debt capital, and is even less adequate to meet the composite cost of debt and equity capital, and I believe this is true of every railroad in the United States.

One of the major reasons for our capital difficulties, of course, is inflation. We have to pay ever greater prices for those capital items which are essential to maintain and modernize our plant. Moreover, because of inflation, the cash flow from depreciation is increasingly insufficient for replacing plant and equipment.

The long-term solution to these difficulties from my point of view is not to have the Government attempt to supply the capital required to maintain and enhance the railroad service capabilities. This would not benefit the economy as a whole and would be a tremendous new burden for the taxpaying public.

The best solution, and one which I think is readily obtainable, is to attack the root causes of the railroads' present inability to attain adequate earnings.

Those causes are unequal regulation, where competing modes of transportation are afforded rights-of-way largely at taxpayers' expense; overregulation, where we are frequently faced with purposeless and expensive requirements by Government agencies; and a failure on the part of the primary regulatory agency, the Interstate Commerce Commission, to implement the sound legislative policies enacted by Congress in the Railroad Revitalization and Regulatory Reform Act of 1976.

In my opinion, the principal reason for inadequate earnings in the railroad industry is the regulatory impediment to establishing prices in accordance with the demands for its service in the marketplace.

The basic mechanism for necessary pricing flexibility is contained in the 4–R Act, but the unfortunate fact is that the ICC seems to be unwilling to implement the policies and provisions of the statute.

To conclude, given the heavy demand for rail service which promises to increase sitll further in the coming decades, the industry has within its reach, in the private sector, the ability to generate adequate earnings provided it is given the sort of pricing flexibility Congress intended it to have in the 4–R Act.

With adequate earnings the railroads can raise the necessary capital from private sources to maintain, revitalize and expand their service capability.

I realize that this is not going to happen overnight. In some segments of the industry interim Federal assistance may be required to offset many years of capital limitations imposed by unsound regulatory policies.

On the other hand, over the long run, I think it is self-evident that where a private sector solution to a problem is available, as is the case with present rail industry ills, it should be seized upon.

The disastrous experience with Government control during World War I, which saddled the industry with a number of labor policies from which it still suffers, should preclude any similar proposal from being seriously entertained today.

The massive deficits supported by the taxpaying public in countries in which railroads are government-controlled also should suggest that the private marketplace should be the forum of which investment and pricing decisions are made.

Given the chance to make those investment and pricing decisions in the marketplace, with a minimum of regulatory restraint, and in an environment in which competitive modes are not unduly promoted through government subsidies, I am confident that the railroad industry can achieve adequate earnings.

The business is plainly there and can raise the capital required to establish and maintain, in the words of Congress, "a sound transportation system in the United States."

Thank you.

Senator McGovern. Thank you very much, Mr. Cena.

[The prepared statement of Mr. Cena follows:]

PREPARED STATEMENT OF LAWRENCE CENA

I. INTRODUCTION

I am Lawrence Cena, President of The Atchison, Topeka and Santa Fe Railway Company (Sante Fe). The purpose of my testimony before the Joint Economic Committee is to address the current and future status of the railroad industry from Santa Fe's point of view and within the context of Santa Fe's own operations and also to indicate in general terms how we think Congress might help assure the revitalization of the railroad industry in the private sector. We believe that a financially sound, efficient and economical rail transportation system in this country is readily obtainable within the private sector and that the public interest clearly demands this solution to the industry's current ills.

The alternative of more governmental involvement, in my firm opinion, should not be given serious attention, and I think history as well as current events will bear me out. For example, in 1917, under the Wilson Administration, Congress decided to place the railroads under government control as the country prepared for the First World War. I do not think anyone familiar with the ensuing events would disagree with the fact that the United States Railroad Administration was a bureaucratic nightmare which left the nation's railroads in a generally devastated condition. In addition, control of the railroads by the federal government was a direct cause of the establishment of personnel and labor policies that created patterns from which the entire industry is still suffering.

Perhaps the disastrous experience of government control was well enough remembered 24 year later when the critical strategic importance of the railroads was called upon in the World War II effort. I have been told that before our entry into World War II, the Roosevelt administration summoned rail industry leaders to Washington, presented them with the gloomy prospect of entering the conflict, and asked them point blank whether the railroads themselves could handle the transportation burden of another war. Upon receiving assurances that the railroads could indeed provide the necessary transportation service and upon receiving their commitments to make the large capital investments required to increase capacity, the Roosevelt Administration gave no thought to a second nationalization and instead left the railroads to operate in the private sector.

Just how well the industry handled the brunt of World War II traffic is a matter of history—a history of which the railroads are justifiably proud. The decision to avoid direct governmental involvement during World War II not only worked well, it spared this country of the specter of government ownership of the railroads, which is prevalent throughout most of the world today and which has the uniform characteristic of costing the taxpayers of the involved countries billions of dollars per year in operating deficits.

In a sense, the railroads are today in a position akin to that faced at the outset of World War II. Now we face a problem of providing efficient and economical transportation service in response to another war, that which must be fought to conserve and efficiently utilize the nation's energy resources and reduce our dependence on foreign oil. And this problem is being faced at a time when the financial position of the industry is weak and, in certain areas, where physical plant and equipment need to be improved to provide the service that will be necessary to meet rail transportation demand.

Given the substantial and increasing demand for rail transportation service, it is my firm opinion that the industry could achieve adequate earnings if sound regulatory policies are adopted and implemented with respect to freight rates. With the prospect of adequate earnings, the industry could raise the substantial capital required to maintain and expand service capability.

I recommend the private enterprise solution to the Joint Economic Committee as the only rational basis on which to deal with these problems consistent with the interests of the public in a sound rail transportation system.

In the balance of my testimony, I will identify the problems Santa Fe itself faces as a comparatively healthy railroad and will suggest how Congress might help us and other railroads to meet those difficulties within the framework of private enterprise rather than direct governmental involvement.

II. PROVIDING EFFICIENT, ECONOMICAL RAIL TRANSPORTATION SERVICE REQUIRES SUBSTANTIAL CAPITAL INVESTMENT AS WELL AS PRODUCTIVE UTILIZATION OF LABOR AND CAPITAL

A frequently voiced criticism of the railroad industry is that it is "antiquated" and inherently inefficient. These criticisms are the sort of thing we hear from people who themselves have no responsibility for managing major businesses in the real world and, often, who naively believe that if the federal government would inject itself into the process, efficient operations would result—this despite the obvious evidence to the contrary.

The basic source of misunderstanding is a lack of appreciation of the fundamental fact that efficiency is very largely a product of the ability to invest capital in a productive way. Capital-starved industries are condemned to making do with existing, often antiquated, plant and equipment. This does characterize some portions of the railroad industry. It is a serious problem which can be rectified quite easily by creating an environment in which necessary capital is obtainable in the private money market at reasonable, competitive prices. It is most decidedly not a problem which can be dealt with by imposition of an expensive bureaucracy paid for by the taxpaying public, a public which may now be on the verge of revolting from still further drains on the limited resources of private citizens.

To put these observations in the context of the Santa Fe and its operations, I would like to give the Joint Economic Committee some idea of our efforts to provide a high quality of rail transportation service and how the success of those efforts is directly related to the continued availability of necessary capital.

First, I would like to point out that Santa Fe is a major part of the nation's rail system, operating approximately 12,300 miles of main track, extending from Chicago to the Gulf of Mexico and the Pacific Coast and operating in the States of Illinois, Iowa, Missouri, Nebraska, Kansas, Colorado, Oklahoma, Texas, Louisiana, New Mexico, Arizona and California. As such, Santa Fe has been called upon to transport increasingly greater quantities of good and raw materials in its service area. For example, in 1977 Santa Fe generated 58.9 billion revenue ton miles. This is over 50 percent more revenue ton miles than we transported in the peak year of World War II.

While we believe that the absolute volume of traffic we handle in general is a clear reflection of Santa Fe's importance to the public and while that volume promises to increase substantially in the coming decades, two specific areas of current and future traffic growth warrant special attention. They are intermodal, general merchandise traffic (domestic trailer-on-flatcar and import-export con-

tainer-on-flatcar) and coal. Both are directly related to the nation's growing concern over its energy needs and resources and both require massive infusions of new capital dollars.

Rail movement of trailers and containers in piggyback service is more energy and labor efficient than over-the-road truck service for long haul traffic. Recognizing this, Santa Fe has in recent years committed substantial and increasing amounts of capital and management effort to develop the service required to compete effectively for such traffic. The results have been encouraging. For example, Sante Fe's piggyback business has nearly tripled in the last ten years. In 1970, Sante Fe transported about 180,000 trailers and containers. In 1976, the number had grown to approximately 291,000 and in 1977 reached a record 396,000.

In order to improve operating efficiency and overall productivity Santa Fe has designed a new freight car for piggyback service, a prototype of which was built and tested in 1977. The configuration of the car, which reduces both wind resistance and weight, consists of a series of skeletal cars joined to function as a single articulated unit. When constructed these cars will permit the operation of trains consisting of eleven ten-car units with substantial improvements in efficiency of operation. This improved efficiency, in turn, should enable us to attract a growing body of traffic from the highway with a resulting improvement in utilization of energy resources.

A key to the Nation's reduced dependence on foreign sources of energy of course is utilization of our vast coal reserves, particularly as a fuel for generating electricity. This lies at the heart of the President's National Energy Plan, and a vital link in this energy chain is the railroad system, which has the ability to transport the staggering volumes of anticipated new coal traffic economically and efficiently.

In 1977, Santa Fe's coal traffic amounted to 5.7 million tons. Due to the conversion from gas and oil to coal, however, and the large coal reserves located in Santa Fe's service area, we anticipate transporting over 20 million tons annually by 1980 and close to 32 million tons by 1987—over five times our present volume. By 1985, we expect coal to account for 20 percent of our total tons handled and over 10 percent of our total revenue ton miles. Thus it would be difficult to overstate either the importance of coal traffic to Santa Fe or the importance of Santa Fe as an essential link in the coal energy chain.

In order to handle the new coal traffic efficiently and economically, Santa Fe will have to invest tens of millions of dollars in plant and equipment.[1] Investments in track structure and signalling will be required, particularly where the new coal traffic will move over what are now secondary lines with comparatively light traffic. Moreover, the movement of many heavy unit coal trains is going to require substantially increased future maintenance expenditures. Finally, the customized unit train operations demanded by the electric utilities and other large coal consumers, necessitating continuous train operation, requires us to acquire substantial numbers of very expensive locomotives to accommodate the new traffic. In this context, I should emphasize that Santa Fe, despite a very aggressive locomotive acquisition program, is even now short of power due to unprecedented and unforeseen traffic increases. Thus implementation of new, continuous operation unit coal train service directly results in the necessity of obtaining many additional locomotives.[2]

We on the Santa Fe are encouraged by our general traffic growth and by the continued increases in piggyback and coal business. Our optimism must be guarded, however, because of two inextricably related facts: Santa Fe will have to generate a tremendous amount of capital to maintain and enhance its service capabilities to meet its present and increasing transportation responsibilities and, second, Santa Fe's continued ability to raise that capital will require that its present inadequate earnings be brought to a level necessary to enable it to compete fairly for scarce capital in the money market.

While the foregoing observations are related directly to Santa Fe, where I have specific knowledge, I want to emphasize my belief that these same observa-

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[1] Over the next five years (1979–1983), Santa Fe anticipates having to make gross capital expenditures of approximately $272 million solely to accommodate the new coal traffic. This will be comprised of about $153 million for locomotives and cars and $119 million for roadway improvements.

[2] Just last month, Santa Fe's Board of Directors approved acquisition of 115 locomotives for delivery in 1979, at a cost of $82.9 million. This includes 54 locomotives specifically acquired for coal service. The Board also authorized acquisition of 26 additional locomotives at an estimated cost of $16.9 million.

tions are applicable to the industry in general. In short, the increasing demands being placed on the entire industry, a substantial portion of which is directly related to the nation's need to conserve energy, can be met only by an industry which, overall, has the capital resources to provide the plant and equipment necessary to afford efficient and economical service. And given the very high demand for rail transportation service, there is no need for any sustained federal financing. All that is really needed is a sound regulatory system under which that demand for service can be turned into reasonable profits which in turn will permit the raising of necessary capital from private sources.

Santa Fe's service capabilities, for both existing and new freight traffic, would not long survive in the absence of major new capital investment. This is a function of two prevailing conditions. First, like all railroads, ours is capital intensive and requires continuous new investment to modernize our plant and to preserve and improve service capabilities. As an example of the amounts of money which are needed, our anticipated capital expenditures for 1978 are $226 million, which does not include replacement of track structure charged to expense.[3] Second, while Santa Fe's plant has the short-term capability of handling increased traffic, we cannot handle significant, sustained volumes of new traffic without major capital expansion. It is not our intent to handle anticipated new traffic by reducing the level of service we provide to our present customers.

The magnitude of our capital requirements would be difficult to overstate.[4] For example, gross capital expenditures for the railroad for the last 5 years (excluding replacement of track structure charged to expense) were as follows:

	Millions
1973	$132.9
1974	171.9
1975	180.9
1976	102.4
1977	168.6
Total	756.7

While these expenditures were substantial, exceeding our net railway operating income for the period by a total of $415.0 million, we anticipate capital expenditures over the next five-year period to exceed $1 billion at current price levels.

Of course, mere access to capital would be insufficient in and of itself for the health of any industry, including the railroads, unless that capital were efficiently employed to enhance overall productivity. This, in point of fact, is one of the prime reasons why Congress should endorse a private enterprise commitment to industry generally since it is private managers under the constraints of limited resources and a fiduciary duty to investors who have very clearly the most effective incentive to make maximum productive use of available capital. This, very frequently, is not the case with managers who have a carte blanche tap on the public treasury. The same is true with respect to utilization of personnel.

In this regard, Santa Fe has had a long history of maintaining a superior rail service capability and a management and labor force sensitive to the needs of our shippers and to the need of the railroad to operate efficiently and economically as a corporate enterprise. In the current era of substandard earnings and a highly inflationary economy, our dedication to these ends must be intensified.

Productivity is mainly a function of two things—utilization of labor and utilization of capital. While various measures have been propounded to quantify these elements of productivity, those measures are fraught with difficulty since there are so many variables which affect output in any given time frame.

With respect to labor utilization, however, one indicator which is of bottom line significance is the relationship of total compensation paid (including employee benefits) to total operating revenues. Over the last 5 years (1973–77),

[3] Under betterment accounting, of course, a substantial portion of Santa Fe's capital expenditures in a given year are treated as expenses for accounting purposes. This must not, however, becloud the fact that capital dollars in the conventional sense are being committed to maintaining and improving our properties regardless of whether those dollars are capitalized or expensed under railroad accounting procedures.

[4] Since 1945, Santa Fe has spent over $2¾ billion for capital improvements.

Santa Fe has experienced an improvement in these labor costs from 59.7 percent to 57.9 percent of total operating revenues despite the substantial increase in wage rates and benefits during that time. Another relevant measure is gross ton miles produced per man-hour, which on the Santa Fe has steadily increased from 2,037 in 1973 to 2,222 in 1977. I believe we have made major strides in improving labor productivity in recent years despite stringent institutional restraints,[5] but I recognize much remains to be done in this area.

Improving labor productivity is, in large part, a direct result of efficient utilization of capital. Measuring capital productivity itself, however, is at best a speculative exercise. This is especially true where capital investments are made not just to increase productivity but also to maintain and enhance service capability to compete effectively with other modes of transportation whose capital requirements are substantially subsidized by government, e.g., through the provision of public rights-of-way at nonexistent or inadequate user fees.

The end result of investing capital to maintain and enhance service capability must be gauged primarily in a qualitative rather than a quantitative sense although, to some extent, the substantial increases in rail traffic moving over Santa Fe I have described above do suggest that our continuing efforts in this regard have produced quantitative results.

In addition to Santa Fe's gross capital expenditures discussed above, I believe the following information should give the Committee some idea of the scope of our efforts in recent years to invest substantial dollars in the maintenance and improvement of our physical plant to provide a more efficient and competitive service.

We have consistently sought to maintain our roadway to a superior standard, having over the past five years incurred maintenance-of-way expenditures as reflected in the following table:

Maintenance-of-way expenditures[1]

	Millions
1973	$135.5
1974	146.3
1975	150.4
1976	182.8
1977	220.2
Total	835.2

Similarly, maintenance-of-equipment expenditures were:

Maintenance-of-equipment expenditures[1]

	Millions
1973	$130.4
1974	155.0
1975	140.7
1976	158.6
1977	197.5
Total	782.2

[1] Excluding depreciation.

During this period Santa Fe laid 2,291 miles of rail and brought its total mileage of continuous welded rail to 6,164. Also, approximately 8.13 million ties were inserted during this period. During 1973–1977, Santa Fe acquired 643 locomotives and 10,896 freight cars. Our fleet of covered hoppers for the efficient handling of grain, potash and other commodities was brought to 16,728, of which 13,300 are of the 100-ton "jumbo" size, the largest fleet in the nation. The average age of our locomotive fleet decreased from 12.5 years in 1973 to 9.5 years in 1977, while the average age of our freight cars decreased from 13.1 to 12.8 years. Modern computerized classification yards were constructed at Santa Fe's Argentine Yard at Kansas City and at Barstow, Calif. Piggyback facilities were constructed, expanded and improved throughout the railroad's system; substantial improvements were made in computer capacity, signals, communica-

[5] Many of these restraints, as I have indicated, are the unfortunate bequest of governmental control during World War I.

tions facilities and in grade crossing protection; and facilities were constructed at various locations to improve locomotive maintenance and car repair capacity, to produce welded rail and to treat timber.

I believe the foregoing examples of our recent efforts to provide a high quality of service and to further develop an efficient rail plant speak for themselves.[6] What also ought to be apparent is that efficient, productive rail service can be provided only when earnings are sufficient to sustain the retention and attraction of the massive amounts of capital required. And again, what I have said about the Santa Fe applies equally, in my opinion, to the entire industry.

III. THE CAPITAL REQUIRED TO PROVIDE AN EFFICIENT AND ECONOMICAL RAIL TRANSPORTATION SYSTEM CAN BE GENERATED ONLY BY SUBSTANTIALLY IMPROVED EARNINGS

It is a commonplace observation that the railroads would have adequate earnings if only they were properly efficient. As I have pointed out above, efficiency as well as effective competitive service capability is a product of capital availability. As I hope will become apparent, access to capital is contingent on earnings, and earnings can readily be improved by adoption and implementation of sound legislative and regulatory policies. Earnings, then, are the key to the maintenance and development of an economical and efficient rail plant.

At this point I must stress that under current circumstances, and for reasons to be described later, even the more profitable railroads, including Santa Fe, are and have been suffering from inadequate earnings in relation to their capital requirements. As a consequence, even for the more profitable roads, the continued availability of necessary capital is threatened, particularly in our highly inflationary economy.

Taking my railroad as an example, in the decade of 1950–1959, Santa Fe's annual return on net investment ranged from a high of 7.20 percent to a low of 4.06. In the same period we paid in the range of 3⅜ to 4⅝ percent interest for new debt financing. Retained earnings were sufficient in the first half of the decade so that we had no new debt financing and, in 1956, all equipment obligations had matured and we had no debt other than mortgage bonds. In the decade of the sixties, our highest annual return on net investment was 5.03 percent in 1966, at which time we paid from 5 to 6 percent for new debt. In no other year did we earn as much as 5 percent on net investment. The following table shows our rate of return experience since 1970:

Return on net investment

Year:	*Percent*
1970	3.27
1971	5.19
1972	4.15
1973	3.95
1974	3.56
1975	3.74
1976	3.41
1977	3.82

During this period in which our returns have been declining in a relatively steady pattern, interest rates on new debt financing have greatly increased. Interest rates on equipment debt issued in the period of 1970 to 1977 ranged from 6⅞ to 9¾ percent. To summarize, in less than thirty years, we have gone from a position of earning almost twice the rate of our debt cost to presently earning about half of that rate, and there is very indication that the cost of money will be increasing in the immediate future.

Another manifestation of unsatisfactory financial performance is Santa Fe's return on common equity, especially by comparison with the performance of other industries with which we must compete for capital. The following table shows our return on equity experience since 1970:

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[6] I believe Santa Fe does provide a superior grade of service. A few examples are our ability to handle the Russian grain movement, during which we moved 293,000 carloads of grain; our Chicago-Los Angeles expedited freight service (less than 49 hours for the 2,200-mile trip); and our unit coal train service from York Canyon, New Mexico, to Fontana, California which makes the 2,300-mile round trip in 96 hours.

Rate of return on common book equity

Year:	Percent
1970	3.43
1971	5.63
1972	5.62
1973	5.96
1974	5.28
1975	4.34
1976	4.22
1977	5.43

In recent years Santa Fe's equity has consistently earned returns well below those paid to purchasers of its bonds. Clearly this performance does not encourage the raising of new equity capital.

Santa Fe's current composite cost of debt and equity capital is about 12.5 percent, a number which far exceeds the railroad's overall return on investment. Should this circumstance persist unabated for very long, Santa Fe's ability to attract and retain the capital required to maintain and enhance its service capabilities would surely atrophy.

A second major reason why we will face increasing difficulty in meeting our capital requirements is economic inflation. We must pay ever greater prices for those capital items which are essential to modernize our plant. Over the last five years, for example, the price of locomotives has gone up 45 percent; rail has gone up 54 percent; and signal relays have gone up 66 percent.[7]

Because Santa Fe's net income (including subsidiaries) has been fairly level at a time when inflation has reached critical proportions, we have had to rely increasingly on debt financing to support our capital programs.[8] Long term debt due after one year increased from $334.5 million in 1973 to $467.4 million in 1977. Annual interest charges have more than doubled in the period 1969 to 1977. In 1976 and 1977, Santa Fe borrowed $125.7 million at interest rates of 6⅝ to 8 percent, raising our annual interest payments to over $33 million. Such circumstances cannot be allowed to persist indefinitely if Santa Fe is to continue to be able to provide high quality, efficient rail transportation.[9]

During the thirties Santa Fe was able to survive years of low rates of return because the entire economy was depressed and the cost of capital was relatively low. In the decade of the sixties, we had very modest rates of return, but capital was still available at reasonable rates and economic inflation was in its infancy. Today, the impact of inflation is overwhelming and our rates of return are simply not adequate to attract and retain equity capital. Moreover, cash flow from depreciation, due to inflation, falls increasingly short of providing funds to replace plant and equipment.

The inevitable consequence of a decline in any railroad's ability to attract needed capital would be deterioration of plant, with profound ramifications on service capabilities. As capital improvements diminish, there would have to be greatly increased reliance on obsolete and aging equipment and roadway. An immediate consequence of this condition is that transit times would become longer and unreliable. A process of traffic diversion would occur as shippers seek more satisfactory alternatives from other carriers. This process would be hastened as desirable equipment becomes less available due to maintenance problems and retirements. By this point the railroad would be unable to handle any significant volume of new traffic because of deterioration of roadway and equipment. This is not mere speculation. It has already happened to certain segments of the industry.

IV. THE RAILROAD INDUSTRY CAN PROSPER IN THE PRIVATE SECTOR, PROVIDED SOUND REGULATORY AND LEGISLATIVE POLICIES ARE ADOPTED AND IMPLEMENTED

I don't wish the Joint Economic Committee to take my foregoing remarks to mean that there is little hope for the industry when one of its relatively prosper-

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[7] Over the last five years the AAR Index of Railroad Material Prices and Wage Rates has increased 76.7 percent.

[8] Net income of Santa Fe and its subsidiaries for 1973–1977 was: 1973, $74.0 million; 1974, $67.2 million; 1975, $58.7 million; 1976, $58.0 million; 1977, $79.0 million.

[9] It must be kept in mind that debt must be repaid out of earnings and principal amortized with after-tax dollars.

ous members explains that its earnings are inadequate and that access to private capital is threatened. The reasons for the entire industry's present inadequate earnings are easy to identify and, with appropriate resolve, would be easy enough to dispose of. Speaking broadly, they boil down to unequal regulation as between competing transportation modes, over-regulation and a failure on the part of the primary regulator, the Interstate Commerce Commission (ICC), to implement the sound, palliative legislative policies enacted by Congress in The Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act).

The fact that the railroad industry is discriminated against in terms of economic regulation has been brought to the attention of Congress on countless occasions over several decades, and I do not wish to belabor the point here. I would like to say, however, that intermodal competition from motor carriers and water carriers, which are subsidized by governmental provision of rights-of-way at inadequate or nonexistent user fees and which for substantial bodies of traffic have no rate regulation, has made and continues to make substantial erosions of rail traffic and revenues due to the artificial cost differentials (which are supported by the general taxpaying public) and the ratemaking flexibility of the competition.

In addition, the heavy hand of regulation has been pointed out, as has the uneven nature of regulation, on numerous occasions.[10] Again, I do not intend to go over this ground in any detail. Instead, I would like to direct the Committee's attention to what I regard as our most serious regulatory impediment to adequate earnings—the inability to price railroad services in accordance with the prevailing demand for those services. What is particularly distressing in this regard is that Congress, in the 4R Act, expressly sought to rectify this situation and thereby to afford the railroads a level of pricing flexibility more closely in line with private industry generally. But the sorry fact is that the ICC has, in my opinion, with few exceptions, frustrated the ratemaking freedom goals of the 4R Act and, if anything, has sought to exercise greater rather than less scrutiny of rail pricing decisions.

The 4–R Act eliminated the ICC's jurisdiction to regulate the maximum reasonableness of rates for which it was determined that the railroads lacked "market dominance" (Section 202). The ICC's standards for determining whether a railroad possesses "market dominance," however, are one-sided presumptions that are obviously designed to minimize the traffic on which there could be a finding of effective competition. These standards were for the most part sustained by the Court of Appeals for the District of Columbia Circuit, apparently on the ground that the Court did not want to interfere with the ICC's discretion in interpreting the statute.[11]

Similarly, the ICC has reserved so much regulatory jurisdiction under the seasonal or peak-period demand provision that the railroads cannot effectively utilize the new law to compete with their unregulated competitors. The separate rates for distinct services provision may have been of limited utility from the outset, but the ICC has construed it so narrowly that it does not facilitate any rate initiative that was not already available before the 4–R Act.

Section 207 of the 4–R Act provides that the ICC may grant limited exemptions from regulation. The first petition under this provision was filed by a western railroad almost two years after the 4–R Act was passed. The ICC denied the petition on the ground that a broader investigation and rulemaking was required before it could consider the merits of an individual petition. I believe this is typical of the ICC's general response to the reforms of the 4–R Act. It has ordered an ever-increasing volume of paperwork and investigations, but almost no substantive reforms.

Finally, one provision of the 4–R Act—Section 205—is to us of paramount importance. Section 205 directs the ICC to develop and maintain "standards and procedures for the establishment of adequate revenue levels under honest, economical and efficient management to cover total operating expenses, including depreciation and obsolescence, plus a fair, reasonable and economic profit or return (or both) on capital employed in the business." Such revenues are required

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[10] In fact, my predecessor Ernest S. Marsh dealt in detail with these same conditions (which have not been abated) 20 years ago in testimony given on Jan. 13, 1958, before the Surface Transportation Subcommittee of the Senate Committee on Interstate and Foreign Commerce.

[11] *The Atchison, Topeka and Santa Fe Ry. Co., et al.* v. *ICC and USA*, decided May 2, 1975; U.S. Court of Appeals for the D.C. Circuit.

by the statute to "provide a flow of net income plus depreciation adequate to support prudent capital outlays . . . permit the raising of needed equity capital, and cover the effects of inflation and . . . insure retention and attraction of capital in amounts adequate to provide a sound transportation system in the United States." Section 205 further directs the ICC to make an adequate and continuing effort to assist the railroads to attain such revenues.

Just how the ICC will define "adequate revenue levels" is yet to be seen as its proceedings relating to this subject are still pending.[12] But in the face of the unequivocal language of this pivotal provision of the 4R Act, the ICC has recently taken acton which in my opinion betokens a disregard for the mandate of Congress.

In Ex Parte 343, the ICC had before it a proposed nationwide increase of five percent in rail freight rates and charges which was designed to offset only in part the inflationary increases in operating expenses experienced by the industry. This increase was not to improve earnings but simply to offset inflation in part.

In its decision, the ICC recognized that the revenues produced by the proposed increase would not even cover the costs of inflation but it nevertheless required the railroads to roll back the increase on certain commodities and to make refunds of about $25 million.[13] The ICC's own analysis showed that its action would result in a loss to the railroads of $50 million annually from an increase which the ICC already knew did not cover the full effects of inflation.

This action, which I think is flatly contrary to the will of Congress expressed in Section 205, is not only disturbing because of the serious revenue shortfall that is produced but because of the reasoning behind the action, which, if applied in the future, would have disastrous consequences. Put quite simply, the ICC now does not like general, across-the-board rate increases and believes that traffic which presently moves at rates which exceed variable costs of service by significant margins should not have to bear inflation-based rate increases. Instead, the railroads are admonished to make selective rate increases rather than general ones.

The reasons this newly-announced policy would be disastrous are first that the railroads could never, as a practical matter, recoup the effects of inflation through individual rate increases, which is contrary to the express terms of Section 205, and second, that any attempt to establish some arbitrary revenue/cost standard for evaluating rail freight rates would be totally unworkable given the highly competitive environment in which the railroads must operate.

With respect to the latter point, it is universally understood that general rate increases cannot serve as a tool to produce overall adequate revenues as contemplated by Section 205. This is due to the simple fact that intermodal and market competition act to keep general increases down to the maximum level highly competitive traffic will bear. General rate increases cannot be and are not proposed that would drive highly competitive traffic off the rails to other modes of transportation. But it must be clear to anyone familiar at all with the railroad industry that overall pricing for rail service cannot be limited by the prices railroads can charge for highly competitive traffic. The fact of the matter is that highly competitive traffic can be kept on the rails only at rates which make a relatively small contribution above variable costs. Were all traffic priced at such levels, the railroad industry would collapse overnight. The more competitive traffic would continue to move at relatively small margins over variable costs, while relatively less competitive traffic would move at present volumes—but at drastically lower rates. Our present inadequate revenues, under such an approach, would be further eroded, placing the entire industry in imminent danger of bankruptcy.[14]

I have two reasons here for trying to emphasize that differential pricing in accordance with demand is both a basic fact of life in the railroad industry and is indeed beneficial to the shipping public. First, this fact highlights the need for

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[12] Ex Parte 338, Standards and Procedures for the Establishment of Adequate Railroad Revenue Levels; Ex Parte 353, Adequacy of Railroad Revenues (1978 Determination).

[13] The commodities as to which the five percent increase was not allowed moved at rates generally in excess of 180 percent of variable cost.

[14] It is Santa Fe's policy to set rates at a level commensurate with the prevailing market conditions and the necessity of earning adequate revenues. In other words, we seek to make rail service attractive to as many shippers as possible, within the limitations imposed by our need to earn adequate overall revenues. We observe two principal pricing guidelines in pursuing that policy. First, we seek to attain optimum revenue on all traffic consistent with the forces of competition and fairness to our customers. Second, we do not intentionally or voluntarily move any traffic at less than variable costs.

the ICC to give revenue adequacy as defined by Section 205 a primary role in individual rate proceedings and, second, contentions have recently been advanced that rail rates should bear some uniform relation to cost of service without regard to market demand or value of service. I personally am aware that such assertions have been made in two unit train coal rate cases involving Santa Fe, and the ICC's decision in Ex Parte 343 seems to be going in this direction.[15] I want to state emphatically that any arbitrary cost/revenue approach to rail rate regulation would be completely without merit.

It is a fundamental economic fact in the railroad industry that market and intermodal competition act to create a wide spectrum of demand for rail service and that rail rates, of necessity, must be tuned to these differing levels of demand. Not only is this an unavoidable circumstance, but the railroads' ability to adjust their rates to meet varying levels of demand is of benefit to the entire shipping public. Shippers at the high end of the spectrum, whose demand for rail service is comparatively inelastic, benefit from the railroads' ability to charge rates moderately above variable costs for highly competitive traffic since that traffic does make a contribution to fixed costs. Were such rates arbitrarily increased due to some uniform cost/revenue formula, the competitive traffic would be lost, and the higher-rated traffic would have to bear an even greater portion of fixed costs. The only alternative would be, as I have suggested, a financial collapse of the industry.

I am not prepared, at this time, to present to the Joint Economic Committee specific legislative proposals which, if enacted, would rectify the problems I have been discussing in this portion of my testimony. Such proposals will be dealt with by other industry representatives and, in some cases, are now on the drafting board. Specific legislative proposals will be presented to Congress in due course.

The dual problems of unequal regulation and overregulation of the railroads have existed for many years and are probably not going to be dislodged overnight.[16] As a manager of a major railroad property, with day to day responsibility for its operations and financial performance, I intend to concentrate my personal attention on the facts as they exist. In this regard, we already have important legislation dealing directly with our most pressing problem of pricing flexibility, namely, the 4R Act. What we do not have is a regulatory agency which seems to be prepared to implement the 4R Act as plainly intended by the legislation. This, as I see it, is an immediate and practical problem. Congress has already responded, in large part, to our need for pricing flexibility and for an agency dedicated to assisting the railroads to attain adequate earnings. All that is lacking on this front is proper implementation.[17]

V. CONCLUSION

In my opinion, the problems of the railroad industry may be traced directly to a recent history of inadequate earnings during a period of marked economic inflation.

As I have suggested, these problems are faced by relatively healthy railroads such as Santa Fe as well as by the marginal carriers. Inadequate earnings are not the product of diminished demand for rail transportation service. On the contrary, the demand for rail service is growing at a record pace, in part due to the nation's concern over energy conservation. The root cause of inadequate earnings is the regulatory impediment to the railroads' pricing their services flexibly in accordance with market conditions. Although Congress has gone a long way towards reducing restraints on the railroads' freedom to price services flexibly, the ICC, as yet, has failed to implement the policies and mandates of the Congress expressed in the 4–R Act.

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[15] ICC Docket 36608, Incentive Rate on Coal—Cordero, Wyo., to Smithers Lake, Tex.; ICC Docket 36612, Incentive Rate on Coal—Gallup, N. Mex., to Cochise, Ariz.

[16] Indeed one of the possible solutions—complete deregulation of the railroads—would in itself have to be approached with caution. The railroads have been closely regulated for almost 100 years and have necessarily developed their own institutional approach to this circumstance. Complete deregulation, without some form of transition, could very well cause major problems as serious as those we face today. This matter is being given close study by Santa Fe and other railroads and will be the subject of our continuing dialogue with Congress.

[17] In some respects, the 4R Act provisions could stand some amendments to further its basic purpose and provide clarification. This, however, is outside the scope of my testimony here.

The direct result of inadequate earnings is a restricted ability to provide the capital necessary to provide efficient and economical transportation service. Complaints about unsuitable roadway, equipment and locomotive shortages, poor equipment utilization and so forth can all be traced to the capital starvation which results from substandard earnings. As I have shown with respect to Santa Fe, enormous amounts of capital must be invested to produce quality rail transportation service.

I firmly believe that vastly improved earnings are within the reach of the industry if the regulatory environment is altered to permit sound, economical pricing practices and to afford more equal treatment among the various modes of transportation. With the attainment of adequate earnings the railroads have the know-how and the commitment to effectively utilize capital resources to, in the words of Congress, "provide a sound transportation system in the United States."

At the outset of my testimony, I spoke of Santa Fe's conviction that the solution to the present ills of the railroad industry lay in the private sector of our economy—not in direct government involvement. I would like to close with that subject. While it may be necessary in the short run to provide federal financial assistance in the Northeast, where capital limitations resulting in large part from inadequate earnings were felt severely and early-on, proposals to bail out distressed railroads by government acquisition of rights-of-way, nationalization or other means should not even be considered. To me the evidence is overwhelming that such measures are stop-gap at best. Unless the root cause of the problem is dealt with, the burden of deficit operations is merely shifted to the taxpaying public with no benefit to the economy as a whole.

I am optimistic that proper implementation of the 4–R Act pricing provisions would in itself go a long way towards eliminating the root of current railroad industry problems and enable the railroads to attract and retain the capital necessary to, in turn, eliminate current operational shortcomings. This would provide a private sector solution the price tag of which for the nation's economy would, in my view, be enormously less than any government program and which would result in the quality of service that only free market conditions can produce.

Senator McGovern. We turn now to Mr. James W. Gessner.

STATEMENT OF JAMES W. GESSNER, PRESIDENT, MISSOURI PACIFIC RAILROAD

Mr. Gessner. Thank you, Senator.

I am James W. Gessner, president of the Missouri Pacific Railroad. During my 25-year railroad career, the rate of return on net investment in our industry has declined from an anemic 4.25 to an alarming 1.25 percent.

During this span of time I have witnessed with growing concern a parallel decline of the rail market share and commensurate deterioration of physical plant of this vital transportation network.

Rate of return on investment and the capacity for internal generation of funds which it represents is obviously not an end in itself. It is, however, a significant indication of the ability of any business entity to sustain itself and grow in a healthy manner to meet the demand in the society for its goods and services.

While the antiquity of railroads does not support a belief held by many that railroads are antiquated, this insufficiency of internally generated funds imposes an additional burden upon an industry that was built in a prior century and had to be transformed into a modern, safe, and sufficient transportation system capable of competing with new modes in the current marketplace.

There are, in my opinion, two root causes of the basic transportation problem of inadequate return. The inability to compete on equal ground with other modes of transportation and the constraints upon the efficient utilization of resources.

These two problems are ones which Government seemingly has chosen to ignore. While Government has aimed many times at the symptom, each effort generally resulting in further strangulation, it is now time that we direct our short-term remedies at the effects, and the long-term solutions at the root causes of the problem.

I, therefore, welcome this opportunity to appear before you today to share my views in a forum so dedicated.

Federal expenditures supporting barge transportation and those invested in the national intercity highway system which supports the trucking industry have rendered both beneficiaries healthy.

The railroad industry, on the other hand, providing its own rights-of-way, paying its full cost of maintenance and paying high State property taxes on that property, is ill.

With these and the artificial advantages enjoyed by the subsidized and largely unregulated competition, is it any wonder that the shifts in share of the national transportation market have gone from 56.2 percent rail in 1950 to 35.6 percent in 1977?

When one also considers that the wage and material costs have risen more than 400 percent while average ton-mile revenue on the rails has increased only about 71 percent in this period, much of the mystery is removed from the basic problem.

The second root cause is the pattern of constraint which prevents effective utilization of railroad resources and achievement of our full efficiency potential.

No private enterprise can survive or prosper in an atmosphere of waste of its human and financial resources.

Many of our labor productivity problems exist as a result of contract work rules and legislative regulations. A solution to the problem of improving labor productivity lies in revision of the work rules and regulations which constrain railroad workers from doing their jobs in a more productive manner.

Some progress in productivity has been made. These gains, I might add, were achieved in spite of the high order of magnitude of non-productive manhours paid in train and engine service, the largest single group of employees, and due to an incredible array of outdated work rules, an outgrowth of our heritage. To exemplify this magnitude, 54.3 percent of the hours paid through freight crews on Missouri Pacific in 1977 were unproductive. That is, they were not worked, but rather were paid for because of 100-year-old basis-of-pay system, and a host of arbitrary payments.

Assuming that work rule changes could be made to increase productive hours of road freight crews to 80 percent, the balance giving effect to vacations and other reasonable arbitraries, 31.8 million additional pretax dollars would have been available for other productive uses. This represented over 25 percent of our actual pretax income on Missouri Pacific in 1977.

American railroads are characterized as being both labor-intensive and capital-intensive. With freight car equipment representing more

than 42 percent of all capital investment in the industry, productivity improvements on a large scale, and equipment resources are also critical to the revitalization of the industry.

Here again we run headlong into some of the same labor work rule and regulatory constraints. For example, service reliability and equipment utilization benefits of running shorter, and more frequent trains are obvious. However, the economic threshold at which a railroad can afford to operate in this fashion moves in direct relation to train and engine crew costs. Practical flexibility of crew size is impossible under present rules and regulations.

In spite of these frustrating and potentially destructive constraints, utilization of rail freight equipment has also improved. The improvements, while modest, have been achieved through interrailroad cooperation in an industry whose management members recognize that strong survival of the national network is essential to the survival of the individual railroads.

They have been achieved through industrywide projects and joint government-industry research.

As I discussed in my prepared statement, we do have ongoing projects designed to aid in improving freight car utilization. One mentioned is the freight car utilization program, a joint railroad-shipper-government project, coverng a wide range of tasks and demonstrations.

Another is the clearinghouse. Still another is rail box. These self-help projects have produced substantial measured benefits. The St. Louis project of the task force on rail transportation has established an inter-railroad distribution system which I consider a real breakthrough in empty car distribution.

The labor-management task force in St. Louis not only produced tangible rail service and car utilization benefits, but also served to demonstrate that through cooperative efforts and active dialog, labor and management can work together, and in so doing create a positive and powerful problem-solving team.

My prepared statement also addresses the efforts being made on individual railroads with Missouri Pacific being used as an example.

The message here is that with huge investment and the technologly available, we can and have where financially able, developed powerful resource control systems, which, while making substantial contributions, will not by themselves solve the entire spectrum of the basic problem, but must be augmented with corresponding change in regulatory policy and activities, from punitive to supportive actions.

Car shortages were addressed with a very brief discussion with some of the reasons, most of which are manifestations of the underlying causal factors cited earlier and included counterproductive regulatory policies.

Finally, the serviceable car situation and a plan for significantly reducing the bad order ratio was delineated, which I hope will promote further discussion and action.

In conclusion, I am heartened by the efforts of this congressional subcommittee which is seeking to identify fundamental rail-industry problems and develop truly corrective policies and solutions.

I am confident that our industry can survive in the free transportation market, and I submit that it can and must do so without seeking parity at the public tax trough.

Full potential is not being realized in any mode of transportaion on our country today. Most assuredly we won't solve today's transportation problems by providing more capacity. Rather, we must seek better ways of using our existing capacity.

Increased open market competition, among all modes, on an equal footing, will lead to greater cooperation and better coordination among modes to find new ways to best blend the inherent benefits and efficiencies of each mode in a productive way to the benefit and advantage of all.

Clearly, this must be the foundation upon which our national transportation policy is erected.

Thank you.

Senator McGovern. Thank you, Mr. Gessner.

[The prepared statement of Mr. Gessner follows:]

PREPARED STATEMENT OF JAMES W. GESSNER

My name is James W. Gessner. I am president of the Missouri Pacific Railroad, a rail carrier serving 12 Midwestern and Southwestern States via 12,000 railmiles. I hold both bachelor and master of science degrees in civil engineering from the University of Michigan in Ann Arbor, Mich. My entire working career has been devoted to railroading, with 14 years on Southern Railway and the last 9 years on Missouri Pacific. While the majority of my assignments have been in railroad operations, including line positions of trainmaster, superintendent, general manager, and vice president operations, I have also served in line capacities in maintenance-of-way and in staff functions of marketing, operations and corporate planning, computer science, and transportation.

Throughout my railroad career dating back to 1955, I have witnessed, with growing concern, the gradual deterioration of the rail industry, a transportation network that is so vital to our economy that it must be preserved. I, therefore, welcome the opportunity to appear before you today to share my views in a forum so dedicated.

Over the span of these past 23 years, the rate of return on net investment of our industry has declined from 4.22% (hardly a healthy figure) to 1.26% and perhaps even less this year. During this time I have witnessed deterioration that would accompany such inadequate returns in any business or industry, wherein insufficient internal funds are generated to even maintain and replace, not to mention improve upon, modernize and expand for growth, a physical plant that was born and built in a prior century. Rate of return on investment and the capacity for internal generation of funds which it represents, is obviously not an end in itself. It is, however, a most significant indication of the ability of a business entity to sustain itself and grow in a healthy manner to meet the demand in the society for its goods and services.

There are two root causes of the basic railroad problem of inadequate return—the inability to compete on equal grounds with other modes of transportation and the constraints upon the efficient utilization of resources. These two basic problems are ones which government seems disposed to ignore.

When I view in retrospect what has been accomplished, particularly on the properties on which I have been employed, under these most critical and frustrating economic conditions which prevail, I am both amazed and proud.

Learning to make do, to do without, to improvise, to innovate, to think and create are the ways of life in our business in our struggle for survival. For it, we are all better people and managers. While not suggesting that we have done everything humanly possible, or even everything right, I do submit that considerable managerial talent has been absorbed by the requirements of government in an attempt to adapt to ever-increasing regulations and controls. This is managerial talent that would otherwise be diverted toward developing means of improving efficiency, reducing costs and providing better rail transportation service. We

can be expected to solve our problems only if given the needed freedom to be our best.

We Americans have been traditionally a wasteful and reckless society with regard to our natural resources. We have stripped mountainsides of virgin timber, destroyed hordes of wildlife, created dust bowls out of rich farmlands of the Great Plains. We have used our water resources with reckless abandon, and now even propose to waste it on a needless new form of coal transport in coal slurry pipelines. We have been a spendthrift society with our energy resources. Happily, we have recognized and have come, or are coming, to grips with these wastes of our natural resources. But we, too, are wasting one of our Nation's truly great created resources, the railroad network. In this case, the plow has been in the hands of those who turned furrows of subsidy to seed, promoted and over-supported the newer yet competing modes of transportation, while strangling the mature, once monopolistic railroads with constraints and regulation causing and sustaining an unequal competitive condition. In this case, too, as with the long condoned inefficient use of water and energy, the incredible array of outmoded and counterproductive work rules, an outgrowth of our heritage, have not only been allowed to be perpetuated, but have been expanded and proliferated in the railroad industry.

Railroads will survive in the U.S. because their need is so vital. The question is—in what form? As viable companies within the private sector; as a nationalized rail network; as a quasi-government entity with private sector operations on government owned rights-of-way; or as a highly subsidized industry joining our competitors at the public tax trough? While this may not represent a complete list of the alternatives, I assume from the thrust of these hearings, we are present to help determine how, if possible, we can achieve the former alternative, i.e., to keep railroads wholly within the private sector.

My following remarks will not attempt to address all facets of the issues with which we need to deal and find accommodation. Rather, I will touch upon a few with some specificity. You will note that the thread of the two root causes which I have indicated—inability to compete with other transportation modes on equal ground, and underutilization of railroad resources—are intertwined in each of the issues addressed.

Symptomatic of the railroads' problem in competition with other modes are the artificial and unfair competitive advantages enjoyed by subsidized and largely unregulated motor and barge transportation.

The Missouri Pacific has intense water competition. There are 4,346 miles of navigable waterways paralleling Missouri Pacific Lines from Brownsville, Texas, to New Orleans, Louisiana, via Gulf Intracoastal Canal; New Orleans to St. Louis via Lower Mississippi River; St. Louis to Kansas City and Omaha via Missouri River; in Louisiana and Arkansas via Red, White and Ouachita Rivers; and in Arkansas and Oklahoma via the Arkansas-Verdigris Rivers; and from St. Louis to Chicago via the Illinois River. Missouri Pacific, as a regulated common carrier, joins other railroads in through interline routes. Thus, its water competition also includes traffic on which subsequent or prior inland water transportation is performed on Upper Mississippi, Ohio, Tennessee, Monongahela, Kanawha Rivers and their tributaries.

The extensive national highway system, federal interstate and state highways, is interlaced throughout the area served by Missouri Pacific tracks; also for the entire U.S. highway system reached by tracks of other railroads with whom the Missouri Pacific connects and interchanges through shipments.

Federal expenditures to make barge transportation possible will soon reach three quarters of a billion dollars annually. In the last 20 years almost $300 billion have been invested in the national intercity highway system. In 1976, federal, state and local highway expenditures were $28.5 billion. In spite of these expenditures the national highway system is rapidly deteriorating and will soon require massive maintenance and extensive replacement programs.

In contrast to these large public expenditures for motor and barge transportation rights-of-way, the railroad industry provides its own right-of-way and pays its full costs of maintenance. In addition, it pays higher than normal state property taxes on that property. Almost all of the right-of-way expenses which the railroads meet in full are borne entirely by the government for motor and barge transportation.

The cost for right-of-way associated expenditures are at least 20 per cent to 25 per cent of railroads' operating revenues. Motor carriers do pay fuel taxes

and license fees, but their total tax contribution toward the right-of-way provided by the government is no more than 2 per cent or 3 per cent of the motor carriers' revenues. It is estimated the tax payments by motor carriers cover only about 55 per cent of the damage the trucks cause to the highways. There is no contribution to the original or replacement costs which are much higher to accommodate the heavier weights of the trucks than would be necessary for passenger cars. Barges pay nothing for use of the federally constructed and maintained inland waterway system and even avoid most property taxes because their equipment is floating and has no legal domicile.

The railroad share of the U,S. intercity freight market has been steadily declining from 56.2 per cent in 1950, to 44.1 per cent in 1960, to 39.7 per cent in 1970 and to 35.6 per cent in 1977. The relative growth for the modes are:

1977 versus	Percentage change		
	Rail	Motor	Barge
1970	+7.8	+136.2	+36.6
1960	+43.5	+196.8	+231.4
1950	+39.2	+324.3	+538.5

The shifts in shares of the national transportation market are not due to rail inefficiency. Rather, the increasing shares for motor and barge are due to subsidization of those modes which, being largely unregulated, can also select the more profitable traffic.

Rail is four times more energy efficient than motor and almost twice as efficient as barge. The usual comparison between barge and rail energy efficiency is misleading because of the greater circuitry of the river routes over rail routes between common points.

While motor and barge are often utilized in preference to rail because of lower motor and barge freight rates, in most cases they are not cheaper than rail; it is just cheaper to use because the full operating costs of these modes do not have to be covered by the freight charges they assess. Therefore, the declining railroad share of the national transportation market and the increasing share for motor and barge transportation are, in reality, a diversion from efficient to relatively less efficient transportation.

Further, railroads are 100 per cent regulated. Over 90 per cent of barge transportation on the inland waterways and from 60 per cent to 65 per cent of the intercity motor transportation are exempt from economic regulation by the Interstate Commerce Commission. Without economic regulation, the exempt trucks and barges can:

1. Furnish or deny transportation as they desire.
2. Assess unreasonable charges.
3. Discriminate and rebate, and provide like transportation at different charges for different shippers.
4. Charge more for shorter and longer hauls.
5. Keep secret all charges assessed and change such charges without reason or notice.

Railroads under Section 1(4) have a "holding out" responsibility to furnish transportation on reasonable demand. Without a "holding out" requirement, non-regulated trucks and barges do not have any responsibility to the national transportation system and, therefore, can be selective and "skim" the more desirable and profitable traffic, leave the less desirable for rail. Exempt carriers prefer two-way hauls in higher volume geographic areas to maximize utilization of equipment and consequently to maximize profit. This important feature can be contrasted to railroads where imbalance has a considerable adverse impact on freight car utilization, a point which will be addressed further.

The demand for transportation in our country is cyclical with wide variations in level of demand. Often the surge is compounded when the railroads, with a legal responsibility to provide transportation at published rates, are expected to meet needs the barges and trucks cannot or choose not to meet. As an often standby mode, railroads cannot economically maintain a high degree of readiness for an uncertain and often secondary demand. During transportation demand peaks, there are many complaints and national publicity about rail car

shortages, but never about barge or truck shortages. The barges and trucks escape complaints because they have no responsibility to satisfy any portion of the transportation needs. Also, as transportation demand increases, exempt barge and motor carriers can increase their prices accordingly. During the demand crises, these carriers can and do double or even triple their prices.

The alternatives for a national transportation system appear to be two-fold. The first is continuation of the present economic discrimination making trucks and barges appear more economic than rail. This system has weakened and will further weaken the national rail system, hence the total national transportation system.

A second, and more desirable, alternative would be to establish equal economic opportunity among all transportation modes. Beneficial users of motor and barge transportation should pay rates reflecting the full direct costs of these modes to the same extent that users of rail bear the full costs of rail transportation. Under these circumstances, the more economic and inherently efficient mode would be chosen for the specific shipping need at hand. There is sufficient demand for transportation service to keep trucks, railroads and barges profitably occupied. Such strengthened competition would lead to a stronger national transportation system overall. It would be a transportation system functioning under the free enterprise concept.

If the artificial economics of subsidies and inequities in economic regulation were eliminated, the railroads could fairly gain a greater share of the national transportation market. The additional volume would generate more railroad revenue that would permit the railroads to provide better service and maintain a more adequate equipment supply. Most, if not all, capital problems of the railroads would be overcome by the greater revenue that a larger market share would generate.

A larger rail market share could be handled without an increase in many segments of the railroad plant. Greater utilization of the plant would decrease per unit costs. This would be a form of increased productivity accruing to the public in better railroad transportation at less revenue needs.

The second root cause of the railroad industry problem of inadequate return is the pattern of constraints on the effective utilization of railroad resources. No private enterprise can prosper nor long survive in an atmosphere of waste of its resources, including its human and physical resources. Many of the labor productivity issues facing our industry manifest themselves in the waste of human effort. These productivity problems exist in large measure as a result of contract work rules and legislative regulations. As Mr. R. S. Reebie stated previously in these hearings, ". . . It is primarily the work rules that set in motion the chain reaction of poor car supply, poor dock-to-dock service and uncompetitive rates . . . that causes the loss of much traffic, causes many abandonments and raises the possibility of an even faster loss of railroad jobs in the coming decade than in recent years." In general, Mr. Reebie's statement accurately depicts the complex way in which the various facets of the railroad industry are inextricably linked one with the other, but the issues are probably even more complex than portrayed by him. A solution to the problem of improving labor productivity must reside in a revision of those work rules and regulations which constrain or prohibit the railroad workers from executing their assignments in a more productive manner.

While outmoded work rule discussions commonly center on the 100 mile/day equalling 8 hour pay, which dates back 100 years and is based on an average train speed of 12.5 MPH, there is more. To portray a comprehensive picture of the true impact on productivity of certain work rules, allow me to cite some figures based on Missouri Pacific payroll statistics for 1977. Through freight train crews actual hours worked were only 45.7 percent of the total hours for which they were paid. Stated another way, 54.3 percent of the hours paid for on Missouri Pacific to through freight train crew members were non-productive. For local way freight crews 36.8 percent of the hours paid for were nonproductive.

These nonproductive hours are comprised of hours not worked, but paid for, including a long list of additional so-called arbitrary payments for routine tasks. They include extra pay for coupling air hoses, extra pay for coupling and uncoupling engines, extra pay for handling certain numbers of cars, and so forth. These type payments in today's mechanized environment are not merely nonproductive, but can in fact actually be counter-productive to the objective of reliable and efficient transportation service. In total in 1977 on Missouri Pacific, train and engine crews in road service performed productive work for only 52.7 percent of

the hours for which they were paid. Furthermore, even this figure still includes meal periods and other avoidable and unavoidable non-working hours while on duty. Converted to dollar amounts and giving effect to vacations and reasonable arbitraries, productivity of 80 percent would have produced an additional $31.8 million income before Federal Income Taxes for Missouri Pacific in 1977. While this may appear staggering to the casual observer, it is a problem recognized by railroad management for many years,

Train and engine service employees constitute the largest single group of railroad employees. Thus, it is absolutely essential to the improvement of railroad labor productivity that non-productive and counterproductive restrictions be removed from the work rules under which these employees work. Cooperation of rail labor organizations in this effort must be forthcoming and soon. A concern of labor in this regard is that individual employees would suffer a wage loss if payments for hours not worked were removed from their paychecks. But such does not have to be the case. The opportunity inherent in this problem is simply to replace nonproductive time in the employee's workday or tour of duty with productive time. The key difference would be that his efforts on the job would be more fully productive and his compensation would come from work performed, not from hours paid for which no work was performed.

An example of how this concept would work to the benefit of the individual train and engine service employee as well as the improved productivity of the railroad can be illustrated in the following concerning "deadhead" pay.

Due to the fluctuating flow and frequency of train movements, it is often necessary to balance crews by transporting them from their home or away from home terminal. Such crew movement or travel to a point to fill a vacancy is called "deadheading". Present work rules provide "deadhead" pay on a mileage basis, the same as for the productive trip. For example, a crew deadheaded to the home terminal 188 miles distant from the away from home terminal is paid the equivalent of 15 hours. (It is paradoxical to note that while the current Hours of Service Law prohibits such a crew to be on duty more than 12 hours, there is no prohibition on the equivalent hours paid for even when engaged in non-productive deadheading).

A certain amount of deadheading will always be a part of railroad operations, but here an opportunity exists for the conversion of a substantial portion of nonproductive time to productive time. A possible solution follows.

If deadhead time was paid on an actual hourly basis, the whole economic balance of payments for deadhead versus detention time would change, resulting in less crew time away from home, less time engaged in deadhead, hence more time to be applied to productive transportation efforts. Current studies on our railroad suggest the possibility of converting at least 50 percent of the actual man hours currenly being wasted in deadheading to productive effort.

This is but one example of how sensible resolution of restrictive work rules and regulations can contribute to both improved labor productivity in the railroad industry and to a more satisfying job for the employee. This is not to imply that productivity improvements are not already being made. Progress has been evident in this area for some time. As measured by revenue ton miles per man hour, productivity on U.S. railroads increased some 27.7 percent from 1970 to 1977, or an average increase of 3.96 percent per year. I am pleased to report that Missouri Pacific exceeded the industry rate, with an increase during the same seven year period of over 37 percent for a yearly average productivity improvement of 5.3 percent. What disturbs me is that productivity improvement of train and engine service employees using the same basis amounted to only 1.88 percent per year during this time. While Missouri Pacific's ratio of payroll to operating revenue, exclusive of health and welfare and payroll taxes, declined from 41.8 percent in 1970 to 35.9 percent in 1977, labor cost still constitutes the single largest expense in operating our railroad.

Obviously, a substantial amount of our productivity gains have been made in crafts other than train and engine service, where work rules are less constraining to productivity improvement. In the maintenance-of-way area, for example we have increased our annual rail relay program from under 300 miles per year in 1973 to over 500 miles per year currently with virtually *no* increase in manpower. How? By planning and organizing our work in large scale projects, by assembling highly mechanized work gangs composed of several sub-teams who specialize in a specific aspect of the project and by thoroughly coordinating the track projects between our transportation and engineering managers. In other

words, we have applied well-tested assembly line techniques to the railroad environment, using high quality and well-maintained machines to augment the capabilities of the workers to produce a well-maintained railroad structure at a lower overall cost.

We have been successful in similar high production applications to our cross tie renewal operations, our road crossing renewal operations, our switch construction operations and our ballast spreading operations, to name a few.

In our clerical crafts we have successfully improved productivity through the extensive use of modern computer and communication technology. Missouri Pacific's Transportation Control System is a broad-based management information and control system which has provided computer support for nearly all clerical functions associated with a railroad, including the entry of a shipper's order for an empty car; the billing and routing of loaded shipments; the assessment, collection and accounting of revenues and disbursements; the tracing and diversion of cars; the preparation of switch lists and work orders for train and switch crews; the handling of demurrage and switching charges; the development of a crew management and sub-system linked to the payroll system; and a computer-based inventory control and re-ordering system. Clerical productivity gains have been substantial in both headquarter and field locations as a result.

Mechanized, production-line type car repair and locomotive maintenance facilities have given us significant productivity improvements in the mechanical areas.

The significant factor in our productivity gain to date in these areas has been the relative flexibility of the work rules in the contracts covering employees in the involved crafts. For the productivity gains which are so essential to the healthy growth and management of our national railroad resource to be achieved in the future, they must come in the area of train and engine service to the same or even greater degree than they have to date in other crafts. To this end, the united efforts of railroad management, labor and government must be immediately directed.

American Railroads are characterized as being both labor-intensive and capital-intensive. Labor cost including fringes consumes 55 cents of every revenue dollar in the industry, on the average. Likewise, freight equipment represents more than 42% of all capital investment in the industry. It is for these reasons that productivity improvements on a large scale in both the labor resourse and the equipment resource of railroads are so critical to the revitalization of the railroad industry to a healthy posture within the private, competitive enterprise sector. I discussed earlier that improved labor productivity, particularly in train and engine crafts, would lead to improved equipment productivity. The operating and equipment utilization benefits of running, shorter, more frequent trains are obvious. However, the economic threshold at which a railroad can afford to run shorter, more frequent trains moves in direct relation to train and engine crew cost. The deadhead example I described earlier offers a possibility of relaxing at least one constraint against shorter, more frequent trains. But there are several more such opportunities available through work rule and regulation changes for improvement in the management of the railroad labor and equipment resources. The number of people required to safely crew a train realistically should vary according to train size, territory of operation and other factors. Such practical flexibility is impossible under present rules and regulations. Thus, the exercise of sound economic management prerogatives is thwarted, and we see, instead of shorter, more frequent trains, longer, less frequent trains. Consequently, service suffers, locomotive utilization suffers (at a substantial cost to the railroads), manpower utilization suffers, terminal operating efficiencies are not realized and equipment utilization is improved at a much, much slower rate than the shipping community and citizens at large have a right to expect.

Yes, in spite of these frustrating and potentially destructive constraints, utilization of freight equipment on our nation's railroads has improved. Average daily car mileage in the railroad industry has increase over 6 percent since 1971. Net ton miles per freight car day have increased over 23 percent since 1971. Although some of that increase is due to larger cars (average capacity increasing 12 percent since 1971), nearly half of the improvement is due to improved utilization.

These modest improvements in equipment productivity have been achieved in spite of constraining work rules and frequently restrictive regulatory actions. They have been achieved through the sound business motives of individual roads

seeking more effective production from a very costly resource, the freight car. They have been achieved through inter-railroad cooperation in an industry whose management members recognize that strong survival of the national rail network is essential to the survival of individual railroads. They have achieved through industry-wide projects and programs sponsored by such agencies as the Association of American Railroads and the Federal Railroad Administration.

One of these projects is the Freight Car Utilization Program. The FCUP is a joint railroad-shipper-government program covering a wide range of experiments, studies and research activities designed to improve utilization of the freight car on American railroads. One of the FCUP-sponsored projects is the Clearinghouse, an ongoing experiment among eight railroads wherein general service freight cars owned by the eight roads are pooled and used in common by the members. The measured benefits of Clearinghouse has been a 20 per cent reduction in empty car days and an 18 per cent reduction in empty car miles.

The FCUP was instrumental in the adoption of hourly car hire by the nation's railroads, whereby the rental for the use of freight cars is calculated on an hourly instead of a daily rate. This change has removed the artificial operating incentive of holding cars at a junction point until just prior to midnight, then delivering to the connecting carrier only in time to remove the cars from the daily per diem account before midnight. This practice frequently resulted in freight cars being delayed unnecessarily with negative impact on car utilization and service to the shipper.

The FCUP is active at present in several areas to initiate and promote improvements in freight car utilization, including more effective car distribution methods, better use of computer and communication technology to analyze and coordinate freight car use throughout the industry, efforts to squeeze waste or non-productive time out of the loaded-empty freight car cycle, and several others. The FCUP requires and deserves our continued support in its efforts to improve the productivity of our national freight car resource.

Another joint industry-government-shipper project is the St. Louis Project of the Task Force on Rail Transportation. Several noteworthy tasks have been undertaken by this group, one of the most significant insofar as freight car productivity is concerned being the inter-road distribution of empty cars moving through the St. Louis gateway to expedite empty equipment to its next loading point.

The St. Louis project was one of the earliest endeavors undertaken by the Task Force. Originally formed in 1967 as the Labor/Management Committee, consisting of rail and rail union presidents, the objective of the group was to facilitate joint action. Later the committee accepted an offer of staff assistance from the U.S. Department of Transportation. For the first time, rail management, rail labor and government began a dialogue to explore possibilities for joint action in areas of mutual interest.

As a result of the early committee deliberations, problems relating to terminal operations were recognized as being an area of major concern. The committee devised a concept of joint labor/management study of terminal issues, among others, with the goal of developing programs to respond to identified problems. A task force of high ranking labor and management officials was formed to explore the area of terminal operations. The Task Force reported its findings to the Labor/Management Committee in 1971. The Terminal Task Force Report identified several problem areas of inadequate terminal facilities and inefficient operations related to management and labor practices and government regulations. A key recommendation of the Terminal Task Force was that labor, management and government establish a series of experiments to test possible improvements in terminal operations. The St. Louis Terminal of Missouri Pacific was selected as the location for beginning experiments. Successful results of the terminal experiment led to a broader charter of activity to include both terminal and line-of-road operations. In 1975, the Task Force on Terminals became the Task Force on Rail Transportation.

The objectives of the Task Force have been to encourage labor/management cooperation, to improve rail operations and service reliability, to generate new business, to improve job security and safety, and to improve management techniques. The Task Force has implemented its joint, cooperative, problem-solving approach in the following areas:

St. Louis Terminal of Missouri Pacific, since expanded to include all railroads in the terminal.

Chicago Railroad Terminal.

Intermodal operations nationwide.

The Houston Terminal.

The Task Force on Rail Transportation progressed from a study team, to a program of experimentation on one individual carrier's terminal, to a national network of labor/management/government cooperative efforts. In the process, shippers also became involved, both in structuring experiments and in evaluating the results.

The accomplishments of the Task Force on Rail Transportation point to improvements in freight car productivity, to be sure. For example, the average time a car spent in the St. Louis Terminal was reduced over 25 percent between January, 1975, and December, 1976. This reduction in terminal delay translates into more productive freight-hauling time for each car involved. But at least as important as the Task Force accomplishments have been the example of what a positive and powerful problem-solving technique this kind of cooperative effort can be.

Let me point now to freight car productivity on Missouri Pacific.

Improvement of freight car productivity on Missouri Pacific has been somewhat better than the industry average. Since 1970, average daily car mileage on Missouri Pacific has increased nearly 17 percent and net ton miles per freight car day have increased nearly 40 percent. I mentioned earlier that substantial improvement in clerical productivity was achieved on Missouri Pacific as a result of the implementation of our computerized Transportation Control System (TCS). Likewise, we credit TCS for a significant portion of the improvement in our freight car productivity during the decade.

On the Missouri Pacific we are fortunate enough to have been financially *able* to take a giant step forward in the control of resources, wherein in the 1960's a decision was made to invest approximately $45 million in this computerized Transportation Control System and this financial ability is key to the issue.

One of the primary goals of TCS was to improve freight car utilization while providing as high a degree of discipline as possible over the entire transportation operation. We have been able to improve train schedule reliability, to speed terminal throughput of cars by as much as 50 percent in some cases, and to establish totally centralized distribution of empty freight cars.

Particular emphasis in the development of TCS was placed on designing an information and control system which would aid and support the management and distribution of empty freight cars. The railroad industry has recognized for many years that great potential for improvement in overall car utilization lay in the empty car distribution process. This knowledge was confirmed with the use of the Car Cycle Analysis System being developed under the auspices of the FCUP. An analysis of 1976 50-foot boxcar load/empty cycle times was made comparing railroad owned 50-foot plain boxcars less than 5 years old with Railbox 50-foot plain boxcars. Railbox, a subsidiary of Trailer Train Corporation, owns a large fleet of general service boxcars which are available to all railroads to freely use to meet loading demands. The analysis revealed that the utilization of Railbox cars was 12% better than the utilization of all railroad owned 50-foot boxcars. The major reason for Railbox's superiority was in reduced empty time. Whereas empty time for Railbox cars was less than 10% of the total car cycle, empty time for all railroad cars was nearly 29% of the total car cycle. In other words, the distribution process for Railbox cars was placing the Railbox car in position for its next load more effectively than the car distribution process was doing to the railroad owned cars.

To squeeze as much empty time out of the car cycle as possible, Missouri Pacific has used the TCS computer and communication capabilities to fully automate and centralize the distribution of empty freight cars, including the actual assignment of specific cars to fill shipper car orders. Empty car demand is made known to the central computer through on-line, real-time input of shipper car orders as received from customers at our field Customer Service Center. This up-to-the-minute demand is constantly being reviewed by our central staff of expert Equipment Control personnel through computer-interactive cathode ray display units. An empty car released by an unloading customer at industry or received from another railroad at interchange junction is assigned to a shipper car order within four hours of receipt, if an order for that type car exists in the

region where the car is located. If no demand for the particular car exists in that region, a complex but practical series of computerized car movement instructions automatically routes the car to another location where demand for the car exists. This movement assignment process includes computer generated handling instructions to yard and train personnel to insure that the car does not incur delay in being promptly forwarded to its next loading point.

In many cases, this type empty car distribution system has enabled us to place cars for loading near to the location of previous unloading. This not only reduces empty time and improves car utilization, but also helps to reduce the substantial cost of hauling empty cars back to the location of original loading. This imbalance problem of frequently hauling empty cars in reverse of the loaded movement, is a burden to the railroad industry not shared by competitive modes such as trucks. Trucks are free to choose traffic to haul which will result in two-way loaded utilization of equipment. Railroads, constrained with 100 percent common carrier obligation to move any traffic which is offered, face a much more severe equipment imbalance situation constantly. It is only through computer aids such as TCS that we on the Missouri Pacific have been able to make some progress in alleviating this burden.

The final stage of TCS is the ability to provide a precise and predictable schedule for each individual car moving on Missouri Pacific. Car scheduling, as we call it, creates a trip plan for each car, loaded and empty. The trip plan is translated to train and yard crews on work orders and train switching instructions. Movement of each car according to the trip plan is monitored by various levels of management on a real-time basis to permit corrective action as required if the car is not maintaining schedule. By schedule, I mean dock-to-dock or interchange-to-interchange, not just terminal-to-terminal. The operation of a pilot car scheduling corridor is taking place this summer on the Missouri Pacific. Development of car scheduling is being funded, in part, by a $5.5 million contract from the FRA which will enable the benefits to be made available to the entire industry.

These activities I have described are all very promising to us on Missouri Pacific and to the railroad industry. But all of these innovative efforts combined will not, by themselves, allow us to increase freight car productivity sufficiently to generate the internal funds necessary for industry growth without a corresponding change in certain regulatory activities from punitive to supportive actions.

The broadly publicized freight car shortage that exists at this time is in itself a manifestation of various root causes. Inadequate return on investment and hence the unavailability of funds prevents the industry from investing in new freight cars to the extent that it desires. The same lack of funds prevents many railroads from keeping an adequate proportion of their fleets in serviceable condition. The previously discussed labor inefficiencies and counter-productive regulation also contribute to ineffective utilization of the serviceable cars that do exist. Finally, wide variations in demand must also be recognized as a factor in the current situation.

The shortage of covered hoppers and box cars has been aggravated in recent months by the unprecedented surge in the volume of grain shipments. The present surge has immediately followed a two-year period of relatively light grain movement in which surplus grain cars were stored for extended periods. The present grain car shortage has been a sudden and unforeseeable development which arose as grain prices increased and grain was removed from storage to take advantage of rising prices. Even so, the car shortage is relative to the demand for the cars. Actually, American railroads are handling more grain per week than during the previous record grain movement of 1973. Furthermore, the railroads are handling record volumes of coal; coal loadings in 1978 since the miners' strike ended, are 17% above the yearly average in 1977, and in 1977, railroads handled more coal than any year since 1970.

I stated earlier that a freight car shortage exists today. But it would be more accurate to say that a temporary transportation resource shortage exists today. As I pointed out earlier, who has ever heard of a truck shortage or a barge shortage? I think no one has. That is because we have become accustomed too often to view our railroads as the transportation alternative of last resort. When an extraordinary demand is placed on our nation's transportation resources, we first employ our truck and barge resources to capacity, then look to the railroads to make up the balance. If there is a shortfall, as at present in grain movement, the railroads fall heir to the shortage.

Our nation's railroads cannot be expected to buy all the cars that would be needed to meet such surges in demand, nor would it be prudent management to do so. Notwithstanding, substantial investments are being made by the railroads to add needed cars to the fleet as evidenced by the 62,224 cars on order now compared with the 25,237 cars on order last year at this time.

In addition to buying more cars, the improvement in productivity of the freight car fleet will serve to lessen freight car shortage in the future. However, some regulatory actions intended to alleviate car shortages have actually been detrimental to improved car utilization and increased car supply.

Mandatory Car Service Rules 1 and 2, which were prescribed by the commission some six years ago in Ex Parte No. 241, have contributed to the current shortages of freight cars. Exemptions and exceptions to those rules have been granted for certain railroads. However, the majority of railroads still must comply with them. Under those rules, when a freight car is unloaded on another railroad, the car must be sent empty or loaded in a direction toward the owning railroad. Often shippers will reload cars that are made empty at their unloading docks. While this may be a desirable practice from the viewpoint of good car utilization, any shipment destined to a point away from the car owner could not be loaded or moved in that particular car. The car would have to be pulled and even moved to its owner in an empty condition and an appropriate car would have to be spotted for loading. Especially during a time of car shortage it is essential for the railroads to extract maximum utilization from the existing freight car supply. The Commission should recognize that its mandatory application of Car Service Rules 1 and 2 will not permit achieving the desired maximum utilization. Two examples serve to further illustrate the weaknesses of Car Service Rules 1 and 2. Railbox, a subsidiary of Trailer Train Corporation, owns a large fleet of general service box cars. These cars are made available to all railroads to employ as they see fit under the circumstances at hand. The result of this freedom is utilization vastly superior to that obtained by those railroad owned cars subject to the dictates of Car Service Rules 1 and 2. Similarly, the previously described Clearinghouse project is exempt from these rules and has obtained proven results in regard to truly effective utilization.

Some of the recent car service orders have been accurately described as unreasonable and impractical. ICC Service Order 1304 now restricts a railroad to using only 20 per cent of its covered hopper fleet in unit train service. This policy is detrimental to the efficient productivity of covered hopper cars. A majority of grain shippers, representing both single and multiple car shippers, have indicated that little, if any, improvement in car supply or utilization has occurred since the order was issued. The small grain shippers still feel there are too many cars in unit trains, while the unit train shippers are critical of the reductions in size and number of unit trains.

Further, regulatory actions which drain railroad funds out of the industry are actually counter-productive to the solution of car utilization problems. Railroad freight car utilization cannot be improved by mandate. Such actions place an unnecessary financial burden on carriers who already have ample incentives to improve the utilization of the nation's fleet.

We would better serve our national interests by promoting supportive rather than punitive actions. The railroad industry is a network. As such, it is only as strong as the weakest link in the network. Government and industry must work together to encourage the promotion and expansion of methods which improve car productivity. We must eliminate frills which work counter to good utilization. Fines against railroads for failure to comply with ICC orders will not effectively improve equipment productivity, car supply or any other aspect of rail service. However, the support of the Car Scheduling Project by the FRA and the subsequent future spread of car scheduling to other railroads, holds promise for both short-term and long-term improvement.

Addressing the immediate problems of the unserviceable cars on American railroads, I propose a program which can best be described as a railroad industry self-help program with government assistance to improve productivity of a significant amount of the national freight car fleet resource. I propose that an entity be established to serve as an industry railroad pool car association, using as equipment the existing mechanically defective (bad order) cars on American railroads. Railroads who have bad order cars of types in demand, with no immediate resources and plans to restore them to serviceable condition, will loan such cars to the railroad pool car association. The association will have the cars

repaired, then place the cars in productive service in the national fleet. "Seed" money to initiate the program would come from low interest government loans to be repaid as soon as the repaired cars begin earning car hire (rental). Car rental rate would be set at a level sufficient to recover payback of loan within two years, cover administrative costs of the association, cover future car maintenance, and possibly a small amount to flow back to the car owner as consideration for loan of the cars to the pool. Cars would remain in the pool at least long enough to pay off the repair loan, after which time the car owner would have the option to either leave the cars in the pool or re-install cars in his own fleet. The association would engage the services of under-utilized railroad shops and outside contract shops for the performance of the repairs. Priorities for repairs would be established on basis of car types needed and in ascending order of magnitude of repair costs. Repairs would be made only to those cars where the combination of cost and extended service life would compare favorably with the economics of new car purchase. This program, if adopted, would provide the following benefits:

Increase productivity of the present national car fleet by making presently unserviceable equipment serviceable;

Generate additional internal funds through additional income to the railroad industry;

Utilize an idle asset that is presently taking up track space;

Serve the needs of farmers, coal suppliers, shippers and consumers in general;

Provide additional employment;

Help defray overhead costs at under-utilized railroad shops;

Provide a low cost means for government to help the industry.

I firmly believe this proposal is sound and worthy of our pursuit. It is an example of the opportunities we have at hand if industry and government work as a team and direct the efforts at the root causes of problems. We can improve our labor productivity through application of capital funds where a machine or technology can be used to enhance man's ability to perform his job; through improved motivation of the labor force, achievable in large part through the elimination of outmoded work rules which serve as dis-incentives to productive output; and through the elimination of non-productive time and tasks from the workday, which again calls for revision in work rules which presently create such counter-productive conditions. We can improve the productivity of our freight equipment through the more flexible transportation alternatives possible through work rule and regulatory relaxation. Continued improvement through shipper-carrier-government coordination and application of technology offer increased frequency of car loading, increased percentages of loaded time in the car cycle and more shipper loading needs met at a given level of car fleet investment.

As I stated at the beginning of my testimony America's railroad network is a great national created resource. Sufficient internal funds can be generated to sustain healthy growth and conservation of this resource if requisite productivity gains are realized in the high cost internal resources of labor and freight equipment. But I must remark to one more consideration which is also vital to prevent the further depletion of our national railroad resource. That consideration is to achieve an intergrated national system of transportation, limited not only to railroads but including all modes. Railroads can, and must work with barges, trucks and others in a competitive, free enterprise transportation market place.

When railroads were a young, growing industry, government support and protection was necessary to nurture the new industry to a point where it could survive on its own. The same government protection was provided to nurture the trucking industry during its formative years. But whereas railroads have been attempting to function as an independent, self-sufficient industry for decades, the competitive transportation modes continue to receive external support from government. Recent debate over user charges for highway and waterway users point to this controversy.

In no way am I suggesting that railroads should receive similar artificial support and protection from competition. Instead, I urge that we stop the inequitable use of public funds to artificially sustain some transportation modes at the expense of others. Transportation in our country is now a seasoned, mature industry. Each mode of transportation should be allowed, encouraged and required to stand on its own two feet.

Our national transportation systems are too complex to be managed through the use of regulatory constraint aimed at the manifestations of the real problems and which inhibit the natural competitive forces in the free enterprise market place. We should relax the regulations, both punitive and protective, on all transportation modes to allow the fundamental and irrefutable economic laws of supply, demand and competition to work their beneficial influence on all transportation services. Government should continue to be involved in national transportation, acting not only as a focal point for transportation policy, but also as a source of stimulative funding to encourage problem solving and promote healthy growth in all modes. Managers in all forms of transportation would be stimulated by the spurs of competition to think in positive terms toward creating better transportation alternative for America's shipping needs. This positive stance of managers would in large part replace the amount of management time presently consumed in defensive activities coping with the current regulatory overburden.

Full potential is not being realized in any mode of transportation in our country today. The railroad industry, like all modes, will be able to grow from within and sustain itself only through improvement in the productivity of its resources. Increased open market competition among all modes on an equal footing will also lead to greater cooperation among modes—to find new ways to best blend the inherent advantages of each mode in a productive way to the benefit and advantage of all.

Senator McGOVERN. Now, Mr. McKinnon.

STATEMENT OF ARNOLD B. McKINNON, EXECUTIVE VICE PRESIDENT FOR LAW AND ACCOUNTING, SOUTHERN RAILWAY SYSTEM

Mr. McKINNON. Thank you, Senator McGovern.

I am Arnold B. McKinnon, executive vice president of Southern Railway System. I particularly welcome the opportunity to speak to this group. When I first heard about the subcommittee hearings, I said, "Oh, this is just another one of a series of hearings that plague us." But, when I read the Joint Economic Committee's staff analysis of the approach you are taking to the problems, I welcomed the opportunity and the direction that you are taking, taking a full overview of the rail problem and not just one more of the individual shots in individual crisis situations we have.

I think it would be helpful as background for what I would like to say for me to give a brief description of Southern Railway's System. Southern Railway System is the group of railroad operating companies headed by Southern Railway Co., which operates railroad lines in all of the Southeastern States, south of the Potomac and Ohio Rivers and east of the Mississippi, except West Virginia, as well as in the key States of Illinois, Indiana, and Ohio.

We operate over 10,000 miles of railroad. We are a general-purpose carrier. We carry a broad group of products no one of which makes up more than 15 percent of our gross revenues.

In 1977, Southern had gross revenues in excess of $1 billion, net income of $107 million. We handled almost 50 billion ton-miles of revenue freight.

Yesterday we announced earnings for the first 6 months of 1978 of $73 million, the highest first 6 months or highest first or second 6 months in our history.

We employ over 21,000 people, and in 1977 we made capital expenditures in excess of $197 million; this year we will go above $200 million.

I mention these figures not just to describe Southern Railway nor to

boast about our performance, but I hope to emphasize that I am part of an organization that is a very viable functioning economic entity.

The same can be said for Mr. Cena and the Santa Fe and Mr. Gessner and the Missouri Pacific. The same can be said for most of the railroads that are represented by the Association of American Railroads.

We have problems, but most of us are surviving in the face of those problems and doing very well at it. I emphasize this to, I hope, give some credence to the statements of problems that the group of us here at the table see and face.

I also would like to say one other thing, Senator, and that is that I was struck in reading the prepared statements of the other people here—none of which I had seen until they were delivered to me after I had prepared my own statement—that while we took different approaches, the basic problem that all of us see is the same. I think this tells us something, too, about the problem as seen from the standpoint of successful railroads.

In my prepared statement I point out four areas that I see as things that should be faced in the kind of broad-based inquiry that this subcommittee is making.

The first is that the railroad problem is not just a railroad problem. It is really part of a broader issue, and that is the need of this country for a national transportation policy. We have gone at transportation piecemeal. The Government has faced those problems by adopting laws, adopting subsidy provisions, other programs, for individual parts of the transportation industry without going at a national transportation policy.

We have had a statement of a transportation policy, but the regulatory process has not approached it that way.

I think that first and key thing that this subcommittee and all the committees of Congress can do in looking at the railroad problem is to see it as part of the bigger transportation problem and with key point in it being the need to give the railroads equality of treatment with the other major surface transportation modes.

The second area that I think needs addressing is a recognition by all of us, and not only the Congress, but particularly the regulatory bodies, ICC, FRA, and other regulatory bodies, that we are still trying to regulate the railroads with the old antimonopoly regulation of the Interstate Commerce Act and other legislation that was adopted at the turn of the century when we were a true monopoly, at a time when we no longer are.

We face the stiffest kinds of competition. In Mr. Gessner's statement, I believe it was, there was a listing of the loss in railroad market share over the last 10–20 years in both directions, and the loss of market share has been to the barge competitors, to the truck competitors. Most of the business has been lost in areas where they are not regulated and where we are.

This is truly a competitive industry, and to try to regulate it with monopoly regulation is a serious part of our overall problem.

The third thing that I think must be recognized is the capital-intensive nature of the railroad industry.

I mentioned Southern was spending $200 million a year. Over the past 6 years we have spent over $1 billion on capital improvements. We have spent many more millions of dollars or track improvements that in other industries would be considered capital, but we have taken these out of our operating expense dollars.

It's capital-intensive; we have to raise that capital in markets, in competition with both nonregulated companies, and with regulated utilities, all of whom have rates of return substantially higher than ours. Southern Railway's rate of return on equity in 1977 was 10.9 percent, much higher than the 1-plus percent mentioned by Mr. Dempsey for the industry, but the striking thing in connection with his remarks was the fact that this was below—I think Southern is the top, if not the top, one of the top two or three in the industry—this was much below any of the other regulated mode average rates of return or that for industry generally.

We have got to compete in the capital markets with those other industries. To do that, we have to have a recognition by the regulatory bodies which deal with our pricing that we have to have rate increases and rates of return that will let up compete.

Finally, what I think must be faced and it must be faced by those of us here at the table, both labor and management, needs to be recognized by the Congress, too, is the need for improved labor and capital productivity.

We are working on the capital productivity; that is what this $1 billion we have spent in the last 6 years is aimed at, improving capital productivity. But we have to have improvements in labor productivity when you face the percentage figures that Mr. Gessner has given in his prepared statement.

So I think all of those four areas are ones that the broad overview you are taking will help bring together and help us face.

I would deal briefly—I have in my prepared statement in more detail—with two or three specific subjects that were mentioned in the staff analysis.

The first is the suggestion in some quarters that we need and should have imposed on the industry a new uniform cost accounting system. I think this suggestion misunderstands the usefulness in the rail industry, as in all other industry, of cost accounting systems.

Cost accounting systems serve two purposes. First, to help railroad management to understand and control their expense and budgeting process, to be sure that you are getting the most bang for the buck in all areas and that you are living within your budgets, the same thing the Congress has had to recognize in the last two and three sessions. This is what an expense budgeting system, cost budgeting system, the function it provides. This is a function that has to be directed to the individual organizational needs and individual organization structure and the individual geographic structure of each railroad. To try to set up some uniform system that would apply to all railroads is going to create much work without producing the results that is sought.

The system that will work for Southern will not work for Mr. Gessner. Mr. Gessner happens to have worked for Southern and Missouri Pacific, and I think he can attest to that even better than I can.

It would be a wasteful duplication in my judgment to require some uniform cost system. The rail managements understand the need for these systems and, if we had a uniform system, we would have to build our own below it to work for our own particular needs.

The same is true in the area of costing for pricing purposes.

First, I think we have to recognize in the capital-intensive industry we are in that rail pricing has to be demand pricing and not cost pricing. I think the regulators have got to recognize that.

But, second, even in determining our own internal policy for pricing purposes, we need to again use a combination of the averaging system that the ICC has available plus our own individual systems so that I think in this area, having some uniform costing system would be unnecessary duplication.

I mentioned in my prepared statement the need for improvement in the regulation of rail safety, and I will simply endorse what Mr. Dempsey has said, that this subcommittee should really study thoroughly on its own the study of Office of Technology Assessment.

Finally, I would emphasize that I think the solutions for the problems of this industry lie primarily in the private enterprise system. I think that the Congress, the regulatory agencies, can be of tremendous help in facing the issues that I mentioned, but that the best solution is going to come from letting rail managers do what they—what most of them know how to do and the ones that don't know are learning, and that is manage their own properties without interference.

Thank you, sir.

Senator McGovern. Thank you, Mr. McKinnon, for your testimony.

[The prepared statement of Mr. McKinnon follows:]

PREPARED STATEMENT OF ARNOLD B. MCKINNON

My name is Arnold B. McKinnon, executive vice president-Law & Accounting of Southern Railway System. I appreciate the opportunity to testify before this subcommittee today and welcome the approach the subcommittee indicated, in its June 22, 1978, staff analysis, of seeking answers to basic issues and problems currently confronting the railroads of the United States. I have been employed by Southern Railway for 28 years, working for most of that time as counsel for the system. For the last 5 years I have had under my supervision the work of Southern's law, accounting, public affairs, medical and claims departments, and its office of the secretary.

As background for my testimony, I would like to describe briefly Southern Railway System and tell you something of its current economic position.

Southern Railway System is a trade name used by Southern Railway Company and its subsidiary railroad operating companies. Our executive offices are in Washington, D.C. We serve all of the Southeastern states south of the Potomac and Ohio Rivers and east of the Mississippi River except West Virginia, having principal gateways for interchange of traffic with other railroads in other sections of the country at Potomac Yard just south of Washington, D.C.; Cincinnati Ohio; St. Louis, Missouri; Memphis, Tennessee, and New Orleans, Louisiana. We serve all of the major Atlantic ports from Norfolk, Virginia, to Jacksonville, Florida, except Wilmington, North Carolina, as well as the major Gulf ports of New Orleans and Mobile. Southern is a general purpose carrier with a very diverse traffic mix. Major commodities hauled are: chemicals and allied products; coal; pulp, paper and allied products; stone and clay related products; lumber and wood products; food and food products; transportation equipment; farm products; primary metal products; and aggregates and other nonmetallic minerals. Of the twelve principal commodity groupings handled by Southern, no single group provides as much as 15 percent of Southern's total revenues.

In 1977 Southern Railway had gross revenues in excess of $1 billion and net income of $107 million. We handled almost 50 billion ton-miles of revenue freight in 1977. In the same year we employed over 21,000 people and made capital expenditures on roadway and equipment of almost $197 million. I have given you these figures, not just to describe Southern Railway System nor simply to brag but to emphasize that the organization which I represent is a very viable and successful economic entity. The same can be said for the other two railroads represented here today by Mr. Cena and Mr. Gessner and in large measure can be said for most of the companies represented by Mr. Dempsey in speaking for the Association of American Railroads. I hope, and believe that you will agree, that the measure of success achieved by the three railroads represented here today indicates a reasonable degree of insight on the part of the managements of those companies as to what the problems and economic and operating needs of the railroad industry are.

Mr. Dempsey and the other railroad witnesses have provided you with substantial background information in their remarks and in their prepared statements covering the basic economic conditions facing the rail industry today. I have not submitted any prepared statement of similar information because it would be largely duplicative of that which you have. However, I would like to share with you a few general perceptions I have relating to the basic issues you seek to examine as well as to speak briefly on a few of the specific items referred to in the June 22 Staff Analysis.

Of first importance in an examination of these basic issues is, in my judgment, a recognition that what we really have to face is not a railroad problem or the development of a railroad policy. I would place as of critical importance to the economy of the country, close to the importance of development of an energy policy and also closely related to it, the development of a comprehensive transportation policy. Railroad problems have not developed in isolation. They have developed in large measure as a consequence of separate governmental policies relating to their principal competitors, the waterway and highway freight carriers. Long-range solution of railroad problems can be accomplished only as a part of a comprehensive review of the present inequities existing in treatment by the Federal Government of the railroads as against their motor carrier and barge competitors and a conscious program of removing the inequities which I think any fair-minded study will show to exist. The key to such a program is the imposition of adequate compensatory user charges on the commercial users of the nation's highways and waterways.

A second fundamental is the recognition that the railroads do not now hold an have not for many years held the monopoly position in freight transportation which they held when most of the basic regulatory laws applicable to them today were enacted during the early years of this century. The continuing effort of regulatory agencies to use monopoly regulatory principles in dealing with the economic problems of an industry facing regular vigorous competition for the great bulk of its business is a second basic which must be faced.

Closely related to problems created by the changes from a monopoly situation to a highly competitive one is the economic fact that railroading is tremendously capital intensive. I mentioned Southern's current $200 million-a-year capital spending level. Over the last six years we have spent approximately $1 billion in capital improvements to our roadway and equipment. This is in addition to the substantial expenditures charged to operating expense for roadway improvements which in other industries would be charged to capital. As indicated in other testimony here today, Southern's expenditure level is being matched by other major carriers. This Committee is familiar with the basic economic axion that there is no "free lunch." This is particularly true with respect to the capital needs of the railroad industry. Both basic equipment and material costs and mounting interest costs must be paid if the capital needs are to be met. The funds must be secured by the railroads in competition with the demands of other parts of the economy for funds and this can be accomplished only in an environment which encourages a return on railroad investments, both debt and equity, comparable to that of others competing in the financial marketplace for investment funds.

In addition to recognition of the need for equitable, even-handed governmental policies toward all surface transportation modes, together with the recognition of the current competitive economic position of the railroads and the capital

intensive nature of railroading, a fourth basic must be considered. This is the need, which ties directly back to the other three basics, for increased labor and capital productivity in conduct of railroad operations. A large part of the capital investment made by Southern and the other railroads represented here today has been made to increase capital productivity by increasing equipment utilization, speeding up the movement of materials and modernizing all parts of the railroad plant to improve efficiency. Even with the substantial benefits received from improved track conditions, larger cars, better terminal operations, we are still faced with the reality of outmoded workrules, particularly in train and engine service, which were well described for this Committee by Mr. Robert S. Reeby at your June 27 hearings. Whether labor productivity increases are achieved through continuation of the on-going process of negotiation between rail management and the labor unions, which I think clearly the most desirable solution to the problem, or through some other action including governmental mandate, it is clear that any long-range economic study of railroads must include a consideration of labor productivity improvement.

Within the framework of the basics I have outlined, I am satisfied that the economic interests of the nation are best served by continuing the railroad industry as private enterprise. While there may be arguments as to the size and the shape of the basic railroad system in the United States, I take it that we all recognize the fundamental need for an efficient core system to handle present and future economic growth in the country. It is clear that as we develop an energy policy, whatever its final parameters, it is going to be based on increased use of coal and decreased use of oil. The fuel efficiency of railroad movement of industrial traffic, compared with other modes, is clearly established, and the utility of railroads in hauling the increased movements of coal in future years is well recognized. Within the framework of the four fundamental issues I have outlined, and assuming that the Congress takes all desired steps in eliminating present inequities between transportation modes, it is still clear that it will take a very disciplined operation for the railroads to meet the fundamental transportation needs they are best designed to meet. In my judgment, the best discipline for meeting these needs is the discipline of the "bottom line" production of net income which is fundamental to the private enterprise system, and I certainly hope that the Committee will agree with this as it continues its studies.

Let me turn to a few specific items which I think are both within the framework of your hearings and of the four perceptions I have outlined earlier. I have mentioned the need for increased productivity. One area which has a surface appeal as an area for increased governmental activity but in which I think sight has been lost of realistic goals is in the area of safety regulations issued by the Federal Railroad Administration and related safety statutes. I know of no railroad managements which are not tremendously concerned about improving safety. We are concerned for humanitarian reasons, and we are concerned for economic reasons. We welcome help in improving efforts to eliminate personal injuries to rail employees and to the public. The Congress has been helpful in improving rail grade crossing safety and reducing substantially the accident hazard at rail grade crossings by assisting in financing crossing elimination and crossing protection projects through the Federal Aid Highway Programs. This is constructive governmental assistance in the area of safety.

However, we have recently been faced with what I consider unrealistic and counterproductive regulations issued by the Federal Railroad Administration without appropriate risk analysis or cost benefit analysis. I refer specifically to regulations requiring electrified rear-end markers on freight trains—something I think clearly beyond the contemplation of present Federal statutes—regulations relating to dormitory construction, and regulations requiring crew rest points only at locations agreed to in labor contracts, as well as numerous other specific requirements relating, for example, to freight car or locomotive maintenance. I would commend to the consideration of the Committee the recent study issued by the Office of Technology Assessment of the Congress entitled "An Evaluation of Railroad Safety", preliminary draft of which was issued March 3, 1978, particularly the section beginning at page 1–10 dealing with the current state of safety laws and regulations. The Federal Railroad Adminisration has recently initiated a series of hearings in connection with its existing locomotive inspection, freight inspection, and other safety regulations which finally give recognition. I hope, to the need for cost benefit and risk analysis in the issuance of rail safety regulations. Statutes and regulations which do not take these factors into consideration

have a clear tendency to reduce productivity and to syphon away needed dollars from other more productive projects. I will say in passing that the same is true of the increasing burden of regulation issued under the guise of environmental protection and also commend to your consideration the quarterly report of the President's Council on Wage and Price Stability Number 13, issued in April of this year, particularly material beginning at page 107.

Another area that I consider to be counterproductive in terms of added manpower and paperwork costs is the suggestion made in a number of quarters that the railroads be required to develop some new uniform cost accounting system. First we should recognize that the Interstate Commerce Commission Bureau of Accounts has adopted and the railroads are following a new "Uniform System of Accounts" covering the financial accounting practices of the railroads and that the Uniform System is one which follows generally accepted accounting principles. Furthermore, the publicly held securities of the railroads and the financial statements issued to railroad security holders are subject to regulation and generally accepted accounting principle requirements under the Securities Act of 1933 and the Securities Exchange Act of 1934. In this connection I would say in passing that the railroads' method of betterment accounting for track accounts, as contrasted with the depreciation system used for similar capital accounts in other industries, is a superior method of accounting in this capital area, particularly in an inflationary period such as we have today.

The suggestion for adding to the presently required Uniform System of Accounts a uniform system of cost accounting in my opinion reflects a misunderstanding of the use of cost accounting systems and expense responsibility systems by modern managements. Southern Railway has, and was one of the early railroad users of, a responsibility expense accounting-budgeting system. Such systems have been installed or are being installed by most of the other railroads in the country. To be effective, to give management quick control over budgeting, allocation of funds, and reduction of expenses in times of unusual economic slowdowns—times such as the severe winter conditions affecting much of the East earlier this year, a management expense control and cost system must be designed to meet both the physical operating conditions and the organizational structure of each individual railroad. A system which would work for the Southern Railway would not necessarily be the one which would work for the Santa Fe or any other railroad with different operating characteristics, traffic mix, or organizational structure than Southern. For any governmental body to attempt to superimpose a uniform system of cost or expenditure accounting on the railroad industry would be nonproductive in assisting management control and would be counterproductive in terms of cost burden. I am satisfied that each company would need to set up a separate system meeting its own peculiar needs in addition to the uniform system. To the extent that some may think that a uniform system would somehow be helpful in the regulation of rail pricing, I think again the system would be counterproductive. Within the framework of the competitive system and the capital intensive nature of railroading to which I referred earlier, rail pricing must, if an adequate return is to be made to generate the needed capital, be a demand pricing system and not a cost pricing system.

In dealing with safety regulation and with proposed new accounting systems, I have been suggesting areas where the best function of government is to leave us alone, to reduce regulation or at a minimum not to add to it. I would like to suggest one area, in addition to the elimination of regulatory inequities among modes which I have placed as a keystone to transportation policy, where the Congress can be of positive assistance. This is the area of added incentive for new capital investment. While I think this is fundamental to our whole economy, the capital intensive nature of the railroad industry makes it, in my judgment, a priority item for us. The billion-dollar-plus capital investment which Southern Railway has made in plant and equipment in the last six years would not have been made without the incentive of the investment tax credit which has been available to us. Currently, we are able to take 100 percent of any investment credit generated against our Federal income tax liability, but under existing law this percentage is to reduce over a period of years to 50 percent. Continuation of the present 100 percent investment tax credit or at least the 90 percent credit proposed in President Carter's tax bill is vital to the continued viability of the capital expenditure program on Southern. I urge this Committee to support that continuation.

In summary, I share this Committee's concern that there are problems facing the railroad industry today. The broad look which the Committee is taking can be helpful in setting a proper perspective for handling those problems. The basic solution to the problems is in the continuation of a private enterprise railroad system with assistance from the Federal government in creating competitive equality in its treatment of surface transportation modes, in eliminating nonproductive regulation, and in providing a healthy climate for continued capital investment.

Senator McGovern. Our final witness is John Sytsma.

STATEMENT OF JOHN F. SYTSMA, PRESIDENT, INTERNATIONAL BROTHERHOOD OF LOCOMOTIVE ENGINEERS, CLEVELAND, OHIO

Mr. Sytsma. Thank you, Senator.

I don't think it is an exaggeration to say that I get the distinct impression that I am somewhat outnumbered here.

However, my name is John F. Sytsma, and I am president of the International Brotherhood of Locomotive Engineers with headquarters located in Cleveland, Ohio.

I don't know if I should admit that in view of the bad reputation that Cleveland has acquired in the last few months, but nevertheless, Cleveland is still alive, if not entirely well.

The Brotherhood of Locomotive Engineers, BLE, is a railway labor organization, founded in 1863, organized in accordance with the provisions of the Railway Labor Act and representing for collective-bargaining purposes and in matters of safety of railroad operations, members serving as locomotive engineers and firemen in the service of carriers by railroad in the United States and Canada.

It goes without saying that these members have a direct interest in the health of the railroad industry now and in the future.

We are, therefore, deeply appreciative of the opportunity to appear before this distinguished congressional subcommittee.

In keeping with your invitation, I will direct my remarks to the area which I know best—labor relations in the railroad industry in general and our collective-bargaining agreements in particular; the latter often referred to, and in my opinion improperly so, as "work rules."

It seems that our collective-bargaining agreements have been made a major topic of these proceedings and are allegedly one of the main contributing factors to the deterioration of the railroad industry.

The attack made by Mr. Reebee in a previous appearance before this subcommittee, both upon our labor contracts and our organization, dictates that my presentation here today be in the nature of a rebuttal to these accusations and allegations.

I consider this unfortunate; however, I will endeavor to make it a positive and informative rebuttal.

In the few minutes allocated to me for direct presentation, I will attempt to highlight five areas, after which I will try to answer your questions.

One, the size of the work force that my organization represents in relation to the magnitude of the task this work force is performing now and what it may be expected to perform in the future.

Aberdeen, S. Dak.; Baldwin, N.Y.; Raytown, Mo.; New Albany, Ind.; Torrington, Conn., and Port Huron, Mich., are small cities, each

having a population about equal to the entire work force of the 35,000 locomotive engineers on railroads in the United States.

About 52 percent of these engineers operate the locomotives which move the freight trains on all railroads. Another 42 percent man the locomotives in yard, belt line, and transfer service.

The remaining 6 percent man the locomotives on all Amtrak and other passenger trains in commuter and short turnaround passenger service operated by class I railroads.

Only about 12,000 of the locomotive engineers, or 34 percent of the total work force, are engaged in handling through freight trains on all railroads in the United States, particularly in view of the fact that these gentlemen to my left have talked about the so-called lack of productivity on the part of operating railroad employees, that despite the fact that the railroads of the United States are handling more tonnage now than they did in World War II, that they are doing this with 35,000 locomotive engineers as opposed to approximately 60,000 locomotive engineers actively working during World War II.

Projections are that the work force of locomotive engineers will be called upon to move in excess of 1 trillion revenue ton-miles by mid-1980. This is in contrast to the present level of about 800 billion ton-miles.

This projection gives rise to what we believe to be a very serious void in terms of having an adequately trained work force of locomotive engineers.

The present quality and quantity of locomotive engineer training and the serious void predicted in the future, is revealed in a comprehensive study which BLE just completed concerning the quality and quantity of locomotive engineer training on railroads in the United States.

This study was done by a consulting firm having expertise in evaluating training programs. It was done, I might say, at considerable expense to our organization and I am pleased that the members of this subcommittee will be the first to receive copies of what we believe to be the most comprehensive study of its kind ever made.

Our recent industrywide negotiations are about complete and I have to report that we were not very successful in our efforts to have the railroad industry form a partnership with us, through collective bargaining, to establish training standards and training centers, for the purpose of assuring that we will have an adequately trained work force.

The task performed for America by the small work force of locomotive engineers equivalent to the population of a small city like Aberdeen, S. Dak., and others, is an immense transportation achievement.

It is surely a tribute to both railroad management and railroad labor.

Much of the task, as you well know, is performed under trying conditions on some few railroads.

Area two is: The record shows that the BLE has accommodated technological change in the railroad industry and worked for legislation favorable to the railroads.

I happen to be proud of the accomplishments we have made over the years to accommodate the ever-changing conditions on the railroads and these have resulted in drastic employment reductions in our craft.

While most of these accommodations have been accomplished through the processes of collective bargaining and legislation, as they

should be, I feel that our willingness and ability to cope with these problems to the mutual interest of the industry and the employees we represent, is indeed worthy of note.

Examples of accommodating technological changes can start with the introduction of the diesel-electric locomotive in the 1940's.

As you are probably aware, in the steam locomotive, an engineer and fireman were required on each particular locomotive. So, if you had 10 steam engines coupled together to pull a train, you had 10 engineers and 10 firemen, a total of 20 men.

Today, the equivalent of 10 steam locomotives, in the form of diesel units, are operated and controlled by one engineer and in most cases without a fireman.

The accommodation to this technological change amounted to about $1 additional compensation to the engineer for each additional diesel unit added to the lead or control unit.

This accommodation extends also to diesel units placed somewhere with the train like in the middle and operated from the lead or control unit by remote control.

This accommodation has contributed substantially to the decrease in the number of locomotive engineers from about 50,000 in 1950 to 35,000 in 1976.

New communication systems such as the radio/telephone system is another example where the BLE has accommodated change.

Another major accommodation by the engineer resulted from the decision to eliminate firemen helpers in through freight and yard service.

This has required the engineer to perform additional tasks such as mechanical and electrical adjustments on the locomotive and to exercise a much wider spectrum of the train, safety of other crew members, and the safety of other employees not on the train, not to mention the safety of the general public.

The job and tasks of the locomotive engineer never were routine, monotonous, or unchallenging.

The job has always been quite the opposite and has become increasingly so in terms of greater responsibility and the variety and number of tasks to perfom.

Perhaps a better general description of the locomotive engineer's job is that which appears in our exhibit 2, beginning on page viii of the prolog.

This description was taken from a report issued by the Federal Railroad Administration. In summary, the report states that, "Fundamentally, the engineer is a sophisticated information processor and controller of a very complex, and often difficult to monitor, man-machine system."

We feel that our organization and its members have quite consistently accepted, accommodated, and cooperated in dealing with change and the continuing redesign of the engineer's jobs and tasks.

Some time, somewhere, we hope that this continuing policy of accommodating change will be made easier through a formal and structured engineer training program, which will be commensurate with the total task, the degree of change, and job redesign.

Our policy of accommodation and cooperation has extended into the area of shorter trains with reduced crew size, running through established terminals and under other conditions not generally permitted by agreement.

We have also cooperated with Amtrak in making changes to accommodate operations and to improve its situation.

In our considered opinion, our record of accommodation and cooperation with changes does not justify the accusations that the BLE is continuing to pursue its resistance to change.

Area three:

Collective bargaining does work. It is necessary if we are to have industrial democracy and it should not be replaced by congressional mandate.

During the period March 10, 1969, to this very month of July 1978, the BLE has consumated five industrywide agreements with the railroads under the procedures of the Railway Labor Act and without going beyond direct negotiations.

This means that the negotiations were carried on without threat of a "negotiating stranglehold on the Nation," which has been part of the propaganda advanced concerning railway labor.

But the real significance of this accomplishment is the fact that BLE led the way in making changes in the labor contracts which the railroads were seeking for purposes of greater flexibility in operations.

Unfortunately, we question whether these changes or any other such changes in the labor contracts do result in greater flexibility and economies, but are really utilized to compensate for and offset the shortcomings of management and downright mismanagement, either of which contribute to higher labor costs.

Moreover, we question whether some railroads really take advantage of the changes that are made in the agreements such as those designed to extend the length of runs and the changes designed to permit certain combinations of road and freight service.

I might digress and say for a moment that these gentlemen on my left are officials of very prosperous and very efficient railroads and this should not be directed to them because they do take advantage of these changes.

One of the changes made in the recent industrywide agreement for purposes of giving the carrier greater flexibility of operations is the right to use yard crews to go out on the main line of the railroad some 15 miles to pick up road trains which have been overcome by the Federal law governing the maximum hours of service, which is now 12 hours.

Here, again, one questions the operational disciplines of a railroad which permits its trains to be overcome by a 12-hour law on more than just an isolated basis.

The locomotive engineer and other railroad employees should not be called upon to subsidize or to compensate for the undisciplined operations on the part of the controllers and managers of railroads by being required to work under substandard wages and working conditions.

Many cost items labeled as "labor costs" are not really labor costs. They are costs which are avoidable through a disciplined and efficient management.

My reference is to certain punitive work agreements which are triggered by inefficient and inept managerial performance. Area four is next.

Four, some facts about the dual basis of pay in road service.

The dual basis of pay or so-called 100-mile day has almost gotten to be a curse word in the railroad industry. We have heard propaganda against this for many, many years and I have perhaps that what has happened in recent negotiations and what I have to say here today will lay that to rest once and for all.

An analysis by the staff of the Joint Economic Committee dated June 22, 1978, has already concluded that the "broad and vital areas of work rules and pay scales for railroad employees has yet to be effectively and equitably addressed."

The analysis also concludes that the basis of pay for operating employees remains pegged to a system that existed when freight trains traveled 100 miles a day or less.

The result is a full day's pay for a crew which has worked only 4 hours, the time now needed to travel 100 miles.

I could go on and on for several hours about that because there are many, many railroads where a freight train is lucky to make 40 miles in 4 hours, let alone 100 miles.

In view of these indictments, I hope that my appearance today is not in vain. However, I am going to point out that, in my opinion, these conclusions are premature and not justified by the record.

Moreover, I want to give you some facts about the so-called outdated system of pay for operating employees. This system is more properly referred to as the "dual"or "mileage" system of pay for certain road service employees, and it is an incentive system of pay.

I was just handed a note that my 10 minutes are up. I realize that——

Senator McGovern. Why don't you finish your testimony, then, Mr. Sytsma.

Mr. Sytsma. I thought in view of the fact that I was so drastically outnumbered here. [Laughter.]

Senator McGovern. I think that is only fair enough.

Mr. Sytsma [continuing]. That I should have more time.

I would like to tell you about this dual basis of pay because it is greatly misunderstood.

The dual basis or mileage system of pay under which some locomotive engineers in road service are compensated incorporates the principles of time, speed and distance.

The principle of the weight of the locomotive which applies to all locomotive engineers is also a factor in this dual basis of pay.

The dual basis of pay is an incentive and a piece rate system.

Under this system, the locomotive engineer is compensated so much for each mile run regardless of the time or speed factors.

This is the same principle, I might add, upon which the railroads revenue rates are based and these same principles apply, as I understand, to truck drivers and airline pilots.

To illustrate how the dual basis of pay works, let's take a run on a through freight train from A to B, which is a distance of 150 miles.

One, if the engineer makes the trip in 6 hours, he will receive pay for 150 miles.

Two, if he makes the trip in 8 hours, he will receive pay for 150 miles.

Three, if he makes the trip in 10 hours, he will receive pay for 150 miles.

Four, if he makes the trip in 12 hours, he will still receive pay for 150 miles.

And believe me, gentlemen and ladies, many, many engineers are stuck on trips that take 12 hours or more for this 150 miles, and they receive no incentive whatsoever as far as basis of pay is concerned.

There would be no overtime involved in any of these four cases I just mentioned, and I might add that his rate of pay in most cases for miles in excess of 100 is lower than for his first 100 miles.

This system of pay does not apply to the majority of locomotive engineers. I have some other interesting facts I will skip over in view of the time situation.

I would like to emphasize that this system of pay does not apply to the majority of locomotive engineers. In fact, a close figure would be 25 percent. All other locomotive engineers are compensated on an hourly, 8-hour-a-day basis with overtime after 8 hours.

As I indicated earlier, 42 percent of locomotive engineers are employed in yard and transfer and belt line service.

These engineers are compensated solely on an hourly basis of 8 hours a day and in most cases 5 days a week. Another 19 percent of the engineers are engaged in local and way freight service.

With few exceptions, these engineers are also compensated solely on an hourly basis, as in most cases the hours worked generally override the distance and speed factors.

I was going to say some nice things about the industry but I don't think I am going to have time. [Laughter.]

In conclusion, I would urge your subcommittee to give due consideration to the points I have been trying to raise here today, and which I will briefly summarize:

First, we believe the record shows that the relatively small work force of locomotive engineers is performing an immense transportation task for the Nation and its some 215 million people.

With proper planning and training, this work force can meet the challenges ahead with a relatively small increase in number.

Second, the BLE and the members it represents have an enviable record of acceptance, accommodation, and cooperation with changing conditions on the railroads.

In addition, the BLE and its members have given valuable assistance and is continuing to do so in having legislation enacted which is favorable to the health of the railroad industry.

There is, however, a great need for a formal and structured engineer training program which will be commensurate with the total task of the engineer and with the degree of the continuing redesign of his job.

Third, collective bargaining is a prerequisite to industrial democracy. It is an effective bulwark against dictatorship.

Collective bargaining does work under the Railway Labor Act and should not be replaced by congressional mandates.

Fourth, the locomotive engineer and other railroad employees should not be called upon to subsidize or to compensate for undisciplined operations on the part of the controllers and managers of railroads by being required to work under substandard wages and working conditions.

We believe the record proves that the charge of 2 or 3 days' pay for 1 day's work is strictly a myth and without foundation.

In your further deliberations on the program, "Which Way is Up?" We recommend that those observations and recommendations set forth above, be given serious consideration by your subcommittee.

I would hope that my presentation here today will influence you to reconsider the conclusions in the staff analysis dated June 22, 1978, concerning "outdated work rules."

Thank you very much for your indulgence.

Senator McGOVERN. Thank you, Mr. Sytsma and gentlemen, all the members of the panel.

[The prepared statement of Mr. Sytsma, together with exhibits, follows:]

PREPARED STATEMENT OF JOHN F. SYTSMA

My name is John F. Sytsma, and I am president of the International Brotherhood of Locomotive Engineers with headquarters located in Cleveland, Ohio.

The Brotherhood of Locomotive Engineers (BLE) is a railway labor organization organized in accordance with the provisions of the Railway Labor Act and representing for collective bargaining purposes and in matters of safety of railroad operations, members serving as locomotive engineers and firemen in the service of carriers by railroad in the United States. It goes without saying that these members have a direct interest in the health of the railroad industry now and in the future. We are, therefore, deeply appreciative of the opportunity to appear before this distinguished congressional subcommittee. In keeping with your invitation, I will direct my remarks to the area which I know best—labor relations in the railroad industry in general and our collective bargaining agreements in particular; the latter often referred to, and in my opinion improperly so, as "work rules".

It seems that our collective bargaining agreements have been made a major topic of these proceedings and are allegedly one of the main contributing factors to the deterioration of the railroad industry. The attack made by a previous appearance before this committee, both upon our labor contracts and our organization, dictates that my presentation here today be in the nature of a rebuttal to these accusations and allegations. This is unfortunate, however, I will endeavor to make it a positive and informative rebuttal.

In the few minutes allocated to me for direct presentation, I will highlight five (5) areas, after which I will try to answer your questions.

I. THE SIZE OF THE WORK FORCE WE REPRESENT IN RELATION TO THE MAGNITUDE OF THE TASK THIS WORK FORCE IS PERFORMING NOW AND WHAT IT MAY BE EXPECTED TO PERFORM IN THE FUTURE

Aberdeen, South Dakota, Harlingen, Texas, Baldwin, New York, Raytown, Missouri, New Albany, Indiana, Torrington, Connecticut, Port Huron, Michigan, and Methuen, Massachusetts, are small cities each having a population about equal to the entire work force of the 35,000 locomotive engineers on railroads in the United States.

About 52 percent of these engineers operate the locomotives which move the freight trains on all railroads. Another 42 percent man the locomotives in yard, belt line and transfer service. The remaining 6 percent man the locomotives on all Amtrak and other passenger trains in commuter and short turnaround passenger service operated by class I Railroads. Only about 12,000 of the locomotive engineers or 34 percent of the total work force are engaged in handling through freight trains on all railroads in the United States.

The magnitude of the task which this small work force performs is highlighted in exhibit 1, attached hereto and entitled, "The Locomotive Engineer—Prime Mover of Railroad Transportation Services For America 1978". We use this material to better acquaint the locomotive engineer with his contribution to the industry and to American society. Just how efficient and productive a member of this craft is, is well illustrated in this exhibit 1. For example, in 1976 (the latest full year for which figures have been published), there were 17,104 engineer jobs in freight service, including both through freight and local or way freight. The employees in those jobs operated 4,317,823 trips—an average of 252 trips per engineer. They pulled 28,945,998,000 freight-car miles; thus, in that year, the average freight engineer moved 1,692,353 freight-car-miles, including loads and empties. In terms of loaded car-miles alone, the total pulled by the industry was 15,825,250,000 or 925,237 per engineer. This is an immense transportation achievement. Given an average load of 50.0 revenue tons per loaded car, these figures mean that each engineer (on the average) pulled 46,261,850 revenue ton-miles in the year 1976.

Projections are that the work force of locomotive engineers will be called upon to move in excess of one trillion revenue ton-miles by mid-1980. This is in contrast to the present level of about 800 billion ton-miles.

This projection gives rise to what we believe to be a very serious void in terms of having an adequately trained work force of locomotive engineers. The present quality and quantity of locomotive engineer training and the serious void predicted in the future, is revealed in a comprehensive study which we just completed concerning the quality and quantity of locomotive engineer training on railroads in the United States. This study is attached hereto as exhibit 2, and was done by a consulting firm having expertise in evaluating training programs. It was done at considerable expense to our organization and I am pleased that the members of this Subcommittee on Economic Growth and Stabilization will be the first to receive copies of what we believe to be the most comprehensive study of its kind ever made. I would like to direct your attention especially to those sections identified as follows:

Training Needs—Safety & Productivity, p. 13.
Current Status of Industry Training, Conclusion-p. 73.
Potential Benefits, pp. 75–97.
Work Force Availability, pp. 97–108.
Training Program Implementation Cost, p. 118.
Cost Benefits Analysis, Conclusion-p. 127.

Our recent industry-wide negotiations are about completed and I have to report that we were not very successful in our efforts to have the railroad industry form a partnership with us, through collective bargaining, to establish training standards and training centers, for the purpose of assuring that we will have an adequately trained work force, for the present and for the future. We now feel that we will have to pursue our objective in other ways.

The task performed for America by the small work force of locomotive engineers equivalent of the population of a small city like Aberdeen, South Dakota, is an immense transportation achievement. It is surely a tribute to both railroad management and railroad labor. Much of the task, as you well know, is performed under trying conditions on some railroads.

II. THE RECORD SHOWS THAT THE BLE HAS ACCOMMODATED TECHNOLOGICAL CHANGE IN THE RAILROAD INDUSTRY AND WORKED FOR LEGISLATION FAVORABLE TO THE RAILROADS

I am proud of the accomplishments we have made over the years to accommodate the ever changing conditions on the railroads. While most of these accommodations have been accomplished through the processes of collective bargaining and legislation, as they should be, I feel that our willingness and ability to cope with these problems to the mutual interest of the industry and the employees we represent, is indeed worthy of note. In this respect, a reminder of the joint efforts of labor and management in the legislative areas includes legislation to assist railroads financially and otherwise, our joint efforts in opposing conveyer and slurry pipeline systems, and opposing the lock and dam proposals on inland waterways.

Examples of accommodating technological changes can start with the introduction of the diesel-electric locomotive in the 1940's. In the days of the steam

locomotive, an engineer and fireman were required on each one. So if you had ten (10) steam engines coupled together to pull a train, you had ten (10) engineers and ten (10) firemen, a total of twenty (20) men. Today, the equivalent of ten steam locomotives, in the form of diesel units are operated and controlled by one engineer and in most cases without a firemen. The accommodation to this technological change amounted to about one (1) dollar additional compensation to the engineer for each additional diesel unit added to the lead or control unit. This accommodation extends to diesel units placed somewhere within the train, like in the middle, and operated from the lead or control unit by remote control. This accommodation has contributed substantially to the decrease in the number of locomotive engineers from about 50,000 in 1950, to 35,000 in 1976.

New communication systems such as the radio/telephone system is another example where the BLE has accommodated change. By agreement, the locomotive engineer has assumed the responsibility and additional work load of handling this communication system on the locomotive and without additional compensation. This accommodation was made in the 1971 industrywide agreement. We have not opposed the introduction of other communication systems such as the voice train control with its audio-visual principles and equipment, which would become a part of the engineers duties and responsibilities when utilized.

Other examples of accommodation and cooperation with technological change includes automatic train control and locomotive cab signal systems, centralized traffic control signal systems, automated classification (hump) yards, and more recently the so-called train handling evaluator.

Another major accommodation by the engineer resulted from the decision to eliminate firemen helpers in through freight and yard service. This has required the engineer to perform additional tasks such as mechanical and electrical adjustments on the locomotive and to exercise a much wider spectrum of lookout for conditions affecting the safety of the train, safety of other crew members, and the safety of other employees not on the train.

The job and tasks of the locomotive engineer never were routine, monotonous, or unchallenging. The job has always been quite the opposite and has become increasingly so in terms of greater responsibility and the variety and number of tasks to perform. Perhaps a better general description of the locomotive engineer's job is that which appears in exhibit 2 beginning on page viii of the Prologue. This description was taken from a report issued by the Federal Railroad Administration. In summary, the report states that "Fundamentally, the engineer is a sophisticated information processor and controller of a very complex, and often difficult to monitor, man-machine system."

We think that our organization and its members have quite consistently accepted, accommodated, and cooperated in dealing with change and the continuing redesign of the engineers job and tasks. Sometime, somewhere, we hope that this continuing policy of accommodating change will be made easier through a formal and structured engineer training program, which will be commensurate with the total task, the degree of change, and job redesign.

Our policy of accommodation and cooperation has extended into the area of shorter trains with reduced crew size, running through established terminals and under other conditions not generally permittted by agreement. This goes back at least to 1966 when we experimented with the short coal trains (the Bee Line) on the Reading Company. Our policy has included the Jobs Commision on the Illinois Central Railroad, the Task Force on Terminals, and more recently the National Intermodal Demonstration Project. This latter project was recently implemented for the first time on the Milwaukee Railroad with the introduction of the new sprint train piggyback service inaugerated on June 5, 1978 in the Chicago-Twin Cities Corridor. We have also cooperated with Amtrak in making changes to accommodate its operations and to improve its services.

In our considered opinion, our record of accommodation and cooperation with change does not justify the accusations that the BLE is continuing to pursue its resistance to change.

III. COLLECTIVE BARGAINING DOES WORK—IT IS NECESSARY IF WE ARE TO HAVE INDUSTRIAL DEMOCRACY AND IT SHOULD NOT BE REPLACED BY CONGRESSIONAL MANDATE

During the period March 10, 1969 to this very month of July 1978, the BLE has consumated five (5) industry-wide argeements with the railroads under the pro-

cedures of the Railway Labor Act and without going beyond direct negotiations. This means that the negotiations were carried on without the threat of a "negotiating stranglehold on the nation". But the real significance of this accomplishment is the fact that the BLE led the way in making changes in the labor contracts which the railroads were seeking for purposes of greater flexibility in operations. Unfortunately, we question whether these changes or any other such changes in the labor contracts do result in greater flexibility and economics, but are really utilized to compensate for, and offset the shortcomings of management and downright mismanagement, either of which contribute to higher labor costs. Moreover, we question whether the railroads really take advantage of the changes that are made in the agreements such as those designed to extend the length of runs and the changes designed to permit certain combinations of road and yard service. One of the changes made in the recent industry-wide agreement for purposes of giving the carrier greater flexibility of operations is the right to use yard crews to go out on the main line of the railroad some 15 miles to pick up road trains which have been overcome by the Federal law governing the maximum hours of service, which is now 12 hours. Here again, one questions the operational disciplines of a railroad which permits its trains to be overcome by a 12-hour law on more than an isolated basis.

The record of five (5) industry-wide agreements achieved over a period of about 10 years and through peaceful procedures, directly with representatives of the railroads is one that cannot be overlooked when dealing with the fundamental problems of the railroad industry. It cannot be overlooked when considering whether there is a need for a substitute for collective bargaining under the Railway Labor Act such as congressional mandates. This record belies the accusation that the BLE has a "negotiating stranglehold on the nation".

The locomotive engineer and other railroad employees should not be called upon to subsidize or to compensate for the undisciplined operations on the part of the controllers and managers of railroads by being required to work under substandard wages and working conditions. Many cost items labeled as labor costs are not really labor costs. They are costs which are avoidable through a disciplined and efficient management. A recent article in the August 1978 issue of "Trains", in my opinion, typifies these avoidable costs which are attributed to the labor contracts and included in the labor costs. This article is attached hereto as exhibit 3 and is entitled "Featherbedding". It so aptly describes what I have been trying to say in this respect that I would like, with your permission, to read it in its entirety and while doing so, add some of my own comments.

I do not hesitate to advance the hypothesis that on some railroads, changes made in our labor contracts to satisfy the demands of management for greater flexibility of operations have an adverse effect upon the quality of service provided by the railroad. You see, we have no assurance whatever that the benefits derived from changes in the labor contracts are not going to be dissipated by undisciplined operations on the part of the management.

IV. SOME FACTS ABOUT THE DUAL BASIS OF PAY IN ROAD SERVICE

An analysis by the staff of the Joint Economic Committee dated June 22, 1978 has already concluded that "The broad and vital areas of work rules and pay scales for railroad employees has yet to be effectively and equitably addressed". The Analysis also concludes that "The basis of pay for operating employees remains pegged to a system that existed when freight trains traveled 100 miles a day or less. The result is a full days pay for a crew which has worked only four (4) hours, the time now needed to travel 100 miles".

Perhaps my apearance here is in vain, however, I am going to point out that, in my opinion, these conclusions are premature and not justified by the record. Moreover, I want to give you some facts about the so-called outdated system of pay for operating employees. This system is more properly referred to as the dual or mileage system of pay for certain road service employees.

The dual basis or mileage system of pay under which some locomotive engineers in road service are compensated incorporates the principles of time, speed, and distance. The principle of the weight of the locomotive which applies to all locomotive engineers is also a factor in this dual basis of pay.

The dual basis of pay is an incentive and a piece rate system. Under this system, the locomotive engineer is compensated so much for each mile run regardless of the time or speed factors. This is the same principle upon which

the railroads revenue rates are based and these same principles apply, as I understand, to truck drivers and airline pilots. To illustrate how the dual basis of pay works, let's take a run on a through freight train from A to B a distance of 150 miles.

1. If the engineer makes the trip in 6 hours, he will receive pay for 150 miles.
2. If he makes the trip in 8 hours, he will receive pay for 150 miles.
3. If he makes the trip in 10 hours, he will receive pay for 150 miles.
4. If he makes the trip in 12 hours, he will still receive pay for 150 miles.

There would be no overtime involved in any of the above cases, and I might add that this rate of pay in most cases for miles in excess of 100 is lower than for his first 100 miles.

Now let's take a run of 100 miles from A to B which are becoming less and less, if not extinct, as the length runs are extended under our indsutry-wide contracts made in 1971.

1. If he makes the trip in 4 hours, he will be compensated for the 100 miles.
2. If he makes the trip in 8 hours, he will be compensated for the 100 miles.
3. If he makes the trip in 10 hours, he will be compensated for the basic day of 100 miles plus 2 hours overtime at the rate of 1½ times the straight time hourly rate. This is in road freight service and not the case in road passenger service.
4. If the trip is made in 12 hours, he will receive compensation for the basic day of 100 miles and in addition will receive 4 hours overtime at the rate of 1½ times the straight time hourly rate.

This is a very brief description of the so-called dual basis of pay which is so often attacked as a system where the engineer gets 2 days' pay for one day's work.

This system of pay does not apply to the majority of locomotive engineers. In fact, a close figure would be about 25 percent. As I indicated earlier, 42 percent of locomotive engineers are employed in yard and transfer and belt line service. These engineers are compensated solely on an hourly basis of 8 hours a day and in most cases 5 days a week. Another 19 percent of the locomotive engineers are engaged in local and way freight service. With few exceptions, these engineers are also compensated solely on an hourly basis, as in most cases the hours worked generally override the distance and speed factors.

There are about 2,000 engineers engaged in passenger service. With the exception of those operating the Amtrak through (intercity) passenger trains, it is safe to say that a majority of the engineers in commuter passenger service are compensated solely on the hourly basis of pay. For here again, the hours worked or time element overrides the distance and speed factors.

Approximately 75 percent of all locomotive engineers are compensated on a straight hourly basis of pay.

In three (3) of the last five (5) national wage/rules movements which I have previously referred to, the railroads served demands to eliminate the so-called dual basis of pay, and in lieu thereof proposed to establish an hourly basis of pay at the minimum hourly rate of pay. In each of these cases including the one now being completed, the railroads have withdrawn this demand as part of the settlement. In fact, they have failed in all three cases to even present a written proposal at the bargaining table, other than what was contained in their original notice of intent. Based on this record, this question should be put to rest now, once and for all. Frankly, I feel that the railroads want to retain this incentive and piece rate system to pay.

The dual basis of pay is an incentive for the engineer to get the train over the road; a time incentive. This incentive, however, can be destroyed by an undisciplined operation on the part of the management. For example, we have cases and they are not usual, where the full 12 hours on runs of 150 miles are utilized by the management. Management knows it can get 12 hours of work out of the engineer without any additional compensation or overtime. It will have the engineer of through freight trains do local work or pick up and/or set out cars at intermediate points. In other cases, the run will be made in good time, but the train will be held outside the final terminal up to the full 12 hours and generally just short of the point where delay time commences under the final terminal delay rule of the contract. In cases of undisciplined operations on the part of the management, a straight hourly basis of pay could be disastrous.

We believe the record proves that the charge of 2 or 3 days pay for one day's work is strictly a myth and a charge without foundation. The dual basis of pay

is an incentive piece rate system applicable to only about one-fourth of the work force and a system which, in my opinion, railroad management wishes to retain unless or until it can find an acceptable substitute which retains the incentive element.

V. SOME OBSERVATIONS ON "NATIONAL RAILROAD POLICY—WHICH WAY IS UP?"

It has been about 10 years since Congress created the United States Department of Transportation, yet we do not have a National Transportation Policy, a prerequisite to a National Railroad Policy. We even have a National Transportation Policy Study Commission currently looking into the question of a National Policy. We are even trying to determine how much railroad line can be abandoned without a National Transportation Policy. Our National Transportation Policy should be founded on the premise that our primary system of transportation will be the one which can: Move the most goods; more the most people; for most purposes; at most anytime; most economically.

This is the system that must be the foundation of our National Transportation Policy and be given priority treatment in the interest of our nation, its citizens, and its economy. When this National Transportation Policy has been established, a National Railroad Policy will automatically follow. I am not saying that other forms of transportation should be shoved aside, but I am saying that the system which can do the most for the most and do it most economically, must be the very foundation of our National Transportation Policy. I believe it will come to that sooner or later, but it would be preferable if that goal were reached through an orderly and planned procedure.

The highest and best possible use of our railroad network has yet to be realized. In realizing this optimum and in addition to the traditional services rendered by a railroad, the system could serve the nation in other ways, for example:

1. Amtrak and our public education system might implement a plan to put our schools on the rails for a certain period of each school term. This would be supplementing the book teaching with practical application and first-hand observation. The trains would serve as the classroom and the dormitory.

2. A major part of our U.S. mail should be put back on the railroads.

3. Amtrak and the Defense Department should explore the need for an adequate and well-maintained fleet of railroad passenger cars for civil defense purposes and for use in case of national emergencies. An article appearing in the Cleveland Press on April 20, 1978 entitled "Funds urged so half can survive attack" is attached hereto as exhibit 4. I direct your attention to the concern that the Defense Department is reported to have concerning our inferior civil defense program. According to Defense Secretary Harold Brown, studies have shown that a relatively modest program centering on *evacuation* and some fallout protection could increase U.S. survivors from roughly a fifth of the population to at least half, given a week's warning. Just imagine the part that an adequate and well-maintained fleet of railroad passenger cars would play in that kind of a situation (*italic* added).

In the implementation of the above three added services, one could complement the others, i.e., a fleet of well-maintained railroad passenger cars would not be standing idle for use in our civil defense program.

Another observation which I recommend be given consideration in your program "Which Way Is Up?" is the idea of establishing standards of performance for railroads which will determine whether a railroad will or will not be subject to Federal regulations. The standards of performance might include service to the shipper, safety, empoyee training, maintenance of equipment, and maintenance of right-of-way. For example if a railroad's safety record falls below the established standards, then it would be subject to Federal regulation including enforcement with resulting penalties. As I have indicated earlier, we believe standards of training are long overdue and I would urge your Committee to consider ways and means of how we can establish training standards and training centers for locomotive engineers.

In closing, we urge your Committee to give due consideration to the points that we have raised here today and which I will briefly summarize:

1. We believe the record shows that the relatively small work force of locomotive engineers is performing an immense transportation task for the nation and its some 215 million people. With proper planning and training, this work force can meet the challenges ahead with a relatively small increase in number.

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2. The BLE and the members it represents have an enviable record of acceptance, accommodation, and cooperation with changing conditions on the railroads. In addition, the BLE and its members have given valuable assistance and is continuing to do so in having legislation enacted which is favorable to the health of the railroad industry. There is, however, a great need for a formal and structured engineer training program which will be commensurate with the total task of the engineer and with the degree of the continuing redesign of his job.

3. Collective bargaining is a prerequisite to industrial democracy. It is an effective bulwark against dictatorship. Collective bargaining does work under the Railway Labor Act and should not be replaced by Congressional mandates.

4. The locomotive engineer and other railroad employees should not be called upon to subsidize or to compensate for undisciplined operations on the part of the controllers and managers of railroads by being required to work under substandard wages and working conditions. We believe the record proves that the charge of 2 or 3 day's pay for one day's work is strictly a myth and without foundation.

In your further deliberations on the program, "Which Way Is Up?", we recommend that those observations and recommendations set forth above, be given serious consideration by your subcommittee, and lastly, I would hope that my presentation here today will influence you to reconsider the conclusions in the Staff Analysis dated June 22, 1978 concerning "Outdated Work Rules".

Thank you.

Exhibit 1

THE LOCOMOTIVE ENGINEER, PRIME MOVER OF RAILROAD TRANSPORTATION SERVICES FOR AMERICA, 1978

THE LOCOMOTIVE ENGINEER—1978

It is 1978 and you are a locomotive engineer; a railroad engineer or you are in training to become one. Today, what does being a railroad engineer mean? How important is the service you—and your industry—render to the American society? How efficient and productive are you, and what lies ahead for the railroads and for your job in the years to come? Where do you, as a worker and as a citizen, fit in American society today in 1978 and in the years to come? In the discussion which follows, we shall explore these questions which manifestly are important to all railroad engineers today.

YOUR JOB

Locomotive engineers operate the motive power units which pull passenger, freight, belt line, and transfer and work trains, or make up and break up such trains in yards and terminals. Many occupations are needed to keep the railroad systems of the United States functioning; but, since the engineer is the prime mover of the service provided, we believe it is beyond challenge that he is the most important individual in the industry. Whatever all others in the industry do, their efforts would be fruitless if the engineer did not provide the fundamental transportation function required of the industry.

Freight service[1]

In 1976 (the latest full year for which figures have been published), there were 17,104 engineer jobs in freight service, including both through freight and local or way freight. The employees in those jobs operated 4,317,923 trips—an average of 252 trips per engineer. They pulled 28,945,998,000 freight-car-miles; thus, in that year, the average freight engineer moved 1,692,353 freight-car-miles, including loads and empties. In terms of loaded car-miles alone, the total pulled by the industry was 15,825,250,000 or 925,237 per engineer. This is an immense transportation achievement. Given an average load of 50.0 revenue tons per loaded car, these figures mean that each engineer (on the average) pulled 46,261,850 revenue ton-miles in the year 1976. A truck driver carting an average load of 15 tons would have to make more than 1,000 trips from New York to San Francisco to equal this productive service. At 55 miles an hour, working 8 hours a day seven days a week, it would take the truck driver over 18 years to make 1,000 transcontinental trips, and do the job an engineer does in one year.

[1] Class I Line Haul—middle of month count.

Passenger service [1]

The average number of passenger service engineer positions in the year 1976 was 1,971. These engineers ran a total of 536,121 trips, an average of 272 trips per engineer. They pulled 339,307,000 passenger car-miles, or 172,150 per engineer. Total passenger-miles in 1976 were 10,584,536,990 or 5,370,135 per engineer. This also is a tremendous transportation achievement. If the engineer were operating a 50-passenger bus, he would have to operate over 100,000 capacity-filled bus miles in a year to accomplish this service.

Yard and terminal service

The work of yard and terminal engineers is not measurable in terms of tons and people, but it is essential to the functioning of the other services. The industry could not function without the efficient services these classes perform.

THE ROAD AHEAD

The engineer is essential to the railroads and will be here and active as long as there are railroads. The question remains, what does this mean? Many experts today believe the railroads are on their way out—not just dwindling away, but headed for complete extinction.

This dismal outlook is not down the road. Railroads are the best and most efficient agency for a large proportion of the transportation task needed in our nation, and they will remain so in the foreseeable future. During a part of the period since the end of World War II, the Federal government put heavy financial support to the building of highways—and, through billion-dollar handouts, subsidized the highway transport agencies—both truck and bus. The effect of the policy was to stop completely any growth in railroad traffic from the peak war year 1944 until the 1960's. The magnificent interstate highway system was built largely through Federal funds; no comparable source of funds was made available to rebuild or rehabilitate the aging railroad road and track.

Railway traffic figures show the effects of this badly conceived Federal policy. In 1944, at the peak of World War II traffic, Class I line-haul railways carried 737 billion revenue ton-miles of freight. By 1960, with the heavy diversion of freight to other carriers, revenue ton-miles had dropped to 572 billions. They hit an even lower level in 1961—563 billions. Since 1961 however, they have grown consistently year by year—with very few interruptions. In 1966, railway revenue reached 738 billions, which was above the World War II record level. As national production rose in the last decade, railroad freight traffic climbed to new records, reaching an all-time peak in 1973 of 852 billion revenue ton-miles. During the recession of 1975, when national production fell off severely, railroad ton-miles dropped off sharply to 755 billions. In 1976, ton-miles increased to 785 billions.

As the record shows, since 1960, railroad freight traffic has moved forward with national production—although at a slightly slower pace. The average annual gain in real gross national product in the years from 1960 to 1975 was about 3.5 percent per year compounded; the comparable compounded rate for railway revenue ton-miles was 2.1 percent.

The above relationships really oversimplify the total development since railway traffic in the West and South has done much better than it has in the East. The eastern railroads suffered more than the western and southern carriers for a number of reasons. First, distances were shorter, and the interstate highway system provided maximum advantages to truckers; second, merchandise traffic is most important in the East, and is much more dependent on pick-up and delivery services; third, the eastern railways were in much worse condition physically, and found it almost impossible to make the capital expenditures needed to rebuild their track and roadways. The eastern railways as a whole never reached again the traffic peaks they had achieved during World War II. And when we look at national figures, the good results gained in the West and the South are partly obscured by the results in the East where a large number of railroads went bankrupt and were taken over by the Federal government.

Even in the East, however, two systems—Norfolk and Western and Chessie—have thrived. The only real losers were the northeastern carriers which had to be taken over by Conrail.

The total record shows that railroad freight traffic will continue to grow as national production grows. There is no development apparent at this time which

can alter this confident outlook. A 50 to 60 percent growth in national production between now and the mid-1980's should yield railroad frieight traffic of something in excess of one trillion revenue ton miles.

Passenger traffic will not grow in the same way, although with improved service being planned in some sections (particularly in the Washington-New York-Boston corridor) substantial increases are possible. A prime example of what can be done is exemplified in the Washington to New York service. Today, one can leave Washington and be in mid-town New York in a little over three hours. Improvements now being made in the track and roadway are expected to cut this time to 2½ hours. Given the slowness and inconvenience of surface taxi rides in New York City, the airlines will find it hard to compete with such service when it is installed.

There will be other areas where the eastern-corridor conditions can be duplicated, and we should expect rail passenger service to continue its gradual comeback. This could be accelerated if our national energy situation worsens.

Thus, the road ahead for the railroads looks good. We do not expect the number of trains operated to decline. There should be more special service trains—particularly in piggyback and large container categories. And the trend toward longer trains which we have been experiencing for over fifty years has just about reached its limit. So it is probable that we will have more, not fewer, trains in the future and that will mean more engineer jobs.

THE ENGINEER AS A CITIZEN

Railroad engineers, as a group are a solid progressive element in American society. Most of them own their homes, educate their children and participate fully in the social, cultural and political affairs in their cities and towns.

In terms of income level, railroad engineers appropriately fall within the so-called upper middle income group. Road engineers earn $25,000 to $28,000 a year on the average. Yard engineers earn about $21,000.[2]

The United States Department of Labor has priced standard-of-living budgets for three income levels—a low level, an intermediate level and a higher level. Railroad engineers generally earn enough to support the higher budget level which, on the average, cost about $26,000 in the early months of 1978. Typically, those in the higher budget level category own their homes and spend about one-fourth of their incomes for housing; they spend only about one-fifth for food. The remaining 45 percent of income is spread out to buy clothing, automobiles, medical care and other insurance, recreational, educational and other family needs. Personal taxes typically take about 15 percent of total income.

Thus, the typical railroad engineer is an important and dependable consumer in his community. Nationally, the approximately 35,000 full-time engineers spend over $900,000,000 as consumers—including the cost of their housing, food, clothing, recreation, taxes, and other items. Of this amount, about $225,000,000 goes for housing, $180,000,000 for food, and $135,000,000 for taxes.[3] Again, in national terms, engineers must be considered statistically as significantly consumers. If we could relate these total figures to the consumption totals of the communities these engineers live in, the results would be impressive. Statistically that is not possible, but individual engineers, as community citizens, fully realize their own importance as producers of indispensable transportation and as participants in all phases of civic, social and economic affairs. Given the known future of the industry, the engineer will continue for many years to be a vital part of community life.

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[2] The above income level estimates are based on figures reported for the full calendar year 1976, updated to reflect wage increases provided by the current agreement.

[3] The 35,000 engineers include 33,000 employees reported in the average middle of the month job count for Class I Line Haul Railways in 1976 plus an estimated 2,000 working for short lines and switching and terminal companies.

Exhibit 2

LOCOMOTIVE ENGINEER TRAINING PROGRAM REQUIREMENTS, AND COST-BENEFIT ANALYSIS

SUBMITTED TO
THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS
1365 Ontario Street
Cleveland, Ohio 44114

BY
STERLING SYSTEMS INCORPORATED
4340 Connecticut Avenue
Washington, C.C. 2008

April 14, 1978

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PROLOGUE

This report is a direct consequence of the initiatives being advanced by the Brotherhood of Locomotive Engineers. These initiatives, and the concerns upon which they are based were described in a recent address. The address is quoted below in its entirety. *

> Mr. Chairman, Members of the Conference Committee, Distinguished Guests, Fellow Conferees - - -
>
> The Brotherhood of Locomotive Engineers has never before addressed this conference. We are truly grateful for the privilege of addressing it today, and I am honored by this opportunity to deliver these remarks on behalf of my Brotherhood and its members throughout the United States and Canada.
>
> We are urgently concerned about tomorrow's training needs. Yesterday's system for training locomotive engineers does not meet the demands of today. The present condition of locomotive engineer training does not contain either the capacity or the proficiency to meet the changing and mounting demands which will be there to greet us at the first light of tomorrow.
>
> However, we are determined to overcome the awesome discrepancy between what will be needed and what is presently available. The Brotherhood has been preparing to close

* Sytsma, John F. Training for Tomorrow. An address delivered to The National Transportation Apprenticeship and Training Conference. Louisville, Kentucky, September 29, 1977, on behalf of the Brotherhood of Locomotive Engineers.

the gap by taking several steps. First, we have prepared new standards for apprenticeship training. Second, we are using ou resources to analyze the kind of training system needed to implement the standards. Third, we are seeking a significant enlargement of management's participation in the development of a safer and more productive railroad system through apprentice and journeymen engineer training. There is no question that the skilled locomotive engineer is a key to safety and productivity. Tomorrow's training system must be proficient and have the capacity to train large numbers of locomotive engineers and, thus, close the gap.

The training problem must be placed in perspective. Therefore, I shall briefly describe the job of the locomotive engineer and refer briefly to some history of locomotive engineer apprentice training; next, the Brotherhood's position on apprenticeship and training; third, review problems which demand the development of a new training system; and then outline the Brotherhood's solution of these problems and training needs.

An FRA report offers a good description of the locomotive engineer's job and the knowledge and performance capabilities which he must have. I shall quote selected passages from the report.

> " The railroad engineer is the individual in immediate, direct control of the motion of a train. He is responsible for obeying all directions and signals, and controlling train movements (stopping, starting, backing, etc.)

and speed between stops; beyond this, he must always exercise discretion, care and vigilance in moving the train so as to prevent injury or damage.

In carrying out his duties, several basic functional capacities clearly must be within the repertoire of the engineer. He must have perceptual/motor coordination. This is the ability to perceive information which affects the safe control of the train and to integrate this information into the smooth, effective and safe control of the train via the brake and power systems.

The engineer must have anticipation or the ability to take control action (throttle, brake) sufficiently in advance of such territorial features as curves, grades, grade crests, etc. so as to safely control the train at all times. He should possess a sound capability for clear and concise oral communication, via the train radio, with the dispatcher and the train crew.

The Engineer must have a thorough operational knowledge of how to operate the locomotive(s) within the context of the operating territory to which he is assigned. He must account for

> the impact of terrain features on track-train dynamics. The engineer must be thoroughly versed in the content and application of operating rules which, in fact, are safe operating procedures in written form. He must also be able to account for the effects of changes in train make-up on train handling. The engineer must have a sound and practical understanding of the type and magnitude of physical forces which can develop within his train and the degree to which he can control them under various circumstances.
>
> Fundamentally, the engineer is a sophisticated information processor and controller of a very complex, and often difficult to monitor, man-machine system."

There is much more to tell you about this interesting and demanding craft, but I want to move along and tell you about the locomotive engineer's apprenticeship.

The history of locomotive engineer apprenticeship training clearly shows that the journeyman has also been the master or instructor. For one hundred years, locomotive engineers have trained others in their craft. They have served as on the job instructors usually with little recognition and, until recently, without compensation. While some carriers have recently initiated more formal and structured training

programs, it is still fair to say that the responsibility of on the job training is ours. We have maintained this responsibility through the eras of the wood, coal, and oil burners. We have been training apprentices in the present era - the era of the electric and diesel-electric locomotive. The journeyman locomotive engineer has been and should continue to be the heart of railroad training programs for the craft of locomotive engineer.

Traditionally the locomotive fireman (helper) has been the source of future engineers. This source is declining as a result of an arbitration board granting industry's demands to remove fireman from freight and yard service. As a result, the railroads have found it necessary to turn elsewhere in hopes of finding acceptable apprentices among people with little or no engine service experience. In some cases, they have established programs to accelerate the training of these apprentices as future locomotive engineers. We join the industry in recognizing the urgency of the problem. But we also know that it takes a great deal more than just an accelerated training program to train a locomotive engineer. It also takes time and considerable amount of on the job training to develop a locomotive engineer who is both skilled in the job and has the confidence necessary to perform safely and efficiently. Apprenticeship training is more urgently needed than ever before, but the training, itself, can't be done hastily.

Our position and policies on apprenticeship and other levels of locomotive engineer training is documented. Specifically,

in 1971 we went on record with the Federal Railroad Administration stating that standards for job training and the administration of training are the joint responsibility of labor and management. At present, the railroad industry exercises nearly total control of the type, content and length of locomotive engineer training. It is evident that the industry would prefer to continue their unilateral control of locomotive engineer training and avoid constructive constraints that could result from agreements or legislation.

The Brotherhood of Locomotive Engineer's position and concerns are a direct result of the condition of the industry's programs. If their unilateral control had resulted in superior standards and programs, we would be silent on this issue. Unfortunately, the current status and prospects for training fall alarmingly short of the requirements for today and tomorrow. The Brotherhood does not stand alone on this position. The quality of training provided by the carriers under their unilateral program is under question by the National Transportation Safety Board and is a subject of concern by the Federal Railroad Administration.

The questionable value of current industry programs, the lack of any promising signs of improvement, and the increased scrutiny and concern of the Federal Government are danger signals. Clearly, these are the conditions that foster the direct intervention of Federal agencies in matters which

should not become their responsibility. We do not believe Federal regulations are the solution. However, safety and productivity problems grow each day; there are few signs of reversals in these trends. The Federal Government will have no choice except to intervene unless the industry openly recognizes the problems, relinquishes its unilateral control, and participates as a partner in building tomorrow's force of skilled locomotive engineers.

The Brotherhood of Locomotive Engineers has asked the industry to enter this partnership repeatedly - we ask them again today and we ask it in our mutual interest.

The case for improvements in the proficiency and capacity of locomotive engineer training programs arise from many factors. Let me provide you with the evidence.

Senator Hartke reported to the Congress in 1969 that in all areas of railroad safety the "Voluntary efforts on the part of railroads have failed to meet the need." And he urged the imposition of Federal regulations. The Federal Railroad Administration has moved in this direction by undertaking several research projects, the most recent of which is entitled: "Research to Produce Optimum Railroad Employee Training Program." This project is being performed by an independent private organization with funds provided by the Federal Railroad Administration. The consultant strongly documents the lack of coherent and proficient industry training efforts. This is alarming since they also report

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that nearly twice as many trainees are required to meet the industry's needs over the next decade than are presently being trained. Further, the requirement for current locomotive engineers will, by itself, create a need for 20,000 new locomotive engineers during the next decade. This loss must be made up during a period when the availability of suitable apprentices (the fireman-helper) is decreasing.

But retirement and the loss of our traditional apprentice population are only two of the factors that we must confront. Many changes have and will continue to occur in all areas of railroad technology. As a consequence, our current locomotive engineers will need to be retrained in train handling, equipment operation, and the rules which govern the movement of trains. For example, the Federal Railroad Administration has been sponsoring research to determine how to improve the safety, efficiency, and operability of railroad locomotives. Several preliminary reports have been circulated. There is no doubt that these reports will stimulate changes in locomotive design. The locomotive engineer may quickly adjust to some changes, but others may force us to retrain and upgrade the skills of the locomotive engineer.

Changes in signalling systems pose similar training problems. After years of habitually responding to a particular signal system, our brothers will be faced with new signals. Some signals will be displayed in the locomotive cab while others will replace present signals placed along the track. Developing

new habits of attention and correct responses will require some formalized retraining.

The movement toward electrification of the railroads is another factor which will impact on retraining requirements. New locomotive control systems and locomotive responses characteristics will create a need for extensive retraining in control operation and train handling.

Our trains contain increasingly greater amounts of hazardous materials. Not only does this stress the requirements for the upgrading of track and equipment, it also increases the requirements for the safe operation of the train by the locomotive engineer. The margin for human error is reduced by these factors. The only off-setting remedy is more intensive training dedicated to building safe operating habits in marginal or critical situations.

These changes in our technology are only one set of forces that we must counter. Our material needs for energy and energy conservation will increase the demand for coal. It is evident that trains are the only economical way to haul large quantities of this fuel. Yet, this will require more rail equipment and locomotive engineers.

Every railroad accident takes its toll of our resources. Human life is our most valuable resource. The loss of life through accidents is always a tragedy. Damage to equipment, lading and other private property represents a significant additional loss of resources. Conservation is more important than ever before.

Training programs can reduce these losses through the development of better trained engineers who are motivated, competent, and highly skilled.

Lastly, I must ask you to consider all of these factors in the light of a recent report by Frost and Sullivan. They predicted an increase in the proportion of freight hauled by railroads to increase from the present value of 38% to 52% by 1995, and in locomotives from 27,600 to 54,000.

The overall impact of all these factors on tomorrow's needs for skilled locomotive engineers dwarfs the estimates of future requirements given in the consultant's report to the Federal Railroad Administration. Moreover, when these needs are contrasted with the industry's training capabilities you will find an enormous and detrimental discrepancy.

The Brotherhood of Locomotive Engineers recognizes these problems and we are moving forward. We have taken the following steps that I described to you earlier:

One - Established new minimum National Standards for Apprenticeship and Training which have been certified by the Department of Labor.

Two - Established an investigation of the requirements for implementation of the Standards and Training for apprentices and journeymen.

Three - Renewed our offer of partnership with the industry.

We have asked the industry, under the provisions of the Railway Labor Act to:

One - Establish a trust arrangement to set up one or more training centers for the administration of a training program for apprentice and journeymen locomotive engineers.

Two - Asked management to adopt the minimum standards for apprenticeship and training which have been certified by the Department of Labor.

Three - Establish a National Apprenticeship and Training Committee jointly with the Brotherhood. In addition, we seek the establishment of local committees.

system which is demanded by tomorrow's needs. Recruiting, selecting, training, evaluating, and training systems management are all parts of an effective and efficient training system. All of these elements must be developed and maintained; all modern techniques and types of training equipment must be candidates for inclusion in the system. The training demand is great and the costs of failure or further delay are so high that we can not consider less.

And, therefore, we turn again to the railroad industry and pledge to work earnestly as partners in meeting the problems which we face together.

We choose to follow the proven tradition of being responsible for ourselves. We hope the industry will make the same choice and decide to enter this partnership.

Thank you.

Section 1 - INTRODUCTION

This report is a direct consequence of the concerns and initiatives of the Brotherhood of Locomotive Engineers. The need to improve the capacity and quality of locomotive engineer training has become an issue of extreme significance. Reports and addresses from government, labor and industry representatives continue to highlight the importance of training and its relationship to various facets of productivity and safety. However, the scope of the problem had not been estimated until the current analysis was performed.

The Brotherhood has been acutely aware of these problems, but it was determined that a formal study should be performed to document them. The final objective of the study was to contrast estimates of the expected benefits that could result from an appropriate training system with the costs of developing, operating and maintaining it.

The study was launched in 1977. The study plan required the performance of several tasks. First, the needs for larger capacity, higher quality locomotive engineer training were identified. Formal studies of safety and manpower problems were reviewed; statements from industry and labor leaders were studied; Federal Railroad Administration and National Transportation Safety Board reports were evaluated; data reported by the Association of American Railroads and other sources were collected and contributed to the analysis of needs.

The second task was the determination of the type of training program required to meet the training needs. Needs related to increased capacity, safety, productivity and their interrelationships were considered. In addition, the expected characteristics of future apprentice locomotive

engineers were considered in contrast to the characteristics of firemen (helpers) who have been entering the craft. The curriculum for training apprentices which the Brotherhood developed and the Department of Labor approved is clearly consistent with the training needs identified earlier. Implementation of this curriculum at the needed training capacity requires the installation of a high capacity system. The system should be totally defined and include a management system to ensure efficiency and to measure and control the quality of training, use appropriate training media and devices such as simulators, include supervised instruction and practice with actual equipment, and permit trainees to independently study through the provision of carrels and audio-visual materials.

Additional features of the system should include a set of procedures and guidelines for selecting apprentices who have a reasonable chance to profit from the training and become proficient journeymen. This system must be consistent with the best practices used in developing and applying selection tools, and it must be consistent with Title VII requirements.

The third task was a survey and determination of the current status of training in the railroad industry. The purpose of this task was to compare the existing system with the system required to meet capacity and quality needs. The Brotherhood's survey addressed two information areas; the first was expected retirements of current locomotive engineers and the decline in numbers of firemen (helpers); the second was the characteristics of existing locomotive engineer training programs. The retirement data were consistent with those published by the Railroad Retirement Board. The attrition rate of current firemen (helpers) was particularly significant. It showed that the pool of apprentices with adequate engine service experience is rapidly declining. As a result fewer people will enter apprenticeship with suitable

engine service backgrounds. While this deficit may be diminished if train service employees transfer, the gap would still be extremely large. Apprentices will be drawn largely from populations without railroad, train or engine service experience. The descriptions of current training programs show that modern training systems are operated by only a few railroads. The majority of the nation's future locomotive engineers are serving their apprenticeships by studying rules and learning gradually and informally while on-the-job. Therefore, the industry can't provide large numbers of well trained engineers with its existing methods and facilities.

The fourth task was the computation of budgetary estimates for the development, operation and maintenance of a modern training system with the capability to provide training for a minimum of 2,000 apprentice locomotive engineers annually. The total budgetary cost estimates were developed to include: a headquarters and regional centers; curriculum; media; hardware; software; instructor development costs; and the costs of personnel and maintenance.

Potential benefits were determined in the fifth task. Tangible and intangible potential benefits were estimated from current measures of productivity, accident costs, and locomotive engineer work force. The benefits were estimated at several levels to include "pessimistic" and "optimistic" projections. In addition, intangible benefits were considered in spite of the difficulties of assigning dollar values to them.

In the final task of the analysis, the costs of the training system were compared to the ranges of potential benefits. The comparison showed that the costs would be recovered over a short time period with the achievement of only the smallest levels of benefits estimated earlier. Based on this result, it

was concluded that productivity and safety goals mandate the development of a modern, high capacity locomotive engineer training system.

Section 2 - BACKGROUND

Training has not always been considered as a vital element in most industrial concerns. Generally, it has been subsumed under the broader personnel function which is itself more often tolerated than enthusiastically supported. When this nation was agrarian, there was relatively little need for sophisticated training programs. The narrow scope and depth of technological development created manpower demands that could be satisfied with modest, on-the-job apprenticeship training programs. As the United States shifted from an agricultural to an industrial economy, industry's manpower requirements rose rapidly. Formal training programs in industry and business were initiated in the 1900s because the public and private schools did not and could not prepare their graduates for immediate employment. Educators, faced with the responsibility of preparing students for life in an increasingly difficult, diversified, and complex world, could not also teach students the special skills required by industry. Additional training was needed beyond that furnished by formal education.

The influence of the long academic tradition of European education was felt in these early training efforts. Training grew out of education and, for many years, content was classroom oriented. Work skills were not "trained" but "learned" at work. Gradually, shop training evolved with the establishment of shop-schools and vestibule schools.

The major impetus behind the development of modern selection, training, and evaluation techniques can be largely attributed to the critical training demands created by World War II. The armed forces were faced with the task of training large numbers of personnel for many tasks which did not have

counterparts in civilian life. These programs were generally successful and major industries were quick to apply the techniques which had been developed and tested by the military.

The current situation with regard to locomotive engineers is no less critical. Industry leaders of all orientations have recognized and commented on the urgent and critical need for improved and expanded locomotive engineer training. R. D. Hedberg, Executive Vice President for Administration of the Southern Railway System, reviewed past and current training methods, and future trends in an article entitled, "Training Program Research Needs."(20) Commenting on traditional apprentice training programs in general, he stated:

> "And while I respect what the job apprenticeship programs did in yester-year, I hold that this is an archiac way to introduce young men and women today to any business or industry. At best, apprenticeship programs are a chance learning situation. If a young person does get to work with a skilled journeyman who is interested in the young person and wants to see him learn and has the capacity to impart his knowledge and skill, that young person is fortunate. But at worst it's learning through osmosis. I think we can compare it with our own experiences and bosses we have worked for in our careers. I would think most of us could point to bosses under whom we learned a great deal and also to bosses under whom we learned little or nothing. Then again consider the length of time an apprentice must serve--four years. It's going to turn many young people off. Most young people want responsibility and challenge in a work situation. They want to contribute and they want to learn fast."

Turning his attention to locomotive engineer training in particular, he went on to state:

> "Let's look at locomotive engineer training. While we don't, as an industry, call this apprentice training, there are still too many railroads who "train" locomotive engineers by having them ride with experienced engineers or Road Foremen. How effective is this training? What standards are employed for engineer qualification? What kind of performance record do these engineers have after qualification? The stakes are too high to continue the risks of loose training such as this."

Mr. Hedberg has not been the only prominent figure to emphasize the benefits of improved locomotive engineer training. F.P. Weldon, (21) serving as the Director of Training for an FRA Training Project, in a speech dated June 24, 1976, commented on the development of a modern training program:

> "Since the early days of cubbing, when men worked without pay in order to learn enough to be hired, through the long period of apprenticeship, which was essentially on-the-job learning by observing, we have matured into a system that we consider wiser, more efficient and more effective. At the same time our training system is flexible, always changing and growing, looking for better ways, so we have the advantages of youth, too."(underlining added)

Statements from these leaders clearly establish the fact that an improved, modern, and comprehensive locomotive engineer training program is recognized as a serious need.

Over the past half century, many planned, organized training programs have demonstrated their critical value in civilian and military environments when large numbers of skilled personnel were needed in a short time. The Federal Aviation Administration, as a result of public outcry after the 1956 Grand Canyon mid-air collision between two civilian airliners, was forced to develop, or borrow, the appropriate technologies to train large numbers of highly skilled air traffic controllers. The current U.S. armed forces must maintain highly sophisticated "black-box" weapons systems with a largely volunteer, educationally-limited manpower pool. Their modern training programs, employing state-of-the-art selection, training, simulation and evaluation technologies, have demonstrated that the proper application of a modern training system can meet the training needs so often faced by industry.

Present trends indicate that the railroad industry will, in the near future, be faced with a serious shortage of locomotive engineers. Data from a variety of sources all suggest that traditional training approaches will become increasingly inadequate to meet this rapidly growing manpower problem. Alternative training approaches will be required to meet even the minimally projected number of locomotive engineers which the railroad industry will need.

This projection of a shortage of locomotive engineers is based on the results of a number of separate analyses. We have examined the projected impact of several factors on the future supply of locomotive engineers. Separately, each of these demonstrates that the number of locomotive engineers will be insufficient to meet future needs. A simultaneous analysis of the impact of all influences makes it clear that a locomotive engineer manpower shortage awaits us in the coming years if positive, ambitious corrective actions are not immediately initiated.

Many variables will impact on the number of locomotive engineers that will be needed in the coming years. Projected increases in rail traffic will necessitate more locomotive engineers. As oil supplies continue to dwindle, the railroads will be called upon to transport more coal. Possible increases in commuter rail facilities may create additional demands. The effect of accelerating numbers of upcoming retirements of current locomotive engineers is sufficient, in and of itself, to create serious staffing shortages. Coupled with the declining numbers of the traditional locomotive engineer apprentice position (fireman), the impact of the problem is even more critical. The joint requirements of improved safety and productivity needs also dictate the need for more, and better trained, locomotive engineers. Increases in

rail traffic will mandate more efficient allocation and utilization of resources. Damage and delays due to inefficiency and accidents will create intolerable losses. Additionally, continually increasing transport of toxic and/or flammable materials through crowded population centers demands more detailed and comprehensive training efforts to ensure that trains are skillfully handled and safety regulations are rigidly obeyed. Rapidly developing technology will present future and current engineers with advanced systems whose operation may require longer training and/or periods of retraining. The impact of each of these influences on the future supply of locomotive engineers are discussed separately in the following section.

Section 3 - TRAINING NEEDS

Training needs arise from a number of concerns which include: safety and productivity, hazardous materials shipments, projected increased demand for rail services, and the replacement of retiring engineers from a diminishing manpower pool of experienced firemen. The impact of each of these areas as they pertain to overall railroad operations is significant.

3.1 SAFETY AND PRODUCTIVITY

Issues of safety and productivity are inexorably intertwined. Accident related losses of highly trained, valuable personnel and expensive, hard-to-replace equipment can impact significantly on the ability of any industry to meet its goals efficiently and economically. Losses of personnel and equipment have "a major eroding influence on capacity production and maximum profits," according to Anchard F. Zeller, Director of Aerospace Safety, United States Air Force. (13).

The effectiveness of large scale accident management and safety programs in the military provides indications of both the savings in costs and the increases in productivity that training programs may deliver. Accidents caused by employee negligence are either the result of an employee making an inappropriate response and/or his failing to make the proper response. In that the goal of any training program is to teach an employee proper and correct job actions, there can be no doubt that improved training programs would greatly reduce the level of human suffering generated by railroad accidents.

The National Transportation Safety Board (NTSB), analyzing Federal Railway Administration (FRA) accident data for the period 1961-1970 (4), found that there had been 60,097 accidents, 357 fatalaties and 8,507 injuries reported by U.S. Railroads. Employee negligence was responsible for 29.8 percent of all accidents. In these 17,911 accidents, there were 181 fatalities and 4,334 injuries. Thus, while accidents attributable to employee negligence accounted for only 29.8 percent of total accidents, these accidents were responsible for 50.7 percent and 50.9 percent, of, respectively, all fatalities and injuries. The personal suffering and grief caused by these deaths and injuries can hardly be described, much less measured.

The potential for reduction of accidents attributable to employee error is made all the more obvious by NTSB's analysis of the major contributing causes of these accidents. The NTSB special report (4) gave the following as the ten most severe causes of accidents attributable to employee negligence in decreasing order of severity:

1. Disregard of a stop signal or board
2. Excessive speed outside yard limits
3. Disregard of restricting signal
4. Improperly set switch
5. Absence of a man at or on leading car which is being pushed
6. Excessive speed or failure to control in yard limits
7. Failure to secure by handbrake including failure to set handbrakes on sufficient number of cars
8. Failure of engineman to keep proper lookout
9. Failure to flag
10. Other improper handling by dispatcher (Train orders)

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All of these causes are related to employee failure to respond correctly to signals and operating rules. The NTSB notes that, contrary to general opinion, most accidents are not attributable to deferred maintenance of equipment and track. While accidents related to equipment and track failures have increased, accidents attributable to employee negligence have risen concomitantly. An additional NTSB special report (3) addressing this very issue, made the recommendation that:

> "The Federal Railroad Administration, under the authority of the Railroad Safety Act of 1970, establish a program to review current training procedures for employees on the railroad, and on the basis of the results and in cooperation with the railroads and the Association of American Railroads, expand and develop a comprehensive training program applicable to the various crafts, trades and personnel employed in the several operational modes. The training program should be subject to periodic review by the Federal Railroad Administration and should assure, by examination, that those who complete the training are qualified to perform their duties with safety."

This recommendation and the conditions that led to its publication demonstrate the critical training problems being faced by the railroad industry today. The present numbers and quality of current training programs in operation at this time is inadequate to meet minimum safety related training needs. A partial vacuum exists and the NTSB, recognizing the inherent and increasing potential for disaster, has recommended that the Federal government set standards, develop training programs and administer proficiency examinations. The NTSB has acted in the absence of industry action. The railroad industry possesses the ability, expertise and experience to design and conduct highly professional, modern training programs. It would be unfortunate if the Federal government would be forced, in the interest of the public welfare, to regulate and control locomotive engineer training.

A conceptual design report (5) for the locomotive research and train handling evaluator sponsored by the FRA contained a further analysis of railroad accidents, specifically those related to the locomotive engineer's tasks. The data analysis emphasized the urgent need for improved training for emergencies and adverse conditions. The analysis showed that 34 percent of accidents attributable to engineer's actions were caused by improper or inadequate observation of the track. The next largest contributing causes of accidents were improper slack control, failures to properly communicate with other personnel, and improper responses to signals, involving, respectively, 16 percent, 13 percent and 13 percent of all accidents. The clear relationship that exists between these contributing causes and inadequate training is obvious. More extensive and intensive training of rules and operating procedures would most certainly have a significant positive effect. To quote R.D. Hedburg, Executive Vice President of Southern Railway Systems:

> "At Southern we were uncomfortable with how we were training engineers five years ago for the same reasons I've just mentioned. So we did something about it. We introduced a four-week formal training program at our technical training center where the trainee got classroom exposure, simulator exposure and live locomotive experience...
>
> "We worked with Transportation in setting objective performance standards the person had to measure up to out on the division before he can be qualified.
>
> "..all in Operations are convinced this is the way to go. Proportionately we seem to find fewer rule violators and accidents on the part of engineers who've been through our school than is true for those engineers who did not have the benefit of this formalized training. I submit, the training research needs for locomotive engineers in this industry deserves high priority in any federal monies slated for railroad research."

The Research and Test Department of the Association of American Railroads' analysis of accidents between 1966 and 1974 agrees substantially with the (11) NTSB report cited earlier. The proportion of accidents attributable to human error, after adjustments for increases in gross tonnage and inflation (which affects reporting procedures) increased 10 percent between 1966 and 1974.

While the cost of the accidents in terms of human suffering is immense, it is not the only price that must be payed for the lack of adequate training. The actual dollar amount costs are staggering.

The NTSB, using FRA statistics, estimated (4) that in 1969 the damages to equipment, track, and roadbed from negligence related accidents on Class I railroads amounted to 19 million dollars. An FRA research report (14) hypothesized that the ratio of direct damage costs to estimated total damage cost for 1967 was 3.3. Applying this factor to the 1969 direct damage cost yields a figure of 62.7 million dollars in estimated total costs. For the ten year period, these estimated total costs amount to 494 million dollars. And these figures do not include the costs of processing and satisfying damage claims for injuries and wrongful deaths.

Efforts to run a profitable operation cannot ignore the effects that such losses must surely have on profits. The damage or destruction of locomotives, cars, and lading is not only expensive, but it also creates expensive supply and routing difficulties.

3.2 INCREASED DEMAND FOR RAIL SERVICES

The railroad industry will have increased traffic and freight demands placed upon it in the coming years. For example, the inevitable switch to coal as our main energy source will be one factor which will increase the demand. The railroads poses the only presently available system capable of efficiently distributing large tonnages to many points.

The AAR reported that, for the years 1973 - 1974, railroad traffic amounted to, respectively, 852 and 851 billion ton-miles (6). The transportation Research Board of the National Academy of Sciences estimates that rail traffic in 1990 will range from 1.1 to 1.5 trillion ton-miles (6). Given that the number of locomotive engineers required to meet that need will be linearly related to the number of presently active locomotive engineers, the supply of engineers will have to be increased by at least 20 percent. If the upper estimate of forecasted demands is accurate, the number of locomotive engineers would have to be increased over present levels about 43 percent.

These demands, when coupled with the rapidly increasing retirements of active locomotive engineers is creating a serious future personnel shortfall.

3.3 HAZARDOUS MATERIALS

The unique potential for disaster which the shipment of hazardous materials presents warrants attention. Kay Bailey, Vice Chairman of the NTSB, in an address to the Annual Safety Section meeting of the AAR, on June 22, 1977, addressed the relationship between hazardous materials shipments and training needs.[19] She noted that the two most significant hard-core safety issues are "First, liquified petroleum gas tank cars and carriage of other hazardous materials; second, problems of employee training and retraining..." She

stated that there are now over 20,000 liquified natural gas (LNG) cars in use and that accidents involving them accounted for 76 percent of rail hazardous material fatalities in the past five years. The increasing potential for disaster is reflected in the acceleration of the fatality rate due to hazardous materials accidents. In the period 1946-1973, 47 fatalities related to LNG were recorded. In the next three years, 1974-1976, there had already been 27 fatalities.

On one weekend in February, 1978, the dangers attendent to the transportation of hazardous materials were dramatically brought to national attention by two separate tragedies. In Waverly, Tennessee, a tank-car explosion killed 15 persons. On the same weekend, a cloud of chlorine gas escaped from a derailed tank-car near Youngstown, Florida. Eight persons were killed and 70 persons were injured. Following the accidents, Senator Lawton Chiles (D-Fla), before the Senate Governmental Affairs Subcommittee, angrily charged that the railroad industry is in "wholesale violation" of safety laws (17). For only the second time in its 11 year history, the NTSB has scheduled extraordinary public hearings (April 4, 1978). The subject will be hazardous materials.

A NTSB report (10) of a hazardous materials accident in the Norfolk and Western railroad yard at Decatur, Illinois provides a frightening illustration of the potential for disaster that is always present with hazardous materials shipments. On July 19, 1974 in Decatur, Illinois, one 33,000 gallon, DOT specification 113A340W stubsill tank car carrying isobutane was punctured by the coupler of a standing boxcar during switching operations. Liquid isobutane spilled unnoticed from a 22 x 26 inch puncture at the rate of about 5000 gallons per minute. The liquid vaporized and a cloud formed which drifted across the railroad yard. Eight to ten minutes after the tank car was holed,

the cloud exploded. The explosion was heard 40 miles away. While most structural damage was limited to a radius of one mile, windows over three miles away were demolished. Over 700 private residences were damaged by concussions, 67 of which were rendered uninhabitable. Ten schools were damaged, one having an entire wing demolished. Thirty-one commercial establishments reported damages. Within the rail yard, the destruction was complete; 283 freight cars were demolished and another 312 damaged. A N&W domitory building was destroyed. Forty N&W employees were injured, seven of whom died from burns. An additional 316 non-railroad affiliated persons sustained injuries. All of this destruction resulted from the explosion of one tank car. Total damages were estimated by the NTSB to exceed 18 million dollars. The punctured car was one of a five car cut. The other four cars each contained 30,000 gallons of isobutane. None were damaged. Seven other cars of hazardous materials in the yard also went undamaged. If a slight wind had not moved the main part of the isobutane cloud a distance from the other four cars, the destruction would undoubtedly have been much greater. The increased shipment of hazardous materials through heavily populated and built up areas presents an incredible risk of unimaginable destruction. The above described accidents, if they had occurred in more heavily populated areas, would have had even more terrible consequences.

While these particular incidents were not attributed to a locomotive engineer error, the castrophic consequences which can be precipitated by a seemingly minor error are more than amply demonstrated. For example, the slight misjudgement of switching speed in a railroad yard resulted in over 18 million dollars worth of damage, seven deaths, and hundreds of injuries.

Trains moving at high speeds routinely include dozens of cars containing hazardous materials. Frequently these trains must travel over inferior track and/or through heavily populated areas. The locomotive engineer's skill and judgement stands between a normal trip and disaster. In the event of poor weather or unusual circumstances, the locomotive engineer must be sufficiently skilled and knowledgable to deal with extraordinary developments since the consequences can be awesome. Modern training is the only way to ensure that locomotive engineers will possess these competencies.

3.4 RETIREMENTS AND APPRENTICES

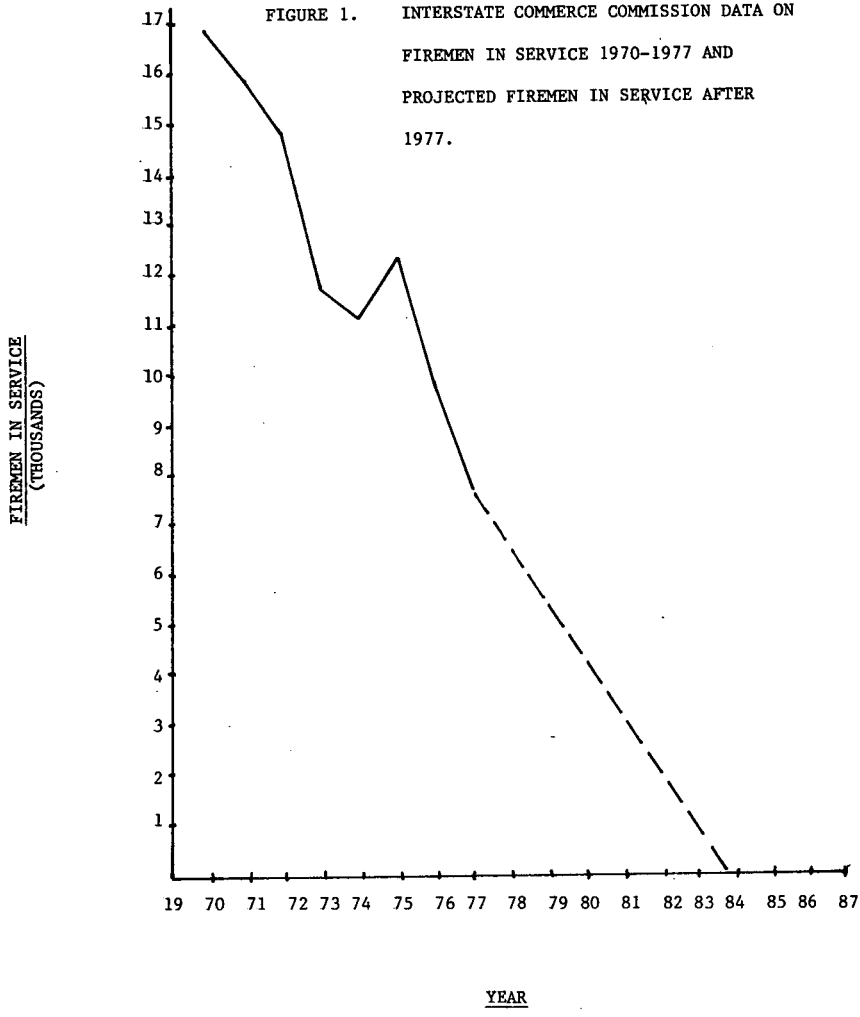
The Interstate Commerce Commission (ICC) and the Railroad Retirement Board's (RRB) reports provide data which describes current manpower levels and retirement trends for both locomotive engineers and firemen (helpers). These data permit projections to be made regarding the number of locomotive engineers who will have to be trained to meet future manpower needs.

The ICC reports that, for the years 1970-1977, the annual mean number of locomotive engineers in service on Class I Line-Haul railroads was 34,554. Since declining business in 1975 reduced the number of locomotive engineers to 32,529 from a previous high of 36,795 in 1974, these figures represent the extremes for the 1970-1977 periods. The numbers of locomotive engineers in service was remarkably stable over the whole period, with 34,951 locomotive engineers reported in service in 1970 and 34,501 reported in service in 1977. During this period, the annual mean rate of retirement for locomotive engineers was reported as 1,698, or a mean annual retirement rate of 4.91 percent of the current work force.

The manpower supply of firemen has, of course, been significantly effected as a result of arbitration. From a reported high of 16,854 in 1970, the number of firemen in service fell to 7,591 in 1977. The mean annual percentage retirement by firemen for the period 1970-1977 was 2.25 percent. The above figures demonstrate that while the number of locomotive engineers has remained fairly constant from 1970-1977, the number of firemen has progressively decreased. Insofar as firemen have, in the past, served as the principal source of new locomotive engineers, this situation impacts significantly on the related issues of manpower needs and training.

Through 1977, according to ICC statistics, the number of locomotive engineers has remained fairly constant in the face of a mean annual retirement rate of 4.91 percent. Replacement locomotive engineers have largely been obtained in two ways. One, the traditional avenue of promotion of experienced firemen and two, through accelerated training of inexperienced recruits. With the decline in the number of experienced firemen this traditional source for replacement of locomotive engineers will soon cease to be significant. Figure 1 displays the firemen manpower situation. The solid portion of the curve presents ICC yearly levels of firemen in service from 1970-1977. The dotted portion of the line presents the projected firemen manpower supply based on the 1970-1977 decrease average annually for 1970-1977 and applied continuously from 1977 onwards. As the figure clearly demonstrates the current manpower pool of firemen will cease to exist between 1983-1984. Possibly, the annual decrease will itself decrease so that some traditionally trained firemen may still be in service in 1984. The data do not provide any indication that these "residual" firemen in service would represent anything more than a very minimal number which would have no impact at all on the locomotive engineer manpower situation. Thus, while experienced firemen have traditionally

FIGURE 1. INTERSTATE COMMERCE COMMISSION DATA ON FIREMEN IN SERVICE 1970-1977 AND PROJECTED FIREMEN IN SERVICE AFTER 1977.



served as the primary locomotive engineer manpower resource, future needs will have to be met through the training of recruits.

Assuming, for the sake of simplicity, albeit unrealistically, that railroad tonnage will not increase in the future, approximately 34,554 locomotive engineers must be in service each year for the foreseeable future. RRB figures for 1970-1977 demonstrate that 4.91 percent of locomotive engineers in service retire each year. Each year approximately 0.0491 x 34554 = 1696 locomotive engineers have to be replaced yearly to maintain current manpower levels on Class I Line-Haul Railroads.

It is difficult to quantify the extent to which the existing firemen can ameliorate locomotive engineer manpower requirements over the next few years before their input as a manpower resource becomes insignificant. The maximum impact which these firemen could have on staffing would occur if all of those currently in service were available for promotion to locomotive engineer as mandated by need. An annual retirement rate of 4.91 percent of 34,554 locomotive engineers would require that 1696 firemen be promoted. In 1977 there were only 7,591 firemen in service. Discounting the firemen's 2.25 percent annual retirement rate for the moment, it is clear that all of the existing firemen, if promoted as needed, would meet locomotive engineer replacement needs for 7591/1696 = 4.48 years. By the end of 1981, all of the firemen would have been promoted to locomotive engineer merely to maintain the current number of locomotive engineers. Of course, not all firemen are eligible for promotion. Age and/or qualification requirements remove many from consideration. Further, the 2.25 percent annual retirement rate would shrink the available supply of promotable firemen even further.

The most optimistic projections of the above data make it clear that after 1984 at the latest, it will no longer be possible to promote firemen to replace locomotive engineers. A minimum of 1696 new locomotive engineers will be needed each year. Training programs will after 1984, be the only credible resource from which these needs can be met.

The training effort required to meet the above detailed needs will have to be extensive. Over the ten year period 1984-1994, a minimum of 1696 x 10 = 16,960 locomotive engineers will have to be trained. Increases in tonnage and the resultant requirement for new locomotive engineers will escalate the size of this manpower need.

Section 4 - TRAINING PROGRAM REQUIREMENTS

The preceding discussion of safety and productivity issues clearly demonstrated the relationship between human error, safety, and productivity. Human errors can be reduced by training, lead to fewer accidents, and to increases in safety and productivity. Unfortunately, not any training program will foster safety and productivity. A locomotive engineer training program must methodically be directed at critical areas of knowledge, skills, and performance. The design of such a training program must be carefully structured so that both its content and presentation modes are effective.

Simply attributing accidents to employee error serves no useful purpose and provides no guidelines for future improvement. A locomotive engineer does not function in isolation. His actions are made in, and in response to, a rapidly changing internal and external environment. Every operator action or failure to act is dependent on previous actions and circumstances. Human limitations and response limits sometimes create situations in which an automatic, reflexive response is not the correct one. Only proper training can "work around" these difficulties. Operators who know their limitations, who have been trained under realistic conditions involving unique situations, and who have mastered a wide range of skills and knowledges will be less likely to be involved in accidents. The locomotive engineer's typical and extraordinary performance requirements must be carefully studied so that the exact and precise demands of each job performance are detailed. Once these demands are understood, it will be possible to direct training efforts at them that will increase the probability of the job being performed properly and efficiently.

Fortunately, a great deal of research attention has already been focused on locomotive engineer tasks. An FRA sponsored analysis (8) identified 64 basic

tasks, with each rated as to difficulty, hazards, and criticality. The ratings of the tasks on these three factors reflect the safety issues discussed earlier in this report. The FRA analyses demonstrates that a large part of locomotive engineer's job responsibility involves difficult stimulus recognitions, and the interpretation and utilization of this information in subsequent critical decision making.

The report concluded:

> "Concerning safety of operations, these matrices reveal that approximately 65% of the tasks, if improperly performed, may lead to potentially hazardous situations. This emphasizes the need for training for proper job performance to reduce or eliminate unsafe operations. Proper training exhibits safe task performance as a primary goal or objective."

Section 6.0 of the present report discusses railroad accidents and their corresponding injuries, fatalities and cost as an inevitable end result of presently inadequate locomotive engineer training programs. An FRA report (8) provides a detailed underlying etiology and rationale for this situation. The earlier cited locomotive research and train handling evaluator conceptual design study (5) also provided data which is relevant to the task of designing a modern locomotive engineer training program dedicated to reduce accidents and increase productivity. For example, the study's finding that 34 percent of accidents attributable to locomotive engineers were caused by improper or inadequate observation of the track demonstrates that a proposed training program must stress the importance of this facet of the operator's tasks and build habits through guided practice. Similarly, all phases of the training program and the proportions of effort alloted to them, must be based on analyses of the locomotive engineer's job responsibilities and performance problems affecting safety and productivity.

The locomotive engineer's responsibilities include a great many critical tasks. The tragic and costly accident statistics verify what any logical analyses of both the locomotive engineer's tasks and current training programs would predict: inadequate training of complex and potentially hazardous job actions increases the probability of accidents.

A Department of Transportation report (7), using both the findings of the previously discussed FRA report (8) and other data sources, developed proposed minimum, safety-related knowledge, performance and training requirements for locomotive engineers. During the development of the proposed requirements, analysis and critical feedback from government and industry experts was incorporated into the report. Based on the accumulated data, minimum knowledge and skills requirements essential for the completion of safety related tasks were proposed. Only non-safety related duties such as preparing forms, car accounting for billing purposes, etc., were excluded from the analyses.

The specification of safety-related requirements was central to the identification of all items of knowledge or performance whose absence, omission, or erroneous handling could result in significant injuries or death to the operating crew of bystanders.

The Brotherhood of Locomotive Engineers (BLE) has made extensive use of its experience, industry and FRA reports in developing, with the assistance of the Bureau of Apprenticeship and Training, U.S. Department of Labor, National Standards of Training and Apprenticeship for the Brotherhood of Locomotive Engineers.(9) BLE training and content experts had accountability for developing the final standards. The BLE adopted standards were designed within certain

constraints. They insured that the standards would be sufficiently objective and practical for use in a training program. These constraints were:

1) Knowledge requirements must be measureable by written or oral examination.

2) Skill and performance requirements must be expressed so as to specify behavior which may be observed and evaluated in real world or in simulated environments.

3) Training requirements must be developed directly from knowledge and skill and performance requirements and from a review of railroad industry training approaches.

4.1 MINIMUM SKILL AND PERFORMANCE REQUIREMENTS FOR LOCOMOTIVE ENGINEERS

BLE experts, using the earlier cited analyses of locomotive engineer task demands, adopted the following minimum skill and performance requirements as being the minimum necessary to insure that a locomotive engineer can fulfill his job responsibilities related to train handling.

A railroad engineer should demonstrate an ability to perform satisfactorily at least the following activities where applicable to a railroad's mode of operation.

A. Trip Preparation

1. Obtain required information for the trip, to include train orders, timetable and rules, special notices, correct time (where required) and load consist information (e.g., location of heavies, empties, high, wide loads; length of train).
2. Perform locomotive inspections, to include exterior from ground, engine room(s), lead unit cab, and trailing unit cab(s).

B. Starting and Initial Movement

1. Start the engine(s) and perform necessary checkouts.
2. Form the locomotive consist and test the air brakes as required by the Power Brake Law.
3. Couple the locomotive(s) to the cars and verify the coupling
4. Charge (as required) and test the air brake system as required by the Power Brake Law.
5. Obtain a departure clearance.
6. Move the train through the yard to the designated main track and if a passenger train make running air brake test.

C. Over-the-Road Operations

1. Basic handling
   a. Accelerate the train and hold maximum authorized speed
   b. Decelerate the train and hold minimum authorized speed
   c. Under appropriate conditions, slow down and stop the train using "bunch" and "stretch" braking methods employing the following systems, as required:
      . Automatic brakes (service applications)
      . Independent brakes
      . Dynamic brake
      . Automatic brakes in conjunction with dynamic brake
      . Power braking
   d. From a stretched condition, bunch slack and start the train
   e. Enter and leave a siding
   f. Pick up and set off cars
   g. Position stopping and spotting passenger trains

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h. While enroute:

1) Identify and comply with the indications of all wayside and/or cab signals

2) Comply with all train orders received

3) Report or respond to reports of the condition of own train, the condition of passing trains, malfunctioning signals or roadside equipment, defective tracks, switches and other hazardous conditions

4) Control throttle so as to avoid unnecessary stress on the engine, generator and traction motors

5) Control the throttle and brakes so as to avoid wheel slip and wheel slide

6) Control slack while avoiding excessive buff action and coupler or draft gear strain

7) Control the automatic brakes so as to prevent failures, sticking brakes, and unintended releases while underway or stopped.

8) Use the dynamic brake at appropriate locations after the proper time delay

9) Recognize and take appropriate control and signaling actions (horn/whistle) sufficiently in advance of:

- Highway grade crossings
- Environmental hazards (natural, man-made)
- Equipment and trains on adjacent track
- Message pick-up points
- Onset or offset of grades, grade crests and undulating territory
- Onset or offset of curves

10) Restart the train after a penalty brake application

11) Respond to an application of automatic brakes from the caboose

12) Respond to communication signals on passenger trains

2. Intermediate handling

a. Grade and curve territories

. Curve territory

. Light and heavy descending grade(s)

. Light and heavy ascending grade(s)

. Cresting grade

. Undulating territory

. Sag or dip territory

. Hump, knoll or hogback territory

1) Where permitted, employ throttle modulation, cycle braking and dynamic braking in conjunction with automatic braking in the above territories

2) Employ manual sanding, as appropriate

b. Power assistance

1) For operations involving remote control equipment (RC), perform the following activities.

a) Set up and check out the configuration prior to use

b) Employ brake and power functions

c) Switch between independent unit, and multiple unit modes of operation

2) Operate with a pusher or helper unit

3) Operate as a pusher or helper unit

c. Braking assistance

1) Set up and check out the repeater relay system

2) Operate with a repeater relay system

3. Special handling

a. Recommend and/or take appropriate action following a failure of the dynamic brake on a moderate to heavy downgrade*

b. Recommend and/or take appropriate actions to correct such operation difficulties as:

. Engine shutdown

. Excessive air pressure leakage

. Overcharged brakes

. Broken brake pipe

. Sticking brakes

. Sanding malfunction or failure

. Traction motor malfunction of failure

. Overheated journal bearing

. Low oil or water pressure

. High coolant temperature

. Low main reservoir pressure

c. Make an emergency brake application (under appropriate conditions

4. Communications

a. Employ the train radio in communications from the locomotive to dispatcher, and the locomotive to the caboose or outside crew

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*Recommended for performance testing only on a locomotive and train handling simulator.

b. Execute a work order or defect report and accident report when applicable

D. Yard and Transfer Operations

1. Operate and control the locomotive with or without cars in accordance with rules and instructions, during daytime and nighttime and under all weather conditions, within various types of yard operations, including but not limited to the following:

a. Hump receiving yards (Freight)

b. Classification yards (Freight)

c. Flat general switching yards (Freight)

d. Car Repair and Storage yards (Freight and Passenger)

e. Passenger train yards

f. Industrial yards (Freight)

g. Live Stock yards

h. Transfer or Interchange yard

2. Control the locomotive and cars being handled by the use of the independent brakes and the automatic brake system, when required.

3. Start cuts of cars when either bunched or stretched.

4. Hump or shove cars in hump yard operations in accordance with signal indications, including instructions via the radio, and controlling the speed for the hump operations as required.

5. Kick and drop cars in flat switching operations.

6. Pick up, set out and spot cars on industrial, shop and repair tracks

7. Couple-up cars and double cuts of cars to various tracks to make up road trains.

8. Switch passenger cars with and without passengers.
9. Handle work trains and wrecker equipment.
10. Identify, understand and comply with hand signals given, both day and nighttime, such as:
    a. Normal and emergency stops
    b. Back up and back away
    c. Go ahead or proceed
    d. Kick cars, slow or fast
    e. Drop kicks
    f. Cut off
    g. Apply air brakes
    h. Release air brakes
    i. Track number
    j. Clearance
    k. Easy and slow
    l. Car length signs for identifying distance between cars
11. Identify, understand and comply with other signal systems such as:
    a. Hump yard
    b. Interlocking plant
    c. Centralized Train Control
    d. Automatic Block
    e. Manual Block
12. Handle placarded and other cars of hazardous materials, such as explosives, poisons, liquidfied gases and molten metal, safely and in accordance with all regulations, including Federal regulations.

13. Execute a work report, defect report and accident report when applicable.

E. Trip Completion

1. Move the train from the main track or the yard, through the yard, to the designated track
2. Stop the train at the appropriate destination and secure the locomotive consist; shut down the locomotive consist, if appropriate
3. File any required operational and maintenance reports with proper authorities

4.2 MINIMUM KNOWLEDGE REQUIREMENTS FOR LOCOMOTIVE ENGINEERS

The following minimum knowledge requirements for locomotive engineers have been adopted as the best current understanding of the minimum knowledge a locomotive engineer must possess to safely perform his job tasks. Non-safety related areas, such as car accounting for billing purposes, have not been dealt with as it is often a company-specific procedure and not actually involved with train operation.

A. Railroad Organization

1. Functions performed by such departments as Safety, Signal and Communications, Mechanical, Engineering, Maintenance of Way, Car, Bridge and Building, Police and Fire, and Transportation.
2. Duties and authority of key operational personnel, such as division superintendent, master mechanic, trainmaster, traveling engineer, engineer pilot, assistant engineer, conductor,

and other train employees, train dispatcher, tower operator and train order operator, car inspector, crew dispatcher, yard master and agent.

B. Equipment and Facilities

1. Locomotives

a. Locomotive types, such as diesel, diesel-electric, electric, gasoline electric and gas and steam turbine, and capabilities (e.g., power transmissions, horsepower or tonnage ratings).

b. Power generating equipment and steam heating systems.

1) Function, location, interrelationships and general requirements for safe operation of major components, i.e., engine, generator, traction motors, and steam generator.

2) Function and location of operating controls and displays for the power and electrical control systems (e.g., selector lever, reverse lever, throttle lever, load current meter, speedometer, wheel slip indicator) for each type of locomotive to be operated.

3) Function and location of auxiliary controls and displays (i.e., indicators, switches, circuit breakers and fuses on engine control and circuit braker panels) for each type of locomotive to be operated).

4) Concepts of operation.

a) Multi-unit operation.

b) Causes and effects of engine overspeed, generator and traction motor overload.

c) Causes and effects of steam generator malfunctions

2. Air Brakes

a. Function, location, interrelationships and general requirements for safe operation of major components, i.e., compressor, main and equalizing reservoirs, valves, brake cylinders, rigging and shoes.

b. Function and location of the operating controls and displays for the air brakes (e.g., automatic brake lever, independent brake lever, main and equalizing reservoir pressure gauges, brake pipe and cylinder gauges, brake pipe flow indicator) for each type of locomotive to be operated.

c. Concepts of operation

- Requirements for charging and maintaining air pressure.
- Causes of overcharges and undercharged brakes; procedures for correction.
- Effects of train length and ambient temperature on brake application and release time; brake pipe gradient.
- Causes and prevention of penalty brake applications.
- Causes and prevention of unintentional brake releases.
- Conditions for which independent brakes are recommended and not recommended.
- Conditions for which automatic or electro-pneumatic brakes are recommended and not recommended.
- The graduated release of automatic brakes on passenger trains, either manually in train handling or automatically by a anti-wheel slip device.

3. Dynamic brake

   a. Function, location, interrelationships and requirements for safe operation of major components, i.e., generators, motor, cooling grids.

   b. Function and location of the operating controls and displays (e.g., control lever, load current meter) for each type of locomotive to be operated.

   c. Concepts of operation

      . Conditions under which the dynamic brake is available and useful

      . Conditions under which the dynamic brake is not recommended

      . Advantages and disadvantages of using the dynamic brake in conjunction with air brakes; interlock with air brakes

      . Limitations on use of the dynamic brake, e.g., maximum permitted application time at certain voltages, use over extended distances

4. Handbrakes

   a. Location and operation operation of various types of handbrakes in service.

   b. Situations requiring operation of handbrakes and blocking of wheels

5. Sanding equipment

   a. Function, location and requirements for safe operation of major components for manual and automatic sanding systems.

   b. Concepts of operation

1) Situations requiring automatic or manual sanding

2) Benefits of and precautions for sanding

6. Safety and communications equipment

Function, location, and operation of all such equipment, to include safety control pedal, electronic alertness control, emergency brake valve, automatic train stop, automatic train control, overspeed control, train radio auditory signals (e.g., whistles, bells, horns), flares, fuses, torpedoes, and fire extinguishers

7. Cars

a. Types of cars in service

b. Function, location, and requirements for safe operation of couplers and draft gears, air brake components, (i.e., reservoirs, valves, brake pipe and connectors, cylinders, brake rigging, shoes, retainers and caboose valve), and handbrakes.

c. Concepts of operation

1) Performance characteristics of loaded versus unloaded cars

2) Requirements for handling special cars or hazardous cargoes

3) Performance characteristics of friction and roller bearings

4) Potential for thermal cracking of wheels due to excessive braking

8. Trackage and associated equipment

a. Common types of trackage, e.g., main, siding, single and multiple

b. Functions of trackage associated equipment, i.e., towers; switches, derails and component parts; detectors and transmitters for information on overheated journals and train speed

9. Terminals, yards, enginehouses, turntables
   a. Functions of these facilities
   b. Requirements for safe operation within or near these facilities
10. Signals
   a. Aspects, indications, and typical locations of various types of wayside signals and cab signals
   b. Meaning of various types of hand, flag, and lamp signals
   c. Types and meanings of horn/whistle signals
11. Train control systems
   a. General design and operational features of the train control system(s) in service, e.g., train order, manual and automatic block systems, automatic cab signals, centralized traffic control (CTC)/ traffic control system (TCS), and verbal train control
   b. Territory where each system is in operation, if more than one is employed

C. Physical Characteristics of the Road*

1. Location of significant terrain features, such as ascending and descending grades, curves, undulating territory, bridges, tunnels, and potential hazards (e.g., slides, washouts, vandalism)

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* Territory in which the engineer will be operating.

2. Location of various railroad equipment and landmarks, such as stations, yards, interlockings, sidings, crossovers, track crossings, highway grade crossings, and emergency telephones.

D. Rules and Regulations

1. Operating rules and instructions covering topics such as:
   a. General rules
   b. Signals and their use
   c. Movement of trains and engines
   d. Superiority of trains
   e. Movement by train order
   f. Movement by manual and automatic block
   g. Movement by automatic cab signals
   h. Movement by CTC/TCS
   i. Movement by verbal train control
   j. Equipment operation, e.g., air brakes, dynamic brake, telephone, etc.
   k. Train handling
   l. Safety - (Blue Flag Protection Rule, etc.)
2. Timetable and special instructions
3. Work rules and hours of service regulations
4. Power Brake Law
5. Special and bulletin notices
6. Federal Communications Commission and railroad rules for train radio operation.
7. Federal Regulations Governing:
   a. Locomotive Inspection
   b. Safety appliances - (Power Brake Law)

c. Handling hazardous materials

d. Occupational Safety and Health

e. Railway Labor Relations

f. Railroad Retirement

g. Railroad Unemployment and Sickness Compensation

h. Workmen's Compensation

E. Operational Procedures

1. Trip preparation

a. Required trip information, i.e., train orders, timetable and rules, special notices, official railroad time, and load consist information (e.g., location of heavies, empties, high, wide loads; hazardous cargo; train length)

b. Procedures for communicating with yard personnel and crew prior to movement

c. Procedures for performing inspections of locomotive consist, i.e., exterior from ground, engine room(s), lead unit cab, trailing unit cab(s)

2. Initial movement

a. Required conditions prior to starting the locomotive

b. Procedures for starting the locomotive

c. Post-start inspections

d. General considerations for accelerating, running, stopping and braking

e. Procedures for forming a locomotive consist and changing operating ends, to include lead or trail setup requirements and air brake application and leakage tests

f. Procedures for coupling the locomotive(s) to cars, verification of the coupling, and conduct of air brake tests

3. Over-the-road operations

   a. Basic handling

      1) Factors affecting the use of power and braking

         a) Train and track considerations affecting tractive and braking forces, i.e., friction (rolling resistance, wind resistance, rail adhesion, wheel-shoe resistance, track curvature and alignment), grade, type and location of locomotive consists; train length, speed, weight and weight distribution

         b) Environmental considerations, i.e., moisture, snow, and visibility restrictions

         c) Time and distance considerations, i.e., required stopping distances for various grades, curves, and train lengths and weights

         d) Handling considerations which affect the development of lateral and vertical forces which can cause wheel lift, rail spread and roll over and possible derailment

      2) Slack Control

         a) Conditions which promote slack development and its location within the train

         b) Procedures for controlling slack, i.e., bunching and stretching

         c) Consequences of ineffective slack control, i.e., run-in, drawbar pull

   b. Intermediate handling

1) Grade and curve territories

   a) Procedures for negotiating, stopping and re-starting trains on:

      . Level territory with curves

      . Straight territory with light (less than 1.5%) and heavy (more than 1.5% ascending grade(s)

      . Straight territory with light and heavy descending grade(s)

      . Cresting grades

      . Undulating territory

      . Sag or dip territory

      . Hump, knoll or hogback territory

   b) Procedures for controlling train by such methods as cycle braking (where permitted), dynamic braking coupled with automatic braking, throttle modulation, and retainers (when required)

   c) Precautions for avoiding wheel slip, wheel slide, traction motor communicator stall burns, flashover, and excessive drawbar forces

   d) Effects of certain actions on grades and curves, e.g., stopping on a cresting grade; speed changes within, near the beginning or end of curves; excessive use of throttle or brakes on curves; dynamic braking on crossovers, turnouts, and heavy curves

2) Power assistance

   a) Remote control equipment (RCE)

- Available modes of operation and associated advantages and precautions
- Procedures for setting up and checking out RCE configuration
- Procedures for combined power and braking operations

b) Pusher and helper equipment

- Situations requiring pusher and helper assistance
- Procedures and precautions for operating with, or as a pusher or helper

3) Braking assistance

a) Procedures for setting up and checking out the repeater relay system

b) Procedures for operating with the repeater relay system

c. Special handling

1) Procedures following loss of the dynamic brake on moderate to heavy downgrade

2) Procedures after emergency brake application

3) Procedures after unintentional brake release

4) Procedures after break-in-two

5) Procedures after derailment

6) Procedures for correcting and/or reporting operating difficulties, e.g., engine malfunction and shutdown, excessive air pressure leakage, overcharged brakes broken brake pipe, sticking brakes, sanding malfunction or failure, traction motor malfunction or

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failure, overhead journal bearing, open ground relay, low oil or water pressure, high coolant temperature, low main reservoir pressure, steam generator malfunctions/failures.

d. Communications

1) Techniques for providing clear and concise oral and written communications

2) Procedures for operating train radio in communications to and from the dispatcher, outside crew, and caboose

3) Forms of train orders

4) Procedures for telephone communications

5) Requirements for completion of work order or defect report

e. Trip completion

1) Requirements for securing (engine running) and shutting down the power consist

2) Procedures for completing and filing operational and maintenance reports with proper authorities

F. Effective Job Performance

1. Factors affecting engineer performance

a. General fitness requirements

b. Major sources of performance decrements, i.e., attitude, distraction, fatigue and physical impairments (i.e., alcohol, drugs, injury, disease and sensory or motor impairment)

2. Injury avoidance

a. Types and locations of potential hazards and injuries, i.e., electrical, thermal, chemical, acoustical, and physical force (e.g., being struck, falling)

b. Precautions when moving on or about tracks, getting on and off locomotives and cars, inspecting or maintaining the locomotive, operating handbrakes, using tools or appliances, working near rotating equipment (shafts, belts, etc.), and working near high voltage equipment

G. Railroad Terminology Required for Reliable Communication

1. Standard railroad terms

2. Local railroad terms

4.3 MINIMUM TRAINING REQUIREMENTS

The preceding knowledge and skill and performance requirements, if they are to be imparted to trainees, necessarily impact on the form and substance of the training system designed to present them. On the basis of the analyses of the knowledge and skill and performance requirements, as well as analyses of current training programs and methodologies, the BLE has adopted the following minimum training requirements for locomotive engineers. These training requirements specify classroom, equipment and on the job (OJT) training requirements. These training requirements are those considered by the BLE to be the minimum necessary to present the earlier described knowledge and skills and performance requirements.

The following major topics of instruction and estimated training hours, as they are applicable to a railroad's modes of operation, constitute what is recommended as minimum training requirements for the railroad engineer:

A. CLASSROOM TRAINING - All Classes of Service

1. Review of Railroad Objectives and Organization
   a. Rules of safety and efficiency in railroad operations
   b. Organization of the operating departments
   c. Duties and authority of an engineer
   d. Duties and authority of supervisors to whom the engineer reports, and other railroad personnel who work with and under the authority of the engineer
2. Railroad Terminology Required for Reliable Communications
3. Overview of Equipment and Facilities
   a. Locations and functions of major facilities (towers, yards, stations, etc.)
   b. Nomenclature, function and capabilities of the types of locomotives and cars in service
4. Diesel-Electric Power Generating Equipment and Steam Heating System
   a. Function and location of major power system and steam heating components, related controls and displays; operational concepts
   b. Function and location of major dynamic braking system, components, related controls and displays; operational concepts
   c. Function and operation of sanding equipment
5. Air Brake Equipment
   a. Functions and location of major components, related controls and displays
   b. Operation concepts
6. Operation of Safety and Communications Equipment

a. Safety control pedal, automatic train stop, automatic train control and other safety equipment.

b. Auditory and visual signaling devices in passenger, freight, and yard service, (e.g., bells; horns; whistles;

c. Train radio

7. Railroad Rules and Regulations

a. Operating rules, e.g.:

- General rules
- Signals and their use (types and meanings of all signals)
- Movement of trains and engines
- Superiority of trains
- Movement by train orders
- Movement by other train control system(s) in service
- Equipment operation (e.g., air brakes, dynamic brake, train radio)
- Train handling
- Safety

b. Timetable and special instructions

c. Special and bulletin notices

d. Federal regulations affecting the engineer (e.g., hours of service, power brake, locomotive inspection)

8. Train Handling, Procedures and Track-Train Dynamics-Passenger, Freight and Yard.

a. Basic operations, e.g.:

- Required information and reports (pre/post trip), inspections and tests
- Factors affecting the use of power and braking systems

- Starting, accelerating, running, slowing, stopping and backing
- Coupling and uncoupling
- Slack control
- Handling on grade and curve territories
- Handling in degraded operating environments (e.g., visibility restriction, snow, rain, flooding, vandalism)
- Operating with power assistance (e.g., remote control equipment, pushers)
- Operating with braking assistance

b. Emergency procedures, e.g.:

- Failure of dynamic brake
- Unintentional release of automatic brakes
- Brake-in-two
- Fire
- Derailment

9. Common Train Malfunctions/Failures and Associated Corrective Actions

10. Reporting Requirements

a. Condition of own train

b. Condition of other trains, track and wayside equipment

11. Effective Job Performance

a. Factors affecting engineer performance

b. Injury avoidance

B. EQUIPMENT TRAINING*

1. Basic Train Handling

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* This phase of training should be interspersed with classroom training on a daily basis, where possible.

On "captured track" of off-line trackage, with an actual locomotive and rolling stock, each apprentice/trainee should perform such actions as inspecting and starting the locomotive, accelerating, speed holding/balancing, slowing and stopping (employing all braking systems), backing, coupling and uncoupling, and shutting down the locomotive. Where a locomotive/train simulator is available, the above actions should be performed throughout a full range of operational train speeds; with light, medium and heavy freights; on light and heavy grades and curves

2. Application of and Compliance with Operating Rules
During train handling runs, the apprentice/trainee should be exposed to as wide a range as possible of typical signal aspects and train orders, as well as other situations requiring slowing, stopping or signaling.

3. Malfunction Recognition and correction
During train handling runs, the ability of the apprentice/trainee to effectively handle operating difficulties and potentially dangerous conditions (e.g., overheated engine, overheated journal bearings, engine shutdown, sticking brakes, low oil or water pressure, low main reservoir pressure) can be achieved by stipulating the occurrence(s) of such conditions when they don't occur. Such stipulations should be made at the discretion of the instructor, during the latter half of this training phase, and the apprentice/trainee should be required to take or describe the appropriate corrective actions. Many locomotive malfunction indications can be made to occur

more realistically in a train simulator, thus providing training in malfunction detection and correction.

4. Emergency Procedures

The same approach as in 3 above can be applied to the training of appropriate responses to such situations as loss of dynamic braking on a downgrade, break-in-two, fire, derailment, etc.

C. ON-THE-JOB QUALIFICATION TRAINING

To qualify as a fully operational railroad engineer, it is recommended that the graduate from the previous training phases operate as a fulltime apprentice for a period equalling the percentage set forth in Section D below, of the total minimum recommended hours of training under the cognizance of a fully qualified "instructor" engineer. This on-the-job training shall be on the territory to which the apprentice will be assigned. The road freight and passenger trips and tours of duty in other classes of service should be scheduled to provide an appropriate balance of training as between classes of service, geographical territories, and as between daytime and nighttime hours.

D. TRAINING HOURS

As has been recommended the total training hours should be not less than:

1. with conventional methods - 4,000 hours, 10 percent of which will be related technical instructions, and 90 percent on the job qualifications training.

2. with simulator or comparable equipment and methods - 3,000 hours, of which 20 percent will be related technical instructions, and 80 percent on-the-job qualifications training.

E. ADJUSTMENT FOR MODES OF OPERATION

The recommended minimum basic term of training and apprenticeship and the recommended minimum training hours, are based upon a railroad's mode of operation, as being all encompassing as to types and classes of service/operation.

Recognizing that a railroad's mode of service operation may not be all encompassing, the basic term and training hours may be reduced but in no event shall they be less than eighteen (18) months and three thousand (3,000) hours.

4.4 TRAINING SYSTEM IMPLEMENTATION REQUIREMENTS

Establishment, operation and maintenance of a system to meet training requirements must include the following features:

1. Complete and fully documented curriculum
2. Full range of instructional media including simulators and actual equipment
3. Fully prepared instructional staff
4. Quality Control
5. Administrative Support at central and local levels
6. Procedures for apprentice selection
7. Instructional facilities

These features are described in detail in Section 7 of this report.

Section 5 - CURRENT STATUS OF INDUSTRY TRAINING

Current locomotive engineer training in this country cannot be easily or simply characterized. A small number of locomotive engineers receive intensive training through carefully developed training programs. At the other extreme, the training of many locomotive engineers takes place on the job with little or no structure or organization; essentially these trainees merely "go along for the ride" until they are promoted to locomotive engineer. Given the variety of extant training approaches, any attempt to holistically describe current locomotive engineer training would be so general as to be grossly inaccurate. In order to get a more accurate "handle" on the characteristics of current training programs, data must be gathered at the level of the individual training programs. For the purposes of this report, a national survey of locomotive engineer training programs was conducted.

5.1 SURVEY METHODOLOGY

5.1.1 Purpose. The survey was conducted in order to gather several types of data. The primary purpose of the questionnaire was to collect information relative to individual training programs. Additional information was solicited concerning teaching aids and periodic reexaminations of field personnel. Data concerning retirement patterns and current manpower levels were also requested so that data used in other sections of this report could be validated.

5.1.2 Instrument. A written survey was developed. The survey consisted of three and one-half two sided pages of fill-in-the-blank, yes-no, and Likert scale items. The survey tool was designed by BLE content and training experts in collaboration with consultants experienced in survey design and analysis.

5.1.3 Sample. All General and Local Chairmen of the BLE in the United States comprised the sample. Since the survey was comprehensive, the data were solicited from the population.

5.1.4 Procedure. The survey was mailed to all Local and General Chairmen of the BLE in the United States. It was accompanied by a letter from the BLE President, Mr. John F. Sytsma, requesting the cooperation of all Chairmen. Additional material also described, question by question, the intent of each question so that there would be a minimum of confusion among the respondents. All of the Chairmen were instructed to return the completed survey to the headquarters of the BLE. BLE experts reviewed the completed surveys and cross-checked Local Chairmen's responses for accuracy against the responses of their respective General Chairmen. Obvious and/or possible sources of error (particularly in regards to numbers of engineers, retirements, etc.) were investigated by individual phone contacts and through central BLE files. Missing data was also dealt with in this fashion. After review by BLE personnel, all of the submitted surveys were delivered to the same private consultants who participated in the survey design. The surveys were then coded onto computer data cards and analyzed by means of standardized, thoroughly validated statistical analysis packages.

5.2 SURVEY RESULTS

5.2.1 Locomotive Engineers and Firemen in Service. Fifty-five of the Brotherhood's of Locomotive Engineers approximately one hundred General Chairmen responded. The list of railroads represented by these responses is given in Appendix A. Data were gathered for 23,232 locomotive engineers and 5,402 firemen.

Previous sections of this report made use of Interstate Commerce Commission (ICC) figures which stated (18) that there were 34,501 locomotive engineers and 7,591 firemen in service in 1977. The 55 responses represent an approximately 55 percent response rate. The 23,232 locomotive engineers covered by the survy represent 67.3 percent of the ICC 1977 total. Seventy-one percent, or 5,402 of the ICC 1977 firemen in service (7,591) were covered by the responses.

These survey findings are consistent with the ICC figures concerning locomotive engineers and firemen in service.

5.2.2. Locomotive Engineer Retirements. The survey also collected data concerning locomotive engineer retirement in the coming years. The RRB analyses (22) indicated that there has been a mean annual locomotive engineer retirement rate of 4.91 percent for the period 1970-1977. This rate, applied to the figure of 34,501 locomotive engineers in service in 1977, results in 1,694 retirements.

The survey covered 61 percent of the ICC figure of engineers in service in 1970-1977. In order to permit comparisons to be made between RRB retirement figures and those of the survey, all survey retirement data were divided by 0.61. Table 1 displays this data. As the table shows, the RRB's analyses have indicated that approximately 1,694 locomotive engineers can be expected to retire each year, assuming that the work force remains constant each year at the 1977 level of 34,501 locomotive engineers in service. The survey data, based on BLE district seniority lists, are also presented in Table 1.

The similarity of the RRB figures and BLE data is obvious, although the BLE data indicates substantially more retirements for 1978, the figures are nearly indentical for 1979-1981. After 1981, the BLE data indicate somewhat fewer annual retirements. This is a result of the BLE data being derived from actual

TABLE 1. SURVEY RETIREMENT DATA

Year	Railroad Retirement Board Retirement Estimate (4.91%)	Survey Data (from BLE district seniority lists)	Survey retirement data adjusted for annual decrease
1977	1694	--	--
1978	1694	2061	--
1979	1694	1634	1737
1980	1694	1720	1926
1981	1694	1693	2008
1982	1694	1401	1764
1983	1694	1387	1841

retirement figures which do not assume or adjust for constant replacement of retirements. Thus, for 1982, the BLE retirement figure of 1,401 is based on a work force that will have been decreased by the retirements of 1978-1981, or 7,078 locomotive engineers. The right hand column of Table 1 presents BLE annual retirements adjusted to what they would be if the retirement losses each year were replaced (e.g., BLE data indicate that 2061 locomotive engineers will retire in 1978). The 1977 figure of 34,501 locomotive engineers in service will thus be reduced to 32,440. Of these, the data indicate that 1,634 locomotive engineers will retire in 1979. If the 1979 retirements are adjusted by a factor of 34501/32440 = 1.0635, the 1,634 1979 retirements become 1,737. The application of this procedure to all of the BLE retirement data yeilds the right hand column of Table 1. These projected retirement figures indicate that actual retirements, as identified by BLE seniority lists, may be greater than those calculated in the RRB's analyses. These data, from independent sources, demonstrate that the problem is significant. The survey data's similiarity with RRB statistics also provides evidence of the present survey's validity.

5.2.3 Current Training Program

5.2.3.1 Numbers in Training. Forty-three of the 55 General Chairmen indicated that some sort of training program existed in their jurisdiction. These data account for some 20,238 engineers. Twelve General Chairmen, representing 2,994 locomotive engineers, indicated that there were no training programs in their jurisdiction. There were no statistically significant differences (by means of "t" tests) between jurisdictions which had training programs and those which did not in regard to the number of locomotive engineers or firemen in the district. A point biserial correlation coefficient calculated for the numbers of locomotive engineers and whether a training program was in effect was not statistically significant. This demonstrates that there is no relationship

between need for a training program (as evidenced by large locomotive engineer replacement requirements) and whether a training program is in effect.

5.2.3.2 Minimum Training Times Required. Each General Chairman was asked to specify the minimum training times spent by prospective locomotive engineers in classrooms, firemen apprentices or on-the-job work experience as a locomotive engineer. In those 43 districts which responded that they did indeed have a training program, the following mean times in training were specified as the minimums that were required: classroom - 5.14 weeks, work experience as a locomotive fireman - 22.98 weeks, and on-the-job experience as a locomotive engineer - 16.74 weeks. Of the overall mean time of 44.86 weeks were dedicated to training in the "average" training program. 16.74 weeks, or over 37 percent of the training is provided as fireman related experience. When experienced firemen are no longer available as a resource of new locomotive engineers (see sections 3.4 and 6.3), a substantial portion of the overall training experience will no longer exist. This is even more apparent when the 16.74 weeks of on-the-job experience as a locomotive engineer is closely examined. Typically, significant portions of this time are spent in actual job performance rather than in rigorous and formal training exercises. Thus, without the work experience of firemen, as an element in the training system there appears to be little more than 5 weeks of classroom instruction and some on-the-job experience which can be identified as training. This type of training effort will not be able to supply the large numbers of locomotive engineers that will shortly be needed.

5.2.3.3 Current Training Content Areas. Each General Chariman was asked to specify the percentage of training times devoted to various content areas in

his jurisdiction's training program. The following mean percentages were obtained from the 43 General Chairmen who stated that their jurisdiction possessed a training program:

a.	Company organization and structure	4
b.	Employee rights, benefits, and obligations	3
c.	Company operating rules and safety rules	27
d.	Mechanical equipment	12
e.	Electrical equipment	13
f.	Air brake and operations	28
g.	Signal systems	8
h.	Steam heat boilers and systems	3
i.	Federal Safety Regulations	2
		100

The large differences in the patterns of responses to these items made it clear that the railroads are not presenting planned training to prospective locomotive engineers.

5.2.3.4 Additional Training For System Changes. Each General Chairman was asked whether additional training was provided when equipment and/or rules and regulations were updated or changes. Table 2 presents the analyses of their responses. As these data indicate that there is some relationship between having training programs and whether or not additional training is given when equipment and/or rule changes are made. A correlation technique which yields a "phi" coefficient was applied to the above referenced items and indicated that a statistically significant relationship exists between equipment changes and operation/possession of a training program (phi = 0.63) and between rules changes and operation of a training program (phi = 0.64).

TABLE 2. ADDITIONAL TRAINING FOR SYSTEM CHANGES

	Have Training Program (N=43)		No Training Program (N=12)		TOTAL	
Additional Training	Yes	No	Yes	No	Yes	No
A. When new equipment is introduced and/or changes made in existing equipment	21	22	1	11	22	33
B. When changes are made in the operating and/or safety rules, including time tables and special instructions	26	17	2	10	28	27

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These relationships demonstrate the utility of training programs in providing more than basic training. The resources demanded by basic locomotive engineer training can, and are, also used to update training relating to equipment and rule changes. The data also demonstrate that training is typically not updated upon equipment changes and that training follows or precedes changes in rules and regulations only half of the time. Responses to the type of training presented upon the introduction of new or updated equipment and/or rules are displayed in Table 3.

Table 3 further emphasizes the informal and inadequate approach currently being taken by the industry in regard to retraining in response to significant rules and equipment changes. Aside from the large numbers of jurisdictions offering no retraining (Table 2) Table 3 demonstrates that almost 19 percent of all equipment changes are dealt with only by means of written instructions.

These data demonstrate that training programs can have wide utility as retraining and refresher resources. Unfortunately, the industry is not presently pursuing a basic locomotive engineer training philosophy that allows for such ancillary benefits.

5.2.3.5 Periodic Review Classes. The survey asked if periodic classes were held to review company requirements in a number of content areas and, if so, how often were they held. Table 4 presents these data.

The data of Table 4 demonstrate a low frequency of periodic retraining in all content areas. Even in regard to company operating rules and safety rules, over 25 percent of the jurisdictions did not have any periodic retraining. The lack of refresher training in areas involving equipment and signal systems cannot help but raise operating costs and create safety problems.

TABLE 3. TYPES OF ADDITIONAL TRAINING GIVEN UPON INTRODUCTION OF CHANGES IN EQUIPMENT AND RULES

		Type of Training	No. of Responses
Type of Change	Equipment	Classroom	7
		On-the-job	11
		Written instructions only	4
	Rules	Classroom	17
		On-the-job	2
		Written instructions only	9

TABLE 4. PERIODIC REVIEW CLASSES

	Periodic Classes Held		If so, how often (mean months)
	Yes	No	
a. Company organization and structure	1	54	12.0
b. Employees rights, benefits, and obligations	0	55	———
c. Company operating rules and safety rules	41	14	19.0
d. Mechanical equipment	6	49	22.0
e. Electrical equipment	5	50	22.6
f. Air brake systems and operations	13	42	18.5
g. Signal systems	8	47	16.5
h. Steam heat boilers and systems	1	54	24.0
i. Federal Safety Regulations	3	52	12.0

The situation is made more serious by the uniformly long intervals between periodic reviews, in those few cases where it is offered.

5.2.3.6 Locomotive Engineer Qualification Examinations. Forty-four General Chairmen responded that some type of examination is required in their jurisdiction for certification as a locomotive engineer. The subject areas and types of examinations used for these evaluations are specified in Table 5.

The data presented in Table 5 demonstrate that, with the exception of company operating rules and safety rules, many internal training areas are dealt with informally in certification tests. The rigor and standardization of oral examinations must be questioned. Aside from these issues, the large number of jurisdictions reporting no tests whatsoever in subject areas central to safe and efficient operation is further evidence that current training programs do not operate under the advantages of a uniform testing system.

The vast majority of jurisdictions (32) reported that prospective locomotive engineers were permitted two attempts to pass the examination. Three jurisdictions reported that only 1 attempt was allowed; while 9 jurisdictions reported that 3 attempts were permitted.

As to the consequences of failure after the permitted number of attempts, 28 jurisdictions reported that the individual would be dismissed from service. Five jurisdictions reported that the employee would be transferred to non-engine service. One jurisdiction each reported that seniority would be reduced and that the employee would be placed in limited engine service. The remainder of the responses specified other miscellaneous actions.

TABLE 5. SUBJECT AREAS AND TYPES OF LOCOMOTIVE ENGINEER CERTIFICATION EVALUATION CURRENTLY IN USE

Subject Matter	Frequency of use as reported by 55 General Chairmen			
	Type of Test			
	Oral	Written	Demonstration Test	No Test
a. Company organization and structure	2	1	2	50
b. Employees rights, benefits, and obligations	2	0	1	52
c. Company operating rules and safety rules	3	14	23	15
d. Mechanical equipment	4	16	14	21
e. Electrical equipment	3	14	11	27
f. Air brake systems and operations	4	14	16	21
g. Signal systems	3	9	10	33
h. Steam heat boilers and systems	2	3	4	46
i. Federal Safety Regulations	2	3	4	46

5.2.3.7 Types of Training Program Instruction. A number of survey items investigated the current types of training that are presently being used to instruct locomotive engineer trainees. A number of jurisdictions (12) reported that no formal training programs were in existence. A degree of informal training was available in some of these jurisidctions (as in strictly on-the-job "ride along" training). For this reason, the responses of all 55 general chairmen are included in the results presented in Table 6.

Table 6 leaves little doubt as to the current level of technology of the vast majority of current locomotive engineer training programs. Simulation techniques and track dedicated to training are the most sophisticated training approaches available at the present time. They offer the advantages of rigid control over all aspects of training, increased safety, and a high student throughput. Only 12 (10.9 percent) of 110 responses indicated that the amount of simulation or dedicated track training was more than "very little." There is clearly no sophisticated training cadre or reservoir of modern training facilities available to rapidly increase locomotive engineer throughput. The relatively high reliance on on-the-job training indicates that these traditional methods are still very much in evidence. Over 40 percent of 110 responses identified some type of on-the-job training as being used for half or more of all training. As the pool of promotable experienced firemen dwindles (see Sections 3,4, and 6.3), these training methods will no longer be viable. Provisions for alternative training techniques to handle increased manpower demands are not even slightly in evidence.

5.2.3.8 Training Aids. Data were also collected as to the amounts of training time training aids were utilized in locomotive engineer instruction. Table 7 presents this data. The low frequency of use of training aids is

Table 6. Types of Instruction Used to Train Locomotive Engineers

	AMOUNT OF TOTAL TRAINING DEVOTED TO EACH TYPE OF INSTRUCTION (Frequency of Response)						
TYPE OF INSTRUCTION	All	Most	Moderately High	Half	Moderately Low	Very Little	None
Simulation	0	0	0	1	5	10	39
Actual Locomotive on Track dedicated to Training	0	2	0	0	4	7	43
On-the-job according to a written plan.	2	8	5	4	4	4	28
On-the-job with no written plan.	4	12	5	5	4	3	22
Formalized classroom Instruction.	2	2	6	8	13	6	18
Correspondence course study.	0	0	0	0	0	1	54

Table 7. Use of Training Aids

	Proportion of Total Training time in which training aid is used (Frequency of response)						
TYPE OF TRAINING AID	All	Most	Moderately High	Half	Moderately Low	Very Little	None
Films, filmstrips, Transparencies slides.	0	2	3	7	11	13	19
Posters, wall charts	0	0	3	6	12	14	20
Equipment Maintenance and Operation manuals	5	8	10	3	11	6	12
Textbooks and Manuals other than the above	2	1	7	3	9	7	26
Mimeographed or Xeroxed hand-outs, fact sheets	0	2	5	4	8	14	22

strongly indicated. Only equipment maintenance and operation manuals are present in any number. Their value as training materials must be questionable as training is not the prupose for which they are designed.

5.3 CONCLUSIONS

The survey results portray a high and increasing demand for locomotive engineers, a rapidly decreasing pool of apprentices with adequate engine service knowledge, and the absence of a capacity to train apprentices to meet the demand.

Projected tonnage increases have a significant impact on future locomotive engineer work force requirements. In addition, the current retirement rate, coupled with the depletion of the traditional apprentice pool (firemen-helpers), has created the need to efficiently and effectively train a large number of apprentices. The future apprentice pool will contain many individuals without engine service experience or even a railroad background. The net impact of these factors is the creation of a need for a large training capability. The results of the survey shows that the required capability does not exist even in an embryonic form.

Section 6 - POTENTIAL BENEFITS

We have estimated the benefits which could result from a locomotive engineer training program. A successful, well planned training program can yield benefits of varying types and degrees. Some of these benefits can be objectively described in terms of dollar amounts which the training program could save. Reduction of losses due to accidents is one benefit category which lends itself to an objective quantification of potential benefits. Other expected benefits, while not easily reducible to quantative terms, are equally significant. Reductions of injuries and fatalities are typical of this type of benefit. No one can attach a value to human suffering or the loss of life itself. The unnecessary loss of even one life is tragic beyond description. At the same time, the operation of any widespread, technically complex man-machine system leads, historically, to loss of lives. Sincere and concerted efforts are, of course, continually being taken to lower the train accident fatality and injury rate. Nonetheless, lives can be viewed as one"cost" of railroad system operations. While the value of these lost lives cannot be specified in dollar amounts, they do, indeed, represent a true, and tragic "cost." The reduction of injuries and fatalities benefits will be presented in terms of possible percentage decreases from current rates. Obviously, no dollar amount of savings can be attached to these figures. Thus, the discussion and presentation of training program benefits will result in two distinct sets of analyses: (1) those which can be reduced to estimated dollar amounts and (2) those more subjective benefits, such as discussed fatalities, which cannot be expressed in dollar amounts.

The extent of potential benefits which can result from a training program is largely dependent on the scope and extent of the program. Therefore, it is difficult to offer one specific dollar amount as the probable benefit

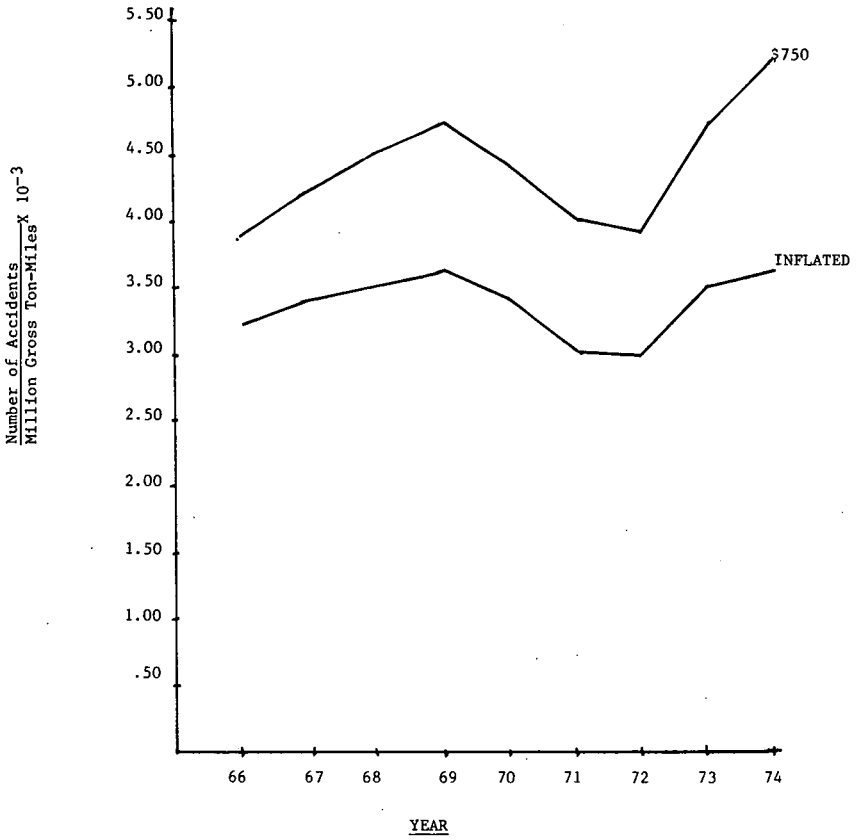
from a given benefit category. Specification of a range of potential benefit savings is more appropriate for this type of analysis. Whenever possible each individual benefit analysis describes a maximum, a minimum, and a moderate range of potential benefits.

6.1 Accident Reduction Benefits-Monetary

A railroad accident is the most obvious and visible result of a failure in the railroad system. Consequently, the most easily discernible benefit to be accrued from the improved training of locomotive engineers will be a reduction in the number of railroad accidents attributable to locomotive engineer "error." While accident reporting and accounting systems are far from perfect, reasonable accident loss figures are available. Based on these figures, estimates of monetary savings attributable to varying degrees of accident reduction can be forecast.

The AAR (15) investigated train accident data covering the period, 1966-1974. The report presented accident analysis data adjusted for the effects of inflation and ton-mile differences each year between 1966 and 1974. But, estimates of accident loss and potential savings must consider the impact of inflation on minimum damage thresholds. Under the old accident reporting system, a train accident did not have to be reported unless damage to equipment, track or roadbed exceeded $750. In January of 1975 procedures were implemented to adjust this threshold each year to account for inflation. Figure 2 demonstrates the effect of this adjustment on the total number of reported accidents for each year in the period 1966-1974. The curves in the figure have also been normalized for millions of gross ton-miles. After the effects of inflation and varying ton-mileages were eliminated accidents were found to have increased about 16 percent during the period 1966-1974.

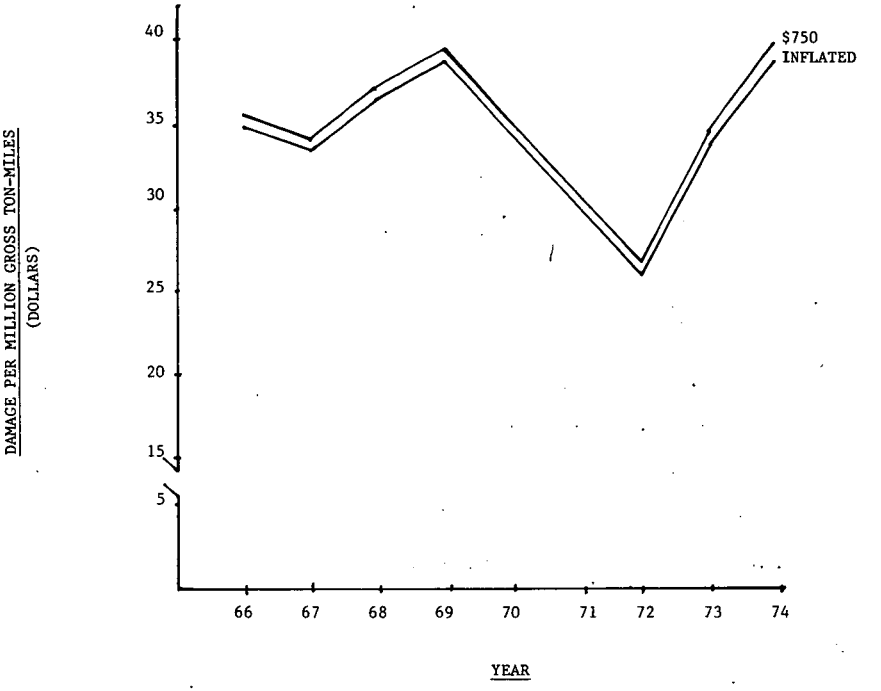
FIGURE 2. NUMBER OF TRAIN ACCIDENTS AT REPORTING THRESHOLDS OF $750, AND ANNUALLY INFLATED, NORMALIZED BY MILLION GROSS TON-MILES*



*Adapted From AAR report (reference 15).

Figure 2 displays the adjusted damage costs of these accidents per million gross ton-miles in 1957 dollars. As the inflated curve displays, damage costs were approximately $38.80 per million gross ton-miles in 1974. In terms of 1974 dollars, this would be approximately 89.63 1974 dollars per million ton-miles. This figure was calculated using an FRA adjustment index (16) of 2.31 (AAR calculations suggest a 1974 adjustment index of 2.93 which yields a figure of 103.68 1974 dollars per million ton-miles). The AAR reported that approximately 951 billion ton-miles were travelled by American railroads in 1974 (6). This mileage, coupled with the figure of 89.63 dollars per million ton-miles estimated in 1974, resulted in damage costs that year of approximately 76,175,000 1974 dollars. The AAR calculated that 20.3 percent of this amount, or 15,433,000 dollars, was attributable to human factors causes. A NTSB report (4) notes that accident damage estimates do not include the cost of clearing wrecks, loss and damage to freight, injury claims and workers' lost time. It has been estimated (14) that the ratio of actual costs to reported costs is 3.3. This would increase the estimate of 1974 total damage losses to approximately 251 million 1974 dollars. Human factors causes accounting for 20.3 percent of this total would therefore account for damage costs of approximately 50.25 million dollars during 1974. Similar damage costs for the years 1961-1970 can be found in a NTBS report (4). The average yearly damage cost of accidents attributable to employee error over this 10 year period was 14.97 million dollars (excluding grade crossing accident costs and the freight losses, wreck clearing costs, etc., previously discussed). Adjusting this figure by the 3.3 actual to reported costs ratio yields a yearly average loss of 49.2 million dollars.

FIGURE 3. TOTAL DAMAGE AT $750 AND ANNUALLY INFLATED REPORTING THRESHOLDS NORMALIZED BY MGTM; CONSTANT 1957 DOLLARS.*



* Adapted from an AAR report (reference 15)

This finding mutually reinforces the validity of both the NTSB and AAR computations, in that they both lead to remarkably similar damage estimates. It is also apparent that the losses due to employee error and/or human factors type causes are considerable and constant, at least over the period 1961-1974. There is little reason to believe the situation has changed significantly between 1974 and the present.

Clearly, locomotive engineers are not responsible for, or even involved with, 100 percent of all human factors or employee negligence related accidents. Just as clearly, locomotive engineers are no doubt directly involved in some portion of each year's accidents reported as employee negligence. The locomotive engineer's central position of responsibility for, and involvement in, train operations, inevitably contributes to an increased potential for accidents. The exact magnitude of locomotive engineer's responsibility for train accidents is unknown. The interactive relationship between locomotive engineers and other operating personnel complicates any attempt to precisely partition accident responsibility. In the absence of exact data describing locomotive engineers' accident responsibility, we have used a range of potential involvement in the subsequent computations.

On the assumpiton that locomotive engineers are responsible for more than zero but less than 100 percent of train accidents attributed to employee negligence, Table 8 was constructed. The previously derived estimate of approximately 50 million dollars per year of employee negligence related accident cost was used as the basis for the table. It was assumed that locomotive engineers are responsible for, or involved with 50 percent of all train accidents attributable to employee error.

Table 8. Ranges of Anticipated Monetary Benefit Based on an Assumption of Locomotive Engineer Involvement in 50% of all Employee Negligence Related Train Accidents.

Maximum Annual Possible Loss (dollars)	Reduce Annual Loss by (%)	Annual Saving (dollars)	Ten Year Savings (dollars)
25,000,000	5 minimum	1,250,000	12,5000,000
25,000,000	10	2,500,000	25,000,000
25,000,000	15	3,750,000	37,500,000
25,000,000	20 moderate	5,000,000	50,000,000
25,000,000	25	6,250,000	62,500,000
25,000,000	30	7,500,000	75,000,000
25,000,000	35 maximum	8,750,000	87,500,000
25,000,000	50	12,500,000	125,000,000
25,000,000	100	25,000,000	250,000,000

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Just as surely as locomotive engineers are responsible for only some proportion of negligence related train accidents, it is just as definite that no training program, whatever its extent, can eliminate all train accidents. The locomotive engineer must continually carry out his job duties in a dynamic, demanding, and potentially hazardous environment. Even under the best of conditions, all human operators make mistakes. Locomotive engineers are not different. The most sophisticated training program cannot eliminate poor weather conditions, operator fatigue or individual variations in performance due to personal problems, etc. A well planned training program can assist locomotive engineers in compensating for the effects of these influences, but total error elimination is, of course, impossible. This being the case, Table 8 displays the benefits of various percentage reductions of locomotive engineer related accidents, (assuming as the table does that locomotive engineers are responsible for 50 percent of all employee negligence related train accidents). The benefits associated with each percentage reduction is given for both one year and for a 10 year period, assuming the same constant accident reduction benefit each year. Any well developed and implemented training program should have a favorable effect on locomotive engineer performance. This is especially true in light of the extremely limited efforts which generally characterize current locomotive engineer training. A decrease of five percent in the annual accident loss as a result of a locomotive engineer training can logically meet with little disagreement. This minimal accident reduction would result in a one year benefit of 1,250,000 dollars. Over a ten year period, a benefit of approximately 12,500,000 dollars would be realized. On the other extreme, an aggressive, sophisticated locomotive engineer training program can be expected to have a far greater effect on the accident involvement of

locomotive engineers. Such a training program might reduce accident costs to a maximum 35 percent. A 35 percent maximum reduction of accidents would accrue to an annual benefit of 8,750,000 dollars of 87,500,000 dollars for 10 years. A moderate degree of accident loss cost reduction between the two values of 5 and 35 percent, that is, 20 percent, might be more appropriate. A 20 percent annual loss reduction would, as Table 8 shows, save 5,000,000 dollars a year of 50,000,000 dollars over 10 years.

Table 8 was predicated on the assumption that locomotive engineers are responsible, or involved with 50 percent of all train accidents due to employee negligence. This assumption may not reflect an accurate estimate of their degree of involvement. Tables 9 and 10 present analyses similar to that of Table 8 but based on different assumptions of locomotive engineer accident involvement. Table 9 assumes a maximum annual possible loss of 12,500,000 dollars based on an assumption of locomotive engineer responsibility for 25 percent of all employee negligence related train accidents. The same projected percentage decreases used in the Table 8 analyses will be discussed in relation to Table 9 for the sake of comparison. Table 9 demonstrates that a minimum 5 percent reduction in train accident losses would yield annual savings of 625,000 dollars of 6,250,000 over 10 years. A maximum reduction of 35 percent would realize an annual benefit of 4,375,000 dollars. This would save 43,750,000 dollars over a 10 year period. Between these two extremes, a moderate 20 percent train accident reduction would save 2,500,000 dollars per year of 25,000,000 dollars over 10 years.

Table 10 displays data which assume that locomotive engineers are responsible for 75 percent of train accident losses. A minimum train accident loss reduction of 5 percent would save 1,875,000 dollars per year or 18,750,000

Table 9. Ranges of Anticipated Monetary Benefit Based on an Assumption of Locomotive Engineer Involvement in 25% of all Employee Negligence Related Train Accidents.

Maximum Annual Possible Loss (dollars)	Reduce Annual Loss by (%)	Annual Saving (dollars)	Ten Year Savings (dollars)
12,500,000	5 minimum	625,000	6,250,000
12,500,000	10	1,250,000	12,500,000
12,500,000	15	1,875,000	18,750,000
12,500,000	20 moderate	2,500,000	25,000,000
12,500,000	25	3,125,000	31,250,000
12,500,000	30	3,750,000	37,500,000
12,500,000	35 maximum	4,375,000	43,750,000
12,500,000	50	6,250,000	62,500,000
12,500,000	100	12,500,000	125,000,000

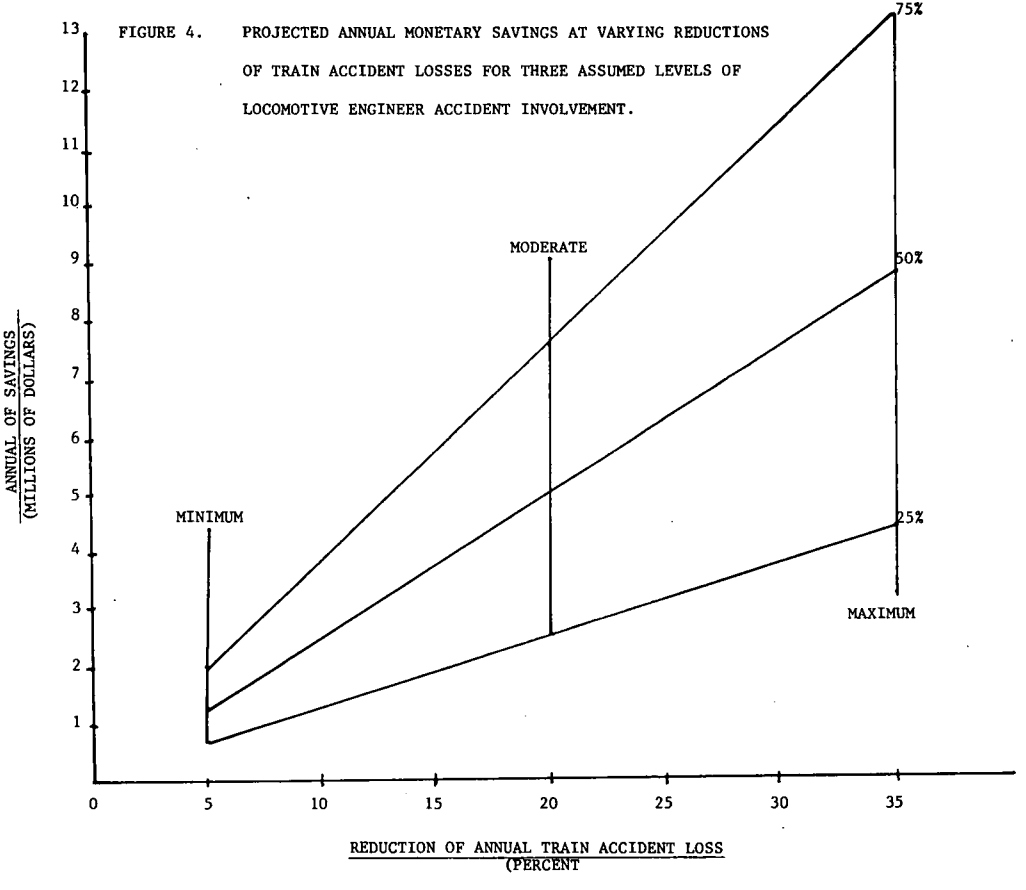
Table 10. Ranges of Anticipated Monetary Benefit Based on an Assumption of Locomtoive Engineer Involvement in 75% of all Employee Negligence Related Train Accidents

Maximum Annual Possible Loss (dollars)	Reduce Annual Loss by (%)	Annual Saving (dollars)	Ten Year Savings (dollars)
37,500,000	5 minimum	1,875,000	18,750,000
37,500,000	10	3,750,000	37,500,000
37,500,000	15	5,625,000	56,250,000
37,500,000	20 moderate	7,500,000	75,000,000
37,500,000	25	9,375,000	93,750,000
37,500,000	30	11,250,000	112,500,000
37,500,000	35 maximum	13,125,000	131,250,000
37,500,000	50	18,750,000	187,500,000
37,500,000	100	37,500,000	375,000,000

over 10 years. A moderate reduction of 20 percent would yield an annual benefit of 7,500,00 dollars which would accrue to a level of 75,000,000 dollars over 10 years. A maximum reduction of 35 percent in train accident losses would save approximately 13,125,000 dollars per year or 131,250,000 over 10 years.

Figure 4 consolidates the annual savings data from Tables 8-10. The formidable savings that could be realized from even a moderate (20 percent) reduction of accident losses at the lowest estimate (25 percent) of locomotive engineer responsibility are impressive. Higher reductions and/or a greater degree of locomotive engineer involvement present the potential for even greater savings as a result of a locomotive engineer training program. Additional accident loss reductions related to improved locomotive engineer training may also be realized. The earlier analyses set various proportions of the total accident loss as the accident loss attributable to direct locomotive engineer involvement. The remaining proportion of the responsibilty was specified as being a result of accidents in which the locomotive engineer had little or no direct involvement. While not directly involved in these losses, more extensively trained locomotive engineers would have better performance skills, would have a more complete, and more detailed, knowledge of operating rules and regulations, and would be, in general, more confident in meeting new and unexpected problems. Such engineers would be more able to avoid, or reduce, the consequences of other employees' errors. The potential savings attributable to this influence are, of course, unknown, but they do serve to increase further the conservatism of the range of possible accident loss reductions which have just been presented.

FIGURE 4. PROJECTED ANNUAL MONETARY SAVINGS AT VARYING REDUCTIONS OF TRAIN ACCIDENT LOSSES FOR THREE ASSUMED LEVELS OF LOCOMOTIVE ENGINEER ACCIDENT INVOLVEMENT.



6.2 Accident Reduction Benefits - Fatalities and Injuries

An earlier cited NTSB report (4) also provided data concerning the number of fatalities and injuries in train accidents attributable to employee error. For the ten year period 1961-1970, train accidents produced 181 fatalities and 4334 injuries which were attributed to employee negligence. Some proportion of these casualties is no doubt directly related to locomotive engineers' performances. The exact proportion is, of course, unknown. Locomotive engineers are surely directly involved in some of the accidents, but they are definitely not responsible for them all. Consequently, projected percentage reductions in injuries and fatalities will be presented later for their levels of locomotive engineer responsibility for casualties in train accidents: 25, 50, and 75 percent.

The NTSB report (4) found that there had been, for the period 1961-1970, 181 fatalities and 4334 injuries from train accidents attributable to employee error. Over the period 1961-1970 this produced mean annual fatalities and injuries of, respectively, 18.1 and 443.3. Table 11 presents an ananlyis which is based on the assumption that locomotive engineers are responsible for and/or directly involved with 50 percent of all train accident casualties. Thus, if all locomotive engineer errors were eliminated, 50 percent of the annual mean 18.1 fatalities and 433.3 injuries would be eleviated. The fatality and injury entries in the two left hand columns of Table were developed in this way (e.g., 18.1 x 0.5 = 9.0; 433.4 x 0.5 = 216.7). The remaining column of the table demonstrates both annual and 10 year reductions of fatalities and injuries for a range of projected decreases which might result from varying levels of successful locomotive engineer training.

Table 11. Ranges of Anticipated Reductions of Fatalities and Injuries Assuming Locomotive Engineer Involvement in 50% of All Employee Negligence Related Train Accidents.*

1961-1970 Mean Yearly Casualties		Reduce Annual Loss By (Percent)	Resulting Annual Reduction		Reductions Over 10 Years	
Fatalities	Injuries		Fatalities	Injuries		Injuries
9	216.7	5 Min.	-	11	5	108
9	216.7	10	1	22	9	216
9	216.7	15	1	33	14	325
9	216.7	20 Mod.	2	43	18	434
9	216.7	25	2	54	23	542
9	216.7	30	3	65	27	650
9	216.7	35 Max.	3	76	32	759
9	216.7	50	5.0	108	45	1084

* All entries were rounded to nearest whole number after all computations were completed.

Given the generally very limited and informal training currently being used to train locomotive engineers, upgraded training should result in obvious gains. Table 11 demonstrates that a minimal reduction of 5 percent in casualties would save one life every two years and 11 injuries annually. Over 10 years, 5 lives would be saved and 108 injuries avoided. At the other extreme, an aggressive, extensive training program could have a much more significant effect on casualty reduction. As with the discussion of monetary train accident losses, 35 percent is projected maximum reduction percentage. A 35 percent reduction would save 3 lives per year and reduce injuries by 76 each year. Over 10 years, almost 32 lost lives and 759 injuries would be avoided. Table 11 shows that a moderate casualty reduction of 20 percent would save 2 lives per year (18 over 10 years) and reduce injuries by 43 each year (434 over 10 years). Table 12 presents a similar analysis prediction on the assumption that locomotive engineers are directly involved in 25 percent of all train accident casualties. Under this assumption, a minimum 5 percent reduction in casualties would save one life every 5 years and reduce injuries by 5 per year. A moderate 20 percent reduction would save one life annually and eliminate 21 injuries each year. A maximum 35 percent reduction would save 2 lives every year and reduce injuries by 38 each year. The Table 13 analysis was based on the assumption that locomotive engineers are involved in 75 percent of all employee negligence related train accidents. The left hand column of Table 4 displays 13.6 fatalities and 325.1 injuries. These figures are 75 percent of, respectively, the 1961-1970 annual mean fatality and injury rates. This Table demonstrates that a mere 5 percent reduction in fatalities and injuries would save 7 lives every 10 years and reduce injuries by 16 each year. A maximum 35 percent reduction would save 5 lives per year (48 over 10 years) and reduce annual injuries by 114 (1138 for 10 years). A moderate 20 percent reduction in

Table 12. Ranges of Anticipated Reductions of Fatalities and Injuries Assuming Locomotive Engineer Involvement in 25% of Related Train Accidents.*

1961-1970 Mean Yearly Casualties		Reduce Annual Loss By (Percent)	Resulting Annual Reduction		Reductions Over 10 Years	
Fatalities	Injuries		Fatalities	Injuries		Injuries
4.5	108.4	5 Min	0	5	2	54
4.5	108.4	10	0	11	5	108
4.5	108.4	15	1	16	7	162
4.5	108.4	20 Mod.	1	21	9	208
4.5	108.4	25	1	27	11	271
4.5	108.4	30	1	33	14	325
4.5	108.4	35 Max	2	38	16	379
4.5	108.4	50	2	54	23	542

* All entries were rounded to nearest whole number after all computations were complete.

Table 13. Ranges of Anticipated Reductions of Fatalities and Injuries Assuming Locomotive Engineer Involvement in 75% of All Employee Negligence Related Train Accidents.*

1961-1970 Mean Yearly Casualties		Reduce Annual Loss By (Percent)	Resulting Annual Reduction		Reductions Over 10 Years	
Fatalities	Injuries		Fatalities	Injuries		Injuries
13.6	325.1	5 Min.	1	16	7	163
13.6	325.1	10	1	33	14	326
13.6	325.1	15	2	49	20	489
13.6	325.1	20 Mod	3	65	27	652
13.6	325.1	25	3	81	34	813
13.6	325.1	30	4	98	41	975
13.6	325.1	35 Max.	5	114	48	1138
13.6	325.1	50	7	163	68	1626

* All entries were rounded to nearest whole number after all computations wwere completed.

casualties would save 3 lives per year (27 for 10 years) and reduce annual injuries by over 65 (652 for 10 years).

Figure 5 presents a graphic consolidation of the fatality data contained in Tables 11-13. Figure 6 displays a similar consolidation of the injury data taken from Tables 11-13.

The numerical magnitudes of the entries in Tables 11-13 describing potential casualty reductions are not as impressive as were those in the previous section describing the potential monetary benefits of accident reduction. The magnitude of these casualty figures does not belie their significance, however. Aside from the important issues concerning the value of human life and reduced human suffering, there are additional benefits which can, be accrued through casualty reductions.

Deaths and injuries among members of a work force have an adverse effect on moral. Whether the cause of the casualty is conceived by the employee as being due to management indifference in regard to accident prevention or employee negligence, the final effect can be the same--a reduction in worker satisfaction, more sick days and absenteeism, and a general decrease in productivity.

Lastly, the cost of health care benefits, legal fees, and damage settlements has escalated in the last decade. The direct costs of these items is no doubt considerable. Added to them, and directly influenced by them, are insurance costs. Even a small decrease in casualties as a result of improved locomotive engineer training will have several positive effects on these costs. Obviously, a reduction in casualties will result in fewer

FIGURE 5. PROJECTED ANNUAL FATALITIES AVOIDED AT VARYING REDUCTIONS OF TRAIN ACCIDENT LOSSES FOR THREE ASSUMED LEVELS OF LOCOMOTIVE ENGINEER ACCIDENT RESPONSIBILITY.

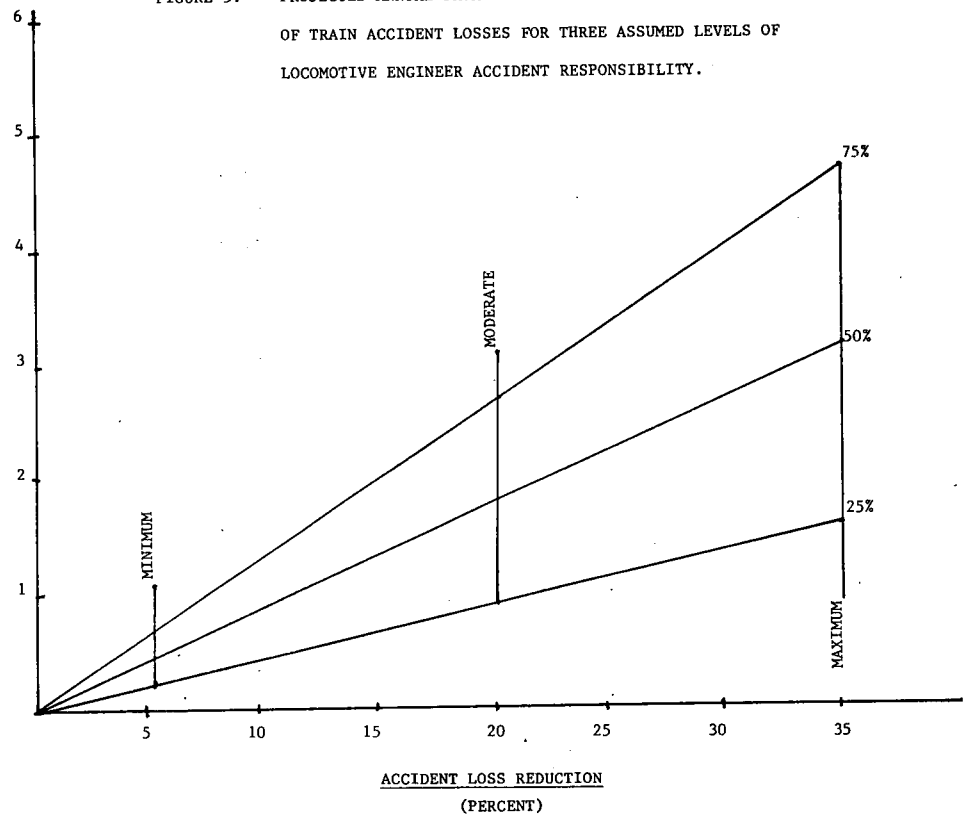
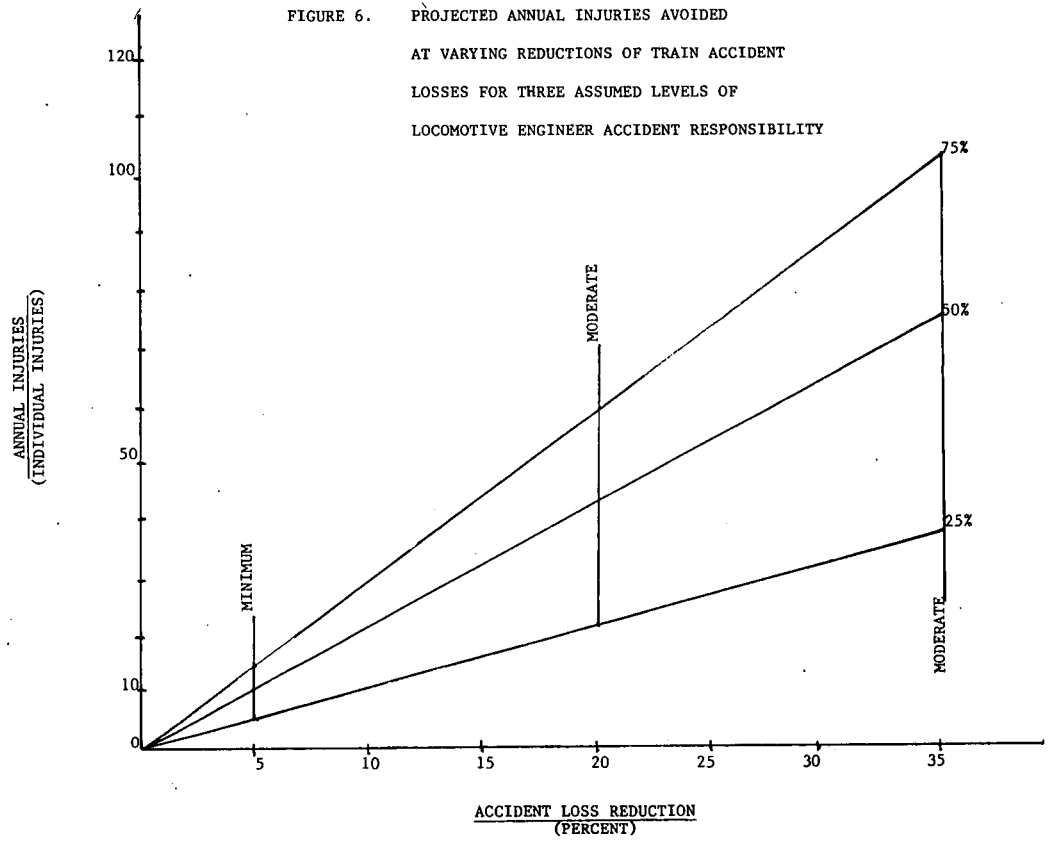


FIGURE 6. PROJECTED ANNUAL INJURIES AVOIDED AT VARYING REDUCTIONS OF TRAIN ACCIDENT LOSSES FOR THREE ASSUMED LEVELS OF LOCOMOTIVE ENGINEER ACCIDENT RESPONSIBILITY



expenditures for medical care, lost time and court settlements. Additionally, the presence of an effective locomotive engineer training program will present a potential additional savings in the form of reduced insurance premiums.

Additional accident loss reduction related to improved locomotive engineer training may also be realized. The earlier analyses set various proportions of the total accident loss as the accident loss attributable to direct locomotive engineer involvement. The remaining proportion of the responsibility was specified as being a result of accidents in which the locomotive engineer had little or no direct involvement. While not directly involved in these losses, more extensively trained locomotive engineers would have better performance skills, would have a more complete, and more detailed knowledge of operating rules and regulations. Such engineers would be more able to avoid, or reduce, the consequences of other employees' errors. The potential savings attributable to this influence are, of course, unknown but they do serve to increase the conservatism of the range of possible accident loss reductions which have just been presented.

This analysis did not address losses of lading and energy due to poor train handling procedures. The degree of industry attention which has been focused on this problem indicates that losses may be significant. A number of industry sponsored research efforts (e.g., 1,2) have dealt with the need for, and the method of, proper train handling. While it is difficult to quantify the losses incurred by poor or improper train handling, these losses must be significant to motivate concerted industry attention. Reduction of these losses through improved locomotive engineer trainig programs can only seem to increase the potential savings previously outlined.

6.3 WORKFORCE AVAILABILITY

An earlier section (3.4) of this report analyzed current and projected locomotive engineer manpower requirements. The number of locomotive engineers in service in 1977, according to the Interstate Commerce Commission (ICC) figures was 34,554. In order to maintain this manpower level in the face of a 4.91% retirement rate, it was shown that 1,696 new engineers would have to enter service each year. It was further shown that the traditional manpower resource for locomotive engineers, the experienced fireman, would soon cease to be a meaningful resource of new engineers. Analyses demonstrated that if all in-service firemen in 1977 were available as locomotive engineer replacements, all reasonably experienced firemen would be converted into locomotive engineers before 1982. From that point all replacements would have to be obtained from other sources. Firemen retirements and failure to meet qualification standards would serve to eliminate the promotable firemen pool at an even earlier date.

The analyses of Section 3.4, recapitulated above, did not attempt to account for the impacts which would be created by demands for increased rail service. These demands are addressed in detail by Section 3.2 of this report.

The AAR reported (6) that revenue freight traffic on Class I railroads in 1976 amounted to 791,413 million ton-miles. The 1970-1976 annual revenue ton-mile mean was 789,961 million ton-miles. As Section 3.4 of this report has demonstrated, the number of locomotive engineers in-service from 1970-1977 remained fairly constant about a mean of 34,554.

Increases in the demand for rail services will require more locomotive engineers. This is easily apparent from a simultaneous evaluation of AAR data (6) and ICC (18)

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figures. Table 14 displays these data. The two largest ton-mileage years, 1973-1974, coincide with the two highest locomotive engineer staffing years. The percentage changes in ton-miles and in the number of locomotive engineers from year to year more clearly illustrates this relationship between manpower needs and the demands of increased rail service. The large increase (9.7 percent) in tonnage in 1973 was accompanied by a 6.5 percent increase in the number of locomotive engineers. The large decline in rail service demand of 11.4 percent in 1975 provided the impetus for a 11.6 percent decrease in the number of in-service locomotive engineers. The parallel fluctuations in the number of locomotive engineers in-service and ton-miles are more closely related than the percentage fluctuations indicate. The correlation between yearly numbers of locomotive engineers and ton-miles displayed in Table 14 was estimated by computing Pearson's product-moment correlation. The resultant correlation coefficient was +0.78 (with df = n(pairs) -1 = 6, this coefficient is significant at the 0.025 level). A statistically significant correlation coefficient of +0.78 for any set of scores is characterized as "high." This indicates that there is a significant direct relationship between ton-miles each year and the numbers of locomotive engineers in-service.

The relationship may be even higher than the +0.78 correlation coefficient implies. Hiring, training, and dismissal of locomotive engineers, as in any skilled profession, is not a straightforward affair. Contract agreements, seniority lists and training lead times impact on the relationship between locomotive engineer staffing and the demands of increased business. Management cannot adjust its workforce on a day-by-day basis. The effect of these influences is to decrease the speed with which the fluctation in the number of in service locomotive engineers will reflect changes in demand. The (statistically significant) +0.78 correlation obtained from Table 14 demonstrates that, despite these tempering

Table 14. Freight Revenues and Locomotive Engineers of Class I Railroads from 1970 - 1976

YEAR	TON-MILES (MILLIONS)	PERCENT CHANGE	ENGINEERS IN SERVICE (THOUSANDS)	PERCENT CHANGE
1970	764,809		34,951	-
1971	739,743	-8.4	34,098	2.4
1972	776,746	4.8	34,165	0.2
1973	851,809	9.7	36,393	1.1
1974	850,961	-0.01	36,795	-11.6
1975	754,252	-11.4	32,529	1.5
1976	791,413	5.0		

influences, the relationship between increased rail demands and locomotive engineers in service is large. Over a prolonged period (e.g., 20 years) the effects of these moderating influences may be decreased and the already sizeable relationship between increased demand for rail services and needed locomotive engineers may be found to be even greater. The above figures and analyses clearly demonstrate that changes in rail service demand have been accompanied by parallel changes in the number of locomotive engineers. There are, at present, no indications that this relationship will change in the future.

However, there is evidence which indicates that rail service demands will be changing drastically in the very near future. The National Academy of Science's Transportation Research Board forecasts (12) that, by the year 1990, rail service demand will be between 1.1 trillion ton-miles and 1.5 trillion ton-miles. Figure 1 displays this information. The 1976 revenue freight ton-miles on Class I railroads was 791,413 million (6). The horizontal line on the lower portion of Figure 1 extends this 1976 total as a reference point. The ICC reported (20) that the mean number of locomotive engineers in service from 1970-1976 was 34,554. Presumably, these locomotive engineers were both adequate and essential to meet the 1976 rail traffic demands.

The Transportation Research Board estimates (12) of increased ton-miles by 1990 are also included and labelled on Figure 7. It is clear that even the minimum estimate of 1.1 trillion tons by 1990 represents a drastic increase.

The effect that these rail demand increases will have on the number of locomotive engineers required to meet these traffic demands is also drastic. The right side axis of Figure 7 provides forecasted numbers of locomotive engineers. As the figure shows, a mean of 34,554 locomotive engineers were in service from 1970-1976 to meet 1970-1976 rail service demands. The large and significant

FIGURE 7. FORECASTED TON-MILES AND LOCOMOTIVE ENGINEERS IN SERVICE, 1977-1990

Table 15, Forecasted 1990 Locomotive Engineer Staffing Level and related training demands

Forecasted Locomotive Engineers in Service	MINIMUM 1990	MAXIMUM 1990
	48,027	65,491
Mean Number of Locomotive Engineers in Service 1970 - 1976	34,056	34,554
Shortfall to meet increased demand	13,971	30,937
Retirement Replacements needed to maintain 1970 - 1976 Manpower Levels Assuming that all 1976 in Service Firemen are promoted to Locomotive Engineers	13,568	13,568
Total Locomotive Engineers that will have to be trained between 1977 and 1990 to meet forecasted demand	27,539	44,505
Mean 1977 - 1990 annual training output of Locomotive Engineers necessary to meet forecasted demand	2,118	3,423

correlation (+0.78) between locomotive engineers in service (1970-1976) and ton-miles (1970-1976) makes it clear that as ton-miles increase, so will the number of locomotive engineers. The minimum forecast of 1.1 trillion ton-miles by 1990, given the significant correlation between numbers of locomotive engineers and ton-miles, may result in a demand for approximately 48,027 locomotive engineers by 1990 (i.e., 1,100,000,000,000/791,413,000,000 x 34,554 = 48,027). The maximum forecasted ton-miles for 1990, 1.5 trillion, will create a need for approximately 65,491 locomotive engineers.

Earlier analyses have demonstrated that experienced firemen will cease to be a source of locomotive engineers by 1982 at the latest. This would occur even if every single fireman in service in 1977 was available for promotion and would not retire, die, or otherwise leave his position before being promoted to locomotive engineer. Obviously, a large number of locomotive engineers will have to be obtained from some other source. Table 15 provides data which illustrates the magnitude of the problem based on the same data used in the development of Figure 7. The minimum 1990 rail demand estimate, as Figure 7 displays, will create a need for approximately 48,027 locomotive engineers. As Table 7 shows, the shortfall in supply will require that 13,971 additional locomotive engineers will have to enter service.

During this period, as shown by Section 3.4 of this report, 1996 locomotive engineers will retire each year and will also have to be replaced merely to maintain the 1976 staffing level of 34,554 locomotive engineers. Between 1983 and 1990, an additional 13,568 locomotive engineers must be trained to replace those who retire in order to maintain the 1976 level. This figure is based on the assumption that all firemen in service in 1976 are promoted to locomotive engineer before additional personnel are recruited and trained. Thus, the projected number of new locomotive engineers required to meet minimum 1990 forecasted rail

service demand is 27,539 over the next 13 years. Therefore, an average of 2118 new locomotive engineers must enter service each year to meet this need.

Of course, if the number of firemen who are promoted to locomotive engineer is less than the total number of firemen in service in 1976 the training demands will be greater than those displayed in Table 15. The maximum 1990 forecasted rail service demand will create a need for an additional 30,937 men to replace 1983-1990 retirements (or more if all current firemen are not promoted). A total of 44,505 new locomotive engineers must enter service between 1977 and 1990 to meet the maximum forecasted demand. This requires that annual training levels during 1977-1990 of 3423 new engineers.

A portion of these forecasted requirements may be met by present training efforts. It might be reasonable to assume that current training efforts can replace retirements in order to maintain the number of locomotive engineers in service in 1976. Under this assumption, the minimum demand forecast would call for 13,791 new engineers between 1977-1990 or 1074 annually. The maximum demand forecasted would require the addition of 30,937 new locomotive engineers in the period 1977-1990, or 2379 annually.

Analyses of locomotive engineer training programs (see Section 5.0) demonstrates that programs in operation today cannot possibly meet these forecasted manpower needs regardless of the quality of existing programs and apprentice candidates. Moreover, the numbers of firemen (helpers) who are presently available for training are inadequate to meet the needs of the near future.

The consequences of a failure to plan for, and meet these formidable training needs will be serious. Aside from safety issues the financial loss to the industry would be considerable since there is no way to meet the demand without sufficient

locomotive engineers. Increased future traffic demands are therefore going to require large numbers of additional locomotive engineers. Without these personnel, rail service demands will not be able to be satisfied and significant revenue tonnage may be lost to alternative transportation modes such as truck and ship transports.

The AAR reported (6) that mean ton-mile revenue for 1976 amounted to 2.194 cents per ton-mile. As ton-mile revenue has increased steadily since 1966 due to inflation and other factors, there is no reason to believe that decreases are imminent. The use of a 1970-1976 mean for ton-mile revenue would therefore be an underestimate of future trends. The minimum forecast of 1990 rail traffic calls for 1.1 trillion ton-miles. This would represent an increase of 308,587,000,000 ton-miles by 1990. Between 1977 and 1990 the annual yearly increase in ton-miles would amount to 23,737,461,540 ton-miles per year. At 2.194 cents per ton-mile, this minimum forecasted increase represents 108,192,623 dollars in increased revenue for each year of the period 1977-1990. This amounts to over 1.4 billion dollars for the period 1977-1990. The maximum forecasted 1990 rail demand calls for an annual 1.5 trillion ton-miles by 1990. For the period 1977-1990, this maximum forecast would result in an increase by 1990 of 708,587,000,000 ton-miles annually over the 1976 level. For the period 1977-1990 this would result in an annual increase of 54,506,692,310 ton-miles per year. At the 1976 rate of 2.194 cents per ton-mile, this would result in an annual net revenue gain of 187,051,106 dollars for each year between 1977-1990. Over the period 1977-1990, the total net revenue gain would amount to over 2.43 billion dollars.

These revenue gains will not be obtained without considerable effort. Not the least of these efforts must involve training new locomotive engineers. Without them these revenue increases cannot be achieved.

Table 16 (A) presents the maximum and minimum revenue increases which were derived on the basis of forecasted rail service increases. Figures are presented both as 1977-1990 total revenue increases and as 1977-1990 annual mean revenues. The lower portion of the table (B) shows revenue losses which could be incurred if the locomotive engineer manpower pool is not large enough to meet the forecasted workforce demands. For example, if there are only half as many locomotive engineers in service as needed during the period 1977-1990, 54 million dollars could be lost annually. 703 million dollars in revenue could be lost for the period 1977-1990. A 50 percent shortfall in locomotive engineers to meet the maximum 1990 rail service demand could result in 93,500,000 dollars of lost revenues each year or 1,215,000,000 dollars for the period 1977-1990.

Present data indicate that a potential 50 percent shortfall is a serious possibility. Present training programs are not adequate to even meet the minimal throughput demands created by minimum forecasts of increased rail service demands.

Even a 25 percent shortfall would result in the loss of 27,000,000 dollars annually of 351,500,000 dollars over the period 1977-1990 based on the minimum forecast of increased rail service demand. The maximum increase in demand, if occurring in conjunction with a 25 percent shortfall of needed locomotive engineers, could cost the railroads a 1977-1990 total revenue loss of 607,500,000 dollars (or 46,750,000 annually between 1977-1990)

An illustration of the seriousness of the problem is easily developed by examining the revenue loss created by a locomotive engineer shortfall of 5 percent. A 5 percent shortage of locomotive engineers in meeting the minimum forecasted increases in rail service demand could result in an annual loss of 5,400,000 dollars from 1977-1990 or a total loss of 70,300,000 dollars for the 1977-1990 period.

Table 16. Expected Revenue Increases and forecasted decreases Created by Locomotive Engineer Shortages

A. Forecasted Revenue Increases over 1976 levels (dollars)				
MINIMUM INCREASE		MAXIMUM INCREASE		
MEAN 1977-1990 Annual	1977-1990 Total	MEAN 1977-1990 Annual	1977-1990 Total	
108,000,000	1,406,000,000	187,000,000	2,430,000,000	

B. Forecasted Revenue Losses				
	MINIMUM INCREASE		MAXIMUM INCREASE	
	MEAN 1977-1990 Annual	1977-1990 Total	MEAN 1977-1990 Annual	1977-1990 Total
Locomotive Engineer Supply Shortfall 1%	1,080,000	14,060,000	1,870,000	24,000,000
2%	2,160,000	28,120,000	3,740,000	48,000,000
3%	3,240,000	42,180,000	5,610,000	72,000,000
4%	4,320,000	56,240,000	7,480,000	96,000,000
5%	5,400,000	70,300,000	9,350,000	121,500,000
25%	27,000,000	351,500,000	46,750,000	607,500,000
50%	54,000,000	703,000,000	93,500,000	1,215,000,000

A 5 percent shortfall in meeting the maximum forecasted rail service demand could result in a loss of 9,300,000 dollars annually or 121,500,000 over the period 1977-1990.

These potential losses are based solely on a failure to achieve forecasted additional revenues. Shortages of locomotive engineers in an increased rail service demand situation would indoubtedly contribute even further to revenue loss as scheduling and routing complications would increase. As locomotive engineers are rushed into service to fill critical gaps compromises of safety and rules training may occur. This would lead to further monetary losses through accidents and delays. All of these influences serve to emphasize the conservative nature of the figures provided in Table 16.

SECTION 7 - TRAINING PROGRAM IMPLEMENTATION COSTS

The current and future locomotive engineer training program requirements can be met with a complete training system. The components of this system have been identified. It's non-recurring and recurring costs have been estimated to reflect required training levels, capacity, and effective instructional systems design.

An effective program must achieve these goals:

1. The establishment and maintenance of a high level of labor-management enthusiasm and cooperation.

2. The design, development, operation and maintenance of a quality curriculum; training media; and instructional and administrative staff; quality control procedures; apprentice selection, and facilities.

It is expected that the first of these two goals may be partially achieved by the present analysis. The analysis offers a broad review of the training needs, the requirements for meeting the needs, estimate of benefits which can result from an appropriate program and a comparison of costs with benefits.

The second goal can only be achieved through the expenditure of the resources required to implement the program. In this section of the report, the elements of the training system are outlined and budgetary estimate of their costs is presented.

7.1 SYSTEM ELEMENTS

Training Objectives. Training objectives have already been prepared by the Brotherhood and have been approved by the Department of Labor. The objectives will provide the direction for the development of a training curriculum. Present objectives outline both knowledge and skill requirements. An expansion of the objectives will be desirable in order to more completely define the elements of the curriculum.

Curriculum Development. A few carriers have developed and documented locomotive engineer training approaches and developed materials. These items should prove useful in the construction of the program. However, a total curriculum must be developed. It must contain:

1. A Syllabus
2. Instructor Guides
3. Student Guides
4. Tests of knowledge and skills
5. Media Requirements

Instructional Media. The training objectives must be evaluated and an instructional approach or strategy developed. The strategy should specify the media which will be used to teach specific knowledge and skill. The use of a full range of media is anticipated:

1. Audio-Visual presentations for classroom and self study
2. Demonstration Equipment (e.g., airbrake systems)
3. Full Task Simulators
4. Actual Equipment Trainers (i.e., locomotives)
5. Study Carrels

Instructional Staff. Requirements for an instructional staff must be identified. Successful candidates must become thoroughly familiar with the curriculum and should, if possible, be allowed to participate in its development. Guidelines for the supervision of instructors should be established so that they can accept it as a normal practice.

Quality Control. The quality of the training program must be monitored and controlled. Appropriate valid and reliable measures of knowledge, skills, and performance should be developed. The monitoring of these measures and individual test items will serve as a continuing index of success of the training program. The quality control system should rest on tests and measures which have been developed to acceptable reliability and validity levels, and meet Title VII requirements.

Administrative Support. Requirements for an administrative staff must be met. These include:

1. A Program Coordinator/Administrator
2. Individual Facility Administrators
3. Secretaries and Clerks
4. Maintenance Personnel

Apprentice Selection. The resources which are required to implement the program are extensive. Those financing the program have a significant investment in the training outcome. In addition all apprentices will be making a significant commitment and investment in their future. Therefore, selection procedures must be developed and validated for the sake of all involved parties. Requirements related to Title VII must be met.

Facilities. Appropriate facilities must be available through renovation, or construction to meet all training functions. Classroom, simulator and self-study facilities must provide the space, environmental controls and the atmosphere to promote learning. Administrative office space should be efficiently designed to meet the requirements of all management and support functions. Some residential space may be necessary; although, if the training facilities are located in large population centers, very little residential space may be required. Motels may prove more economical. A third element of the facilities is a closed track and related systems (e.g., signals) which would be used to train apprentices on actual equipment.

Costs for the use of actual equipment training facilities have not been estimated. The potential costs could span a wide dollar range, and are best viewed as a cost that should be constrained by setting a budgetary goal and, subsequently, working to attain it through industry cooperation.

Lastly, the majority of the training system's features are easily adapted for training other railroad personnel. Personnel such as train dispatcher and others with operating responsibilities could receive instruction and training in the system's facilities.

7.2 BUDGETARY ESTIMATES

7.2.1 Assumptions - General The estimates which follow were based on the assumption that approximately 2000 apprentice locomotive engineers must be trained annually. This system has the flexibility to nearly double the training level with the addition of a second shift, additional instructors and some equipment. Additional key assumptions are that instructional capacity and quality levels can be attained through apprentice selection techniques; individual independent study, and curriculum scheduling.

Geographical location was also considered an important variable. Accordingly, four centers were designated to serve major regions of the country. The centers are the same except for one facility which has additional office facilities housing the Training System Headquarters. Heating and cooling costs vary with the regions and were individually estimated.

Only a small residential center was included in the estimates. If the facilities are located near population centers, some apprentices may be drawn from these centers and can commute. Alternatively, local motels may prove more economical than residential centers. The centers include small, private rooms, recreation areas and some kitchen facilities.

7.2.2 Assumptions - Specific

7.2.2.1 Training Simulator Assumptions include the following items.

Software

- Train and track modeling
- Acoustics modeling
- Instrument servo control
- Sound system modeling
- Hydraulic system control
- Visual system servo synchronization
- Instructor display design
- Coding for all of above
- Documentation

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Cab

- Instrument servos
- 4000 lbs. structural steel
- Simulated control stand and setup panels
- Instructor console with graphics displays
- Audio system
- Electronics cabinets

Projection System

- Single projector
- Synchronization controls and servos
- Lenses and mirrors
- Screen

Computer System

- CPU (similiar to PDP-11/70)
- Interfaces
- Peripherals (terminal; card reader; card punch; disks; tapes; printer)

Sound System

- Sound generation electronics

Motion System

- Vibration, roll, heave, forward motion
- 40,000 lbs. structural steel
- Hydraulic cylinders, couplings, piping
- Accumulators
- Excavation, concrete and forms

7.2.2.2 Facilities Assumptions include the following items

. Per location: Training building, dorm, 1½ acres land, parking areas

. Buildings: Brick walls, slab floor, steel and concrete superstructures

. Training building: 10,000 sq. ft., including 3 classrooms, 1 simulator room, offices, lounge

. Dormitory: Houses 20 students (4,000 sq. ft.)

7.2.3 Budgetary Estimates - Specific

7.2.3.1 Simulator Budgetary Cost Estimate

ITEM	COST
1. Software and filming	
a. Computer software	950,000
b. Filming costs (Includes crew and locomotive rental)	63,000
	1,013,000
2. Hardware	
a. Cab mockup (Includes operator and instructor stations and all displays except projection system	947,700
b. Projection system(Single projector, mirror, screen and servos)	527,600
c. Computer system (Computer interfaces, cabinets)	806,700
d. Sound system	31,200
e. Motion system (Three degrees of freedom plus vibration)	906,100
f. Classroom training aids	30,000
TOTAL Hardware	3,249,300
TOTAL Software, Filming, and Hardware	4,262,300

7.2.3.2 Facilities Budgetary Cost Estimate

Facility Location	Cost
Northeast	979,300
Southern California	1,156,800
Midwest	890,500
Southeast	801,800
TOTAL FACILITIES COST	3,828,400

7.2.4 Combined Budgetary Estimates for the Four Sites

1.	Software and filming (all sites combined)		1,013,000
2.	Northeast		
	Facilities:	979,300	
	Hardware:	3,249,300	4,228,600
3.	Southern California		
	Facilities:	1,156,800	
	Hardware:	3,249,300	4,406,100
4.	Midwest		
	Facilities:	890,500	
	Hardware:	3,249,300	4,139,800
5.	Southeast		
	Facilities:	801,800	
	Hardware:	3,249,300	4,051,100
		TOTAL	$17,838,600

7.2.5 Initial Costs. Various initial or start-up costs for the first year are:

ITEM	COST
Facilities (training)	3,828,400
Hardware	12,997,200
Software and Filming	1,013,000
Instructional materials	100,000
Staff training	150,000
Test equipment and tools	40,000
Administrative offices	50,000
Office equipment	75,000
TOTAL INITIAL COSTS	$18,253,600

7.2.6 Annual Operating and Maintaining Costs are estimated as shown below:

ANNUAL COSTS

Item	Per Facility	Total
Staff	$230,000	
Training and office supplies	10,000	
Simulator spares and replacement parts	30,000	
Facilities supplies and maintenance	15,000	
Utilities	25,000	
Trainee per diem	400,000	
Subtotal	$710,000	$2,840,000.
Other annual costs		
Administration staff salaries		140,000
Administration staff travel		50,000
Consultants		45,000
System integration contractor (3 years only)		250,000
		485,000
Total annual costs		
First three years		$3,325,000
Subsequent years		$3,075,000

Section 8 - COST-BENEFIT ANALYSIS

Section 6.0 described ranges of potential benefits which would result from implementation of varying degrees of locomotive engineer training. Section 7.0 presented cost estimates for the implementation and operation of four training centers with an annual graduation rate of 2,000 trained locomotive engineers. This section presents a comparison of the potential benefits against the anticipated costs. This procedure will demonstrate that the expense incurred by the establishment and operation of such a training program will be more than recovered by the benefits resultant from the program. Low moderate, and high ranges of potential benefits will be presented where such forecasts were originally developed in Section 6.0

8.1 POTENTIAL BENEFITS

8.1.1 Monetary. Table 17 details monetary benefits which will accrue both from the reduction of accident loss and the reduction of revenue loss. Three levels of forecasted benefits are presented for each of these categories (refer to Sections 6.1 and 6.3 for data concerning development of these specifications). As demonstrated by Table 17, potential monetary benefit will range from 4,490,000 to 35,750,000 dollars annually.

8.1.2 Annual Fatality and Injury Reductions.* Section 6.2 analyzed data concerning potential fatality and injury reductions. These data are summarized by Table 18. A minimum level of potential benefit was forecasted to reduce injuries by 11 per year while a maximum level of benefit was projected to reduce injuries by 76 and fatalities by 3 each year.

*Assuming locomotive engineer involvement in 50% of all employee negligence related train accidents.

Table 17. Potential Monetary Benefits*

SOURCE	POTENTIAL BENEFITS (DOLLARS) Low	Moderate	High
Accident Reduction Annual Savings*	1,250,000	5,000,000	8,750,000
Annual Savings of Revenue Losses*			
3% savings	3,240,000		
5% savings		5,400,000	
25& savings			27,000,000
Total Annual Savings	4,490,000	10,400,000	35,750,000

*Assuming locomotive engineer involvement in 50% of all employee negligence related train accidents.

TABLE 18. POTENTIAL FATALITY AND INJURY REDUCTION BENEFIT*

SOURCE	Potential Benefits (Cases)		
	Low	Moderate	High
Fatality Reduction	-	2	3
Injury Reduction	11	43	76

*Assuming locomotive engineer involvement in 50% of all employee negligence related train accidents.

8.1.3 Potential Benefit Summary. Table 19 summarizes the annual and the 10 year totals of potential monetary and human suffering benefits. The minimum benefit will accrue 44,900,000 dollars and save 5 lives and 110 injuries over 10 years. The maximum benefit will yield 10 year benefits of 357,500,000 dollars, 760 injuries and save 30 lives.

8.2 ESTIMATED COST SUMMARY*

Table 20 displays the estimated training program cost which were developed in section 7.2. The program thus described is one in which four simulator equipped training centers will graduate 2000 locomotive engineers annually. Initial costs for equipment, building, etc., total 18,253,600 dollars. Operating and maintenance costs will be 3,325,000 dollars for each of the first three years and 3,075,000 dollars each for years 4-10. As shown in Table 20, this will bring the 10 year total cost to 49,760,000 dollars.

8.3 COST BENEFIT COMPARISON

Table 21 displays a comparison of costs and benefits for the first 10 years of training program operation. For a minimum level of benefits, the ten year net monetary gain will be 140,000 dollars. Fatalities will be reduced by 5 and injuries by 110 during this period. Moderate training program benefits will result in a net monetary gain of 54,240,000 dollars over the 10 year period with a savings of 20 lives and 430 less injuries. A maximum benefit level will result in a net gain of over 307 million dollars, 760 less injuries, and 30 lives saved.

*Assuming minimum forecast rail service demand increase requiring 2,000 new locomotive engineers per year from 1977-1990.

Table 19. Annual and Total 10-Year Benefit Summary

	POTENTIAL BENEFITS ($'s and Cases)		
PERIOD	Low	Moderate	High
Annual	4,490,000	10,400,000	35,750,000
	-	2 Lives	3 Lives
	11 Injuries	43 Injuries	76 Injuries
10 Years	49,900,000	104,000,000	357,500,000
	5 Lives	20 Lives	30 Lives
	110 Injuries	430 Injuries	760 Injuries

TABLE 20. ESTIMATED COSTS SUMMARY

Source	Cost (dollars)	
Initial Costs	18,253,600	
Operations and Maintenance (years 1-3)	3,325,000	
Operations and Maintenance (years 4-up)	3,075,000	
Implementation & First Year of Operation		21,578,600
Total Operation and Maintenance (years 2 and 3)		6,650,000
Total Operation and Maintenance		21,525,000
Total Cost for First 10 years		49,760,000

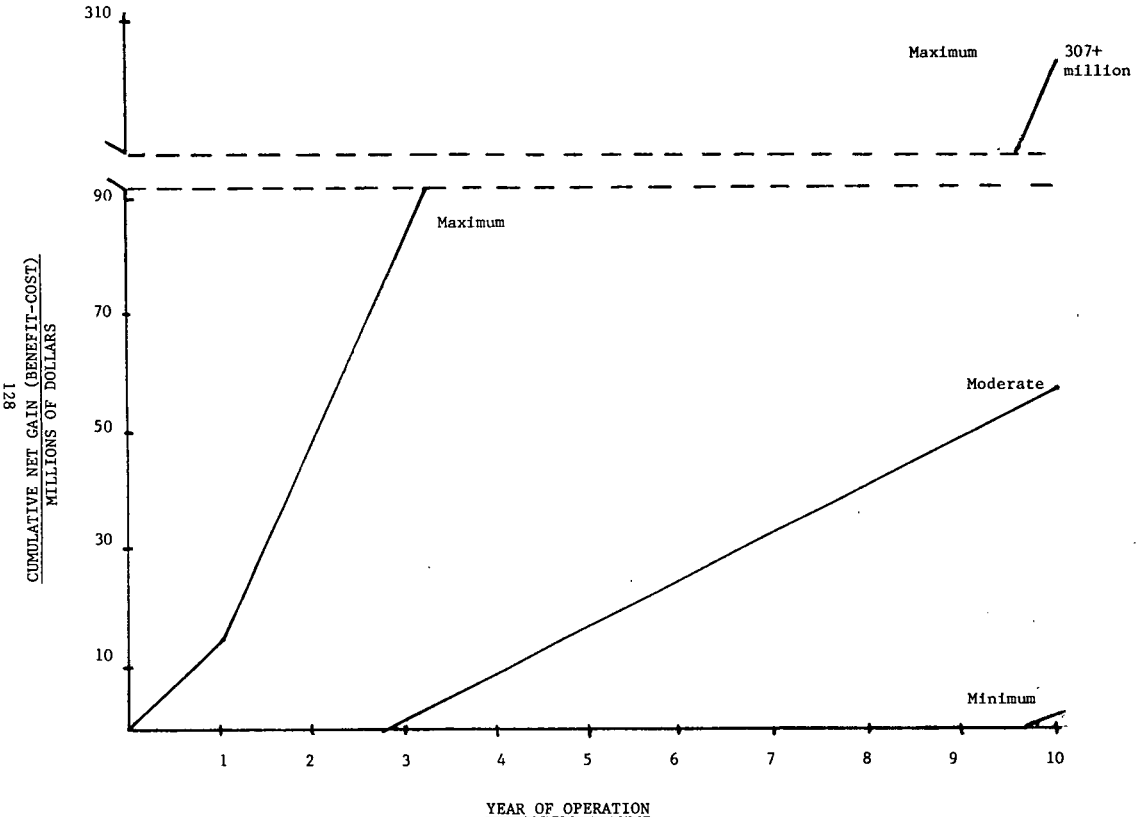
TABLE 21. COST BENEFIT COMPARISON

Total 10 Year Benefit	Potential Benefits (dollars and cases)		
Source	Low	Moderate	High
Monetary	44,900,000	104,000,000	357,000,000
Fatalities	5	20	30
Injuries	110	430	760
Total 10 Year Costs (Monetary)	49,760,000	49,760,000	49,760,000
Net 10 Year Benefit (Benefits Less Costs)			
Monetary	140,000	54,240,000	307,740,000
Fatalities	5	20	30
Injuries	110	430	760

8.4 CONCLUSIONS

Figure 8 graphically illustrates the cost-benefit interactions which have just been detailed. Even the ridiculously low, most conservative minimum benefit assumption demonstrates that a total cumulative recovery of initial and operating costs will be realized in the tenth year of operation. As forecasted benefits increase, the effect on net gain is dramatic. As Figure 8 shows, moderate benefits will result in an operation that realizes a net gain over costs after only less than three years of operation. These data clearly demonstrate that the modern training program which has been described in this report will yield benefits greatly in excess of its cost.

FIGURE 8. CUMULATIVE NET MONETARY GAIN PER YEAR OF OPERATION



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SECTION 9

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Appendix A

Atchison, Topeka & Sante Fe - Western Lines

Baltimore & Ohio Railroad (Proper)

Brooklyn Eastern District Terminal

Canadian National (Lines in New England)

Canadian Pacific

Chicago Northwestern Transportation Co.

Chicago & Northwestern Transportation Co.
East District #1-Zone 3

Clinchfield Railroad Co.

Colorado & Southern Railway Co.

Consolidated Rail Corporation

Denver & Rio Grande Western

Elgin, Joliet & Eastern R.R.

Grand Trunk Western

Illinois Central Gulf Railroad

Kansas City Southern

Long View Switching Co.

Longview Portland & Northern

Louisiana & Arkansas

Minnesota Transfer Railway

Missouri-Kansas-Texas

Missouri Pacific (Former KO&G/Red River Div.)

Missouri Pacific (Gulf)

Missouri Pacific Railroad (Former T&P)

New York Dock Railway

Norfolk & Western Railway (Eastern Region)

44-399 O - 79 - 27

Richmond Fredericksburg & Potomac

St. Louis - San Francisco Railway Co.

St. Louis Southwestern Railway Co.

Santa Maria Valley

Seaboard Coast Line

Soo Line Railroad

Southern Railway System

Tacoma Municipal Belt Line Railway

Terminal Railroad Association of St. Louis

Union Railroad of Pittsburgh, Pa.

Union Pacific (Eastern District)

Union Pacific (NWD Oregon Division)

Union Pacific (Utah-Idaho Division)

Exhibit 3

TRAINS TURNTABLE: . . . A PAGE OF OPINION.[1]

FEATHERBRAINING

The "in" thing today in certain railroad circles is to place all the blame for any industry ills at the door of the "Brothers." Ask any expert on railroads and he can usually cite chapter and verse on horrendous examples of featherbedding. This is usually followed by references to the alleged success of the Florida East Coast since that carrier has been able to break the power of the unions.

It is not my intent to argue, either pro or con, on that subject. I will give John Kneiling the privilege of saving the industry.

Let me instead offer another word for consideration by the industry, "featherbraining." There is really no definition for the word. It is more of the feeling that we will blunder our way through this crisis, one way or another. Besides, we have been doing it this way for 50 years and why change now. Let me offer some examples:

Featherbraining is calling crews before actually required and then loudly complaining that the payment of initial terminal time is way out of line.

Featherbraining is not paying any attention to what an inbound engineer says about the condition of his motive power. Then, when the outbound engineer tells you that he has only one unit working on a train of 110 cars, telling him to go as is and do the best he can. So he struggles along at 10 mph while five other trains pile up behind. Some 12 hours later, all six crews are approaching the 12-hour limit prescribed by the Hours of Service Law and are still some 50 miles from the terminal. Now it is necessary to taxi six relief crews out to relieve those running out of time. The cab fares, overtime, and the use of 12 crews instead of six are hardly good for the budget.

Featherbraining is the practice of deadheading crews from one terminal to another without any idea of actual needs. You have not lived until you have been deadheaded from your home terminal to an outlying one where, on arrival, you meet crews being sent home because there is a surplus of crews there.

Featherbraining is the practice of slowing down every eastbound train over a 45-day period to hand up a slow order. This same restriction could have been issued in the form of a bulletin order and would have eliminated delaying hundreds of trains.

Featherbraining is allowing someone who cannot differentiate between a box car and a hopper to tell a conductor how to switch a train.

Featherbraining is not having a calendar available to indicate that winter is approaching. Then, when the first snow or subzero condition arrives, operate as though the sun were shining and the temperature was still 70. This practice continues until the railroad is almost at a standstill.

Featherbraining is allowing adjoining divisions and class yards to feud with each other to the detriment of the system as a whole. The key to this feeling is "Why worry about the guy down the line? The money is not coming out of my budget."

All these examples, plus others I have not listed, continue to this very day. The sad thing is that nothing is new. I well remember an incident of some 35 years ago. I was just a new fireman, but even with my limited experience I could see that somebody was making a big error. I complained to my engineer about the stupid move. He shrugged his shoulders and responded, "Kid, relax, you will never change them. Just sit back and let them pour money into your pocket. Besides, if you offer any suggestions, they'll get suspicious that you are trying to shaft them."

So now, when I am called for a run and have to wait for six hours for the train to arrive and someone complains, it is my turn to reply. "Kid, relax, you will never change them."—John R. Crosby.

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[1] John R. Crosby, who has contributed feature stories to Trains, is a locomotive engineer with 36 years service on a major Eastern carrier. He has worked in supervisory capacities as Trainmaster and Road Foreman of Engines and served as an ICC Safety and Service Agent.

Exhibit 4

[From the Cleveland Press, Apr. 20, 1978]

CIVIL DEFENSE: FUNDS URGED SO HALF CAN SURVIVE ATTACK

(By Carl West)

WASHINGTON.—The Defense Department, alarmed that the Soviet Union has a civil defense program vastly superior to that of the United States, wants to more than double its civil defense budget in order to provide for survival of half the population in event of a nuclear shootout.

If Congress and President Carter go along with the proposal, the next few years will see a revival of evacuation plans and survival-stocked bomb shelters after years of disinterest and neglect.

The Defense Department's Civil Preparedness Agency has a fiscal 1979 budget of $96.5 million for a program that its officials contend would save only 45 million people in a nuclear attack.

By increasing spending to $230 million in each of the next five years, 110 million Americans could survive, the officials maintain.

The Soviet Union is spending up to $1 billion a year for civil defense. Experts say casualties in a nuclear war would be less than five percent of the Soviet population, or 20 million people. The Soviet plan also includes protection for national leaders and vital industries.

Defense Secretary Harold Brown last month, in a memorandum to President Carter, proposed spending more for civil defense, Brown wrote:

"Our studies this past summer have shown that a relatively modest program centering on evacuation and some fallout protection could increase U.S. survivors from roughly a fifth of the population to at least half, given a week's warning."

Senator MCGOVERN. I think your testimony has been excellent this morning, and I have to concede that you do a much better job than Senators do in staying within the time constraints that are suggested. Thank you, gentlemen.

I appreciate, Mr. McKinnon, your observation about the general character of these hearings. I want to underscore what you have said. This is not another exercise in crisis management.

We don't feel that this subcommittee has any business getting into that area.

The purpose of these hearings really was to look at the overall transportation policy of the United States or the absence thereof, to determine where the railroads fit into a coherent transportation policy, what some of the problems are that face the rail industry as a part of that comprehensive transportation system and then what suggestions might be made for making the railways serve that function as a part of our overall transportation system more effectively.

I want to just underscore to you, Mr. Sytsma, with regard to the preliminary report issued by the subcommittee staff that certainly is not intended as conclusions.

The staff attempted to identify some of the issues that have been raised about the operations of the rails in this country.

But, as far as I am concerned, there is nothing in that report that represents a conclusion. It certainly doesn't represent my conclusions.

I frankly don't know at this point what recommendations we need to make, but I did think the staff study was helpful in identifying what some of the problem areas are, what some of the issues are that have been raised frequently about the rail industry.

I want to assure you, just as we are not apt to look for any scapegoats on the labor side, neither are we trying to look for any scapegoats on the management side.

We are trying to whip the problems of the industry as nearly as we can identify them and give everybody a chance who has some relevant interest in this subject to be heard; and then, of course, it will be our function as members of the subcommittee to sort out the testimony, the hearings, the investigations by the staff and members of the subcommittee and try to come up at some point with some thoughtful recommendation that might be helpful to the entire industry and to the Nation.

Maybe I should begin with the questioning just in reverse order to kind of even things out so that those who had to wait the longest to testify will be the first ones to be questioned.

We have heard a great deal in these hearings, Mr. Sytsma, as you properly noted, about outdated work rules.

Regarding the crew consist requirements, and starting-time rules, we are aware that the railroads had eliminated, as you said, in many cases the firemen and other things that are believed to be obsolete.

But I would appreciate it if you would discuss the necessity, as you see it, of some of the other rules that sometimes have been labeled as outdated.

Mr. SYTSMA. Quite naturally, I would point out the most horrible examples. One of the rules is the initial and final terminal delay rules.

Under our incentive system of pay, an engineer tries to get over the road as quickly as possible and the reason for evolving this particular incentive method of pay, of course, was to make railroad operation fast and efficient.

The engineer is still going to be paid a certain piecework rate of pay, regardless of the mileage and the hours involved. In many cases, due to inefficient management on the part of the railroad, trains are held out of the final terminal or are delayed in leaving the initial terminal.

In other words, the engineer is held out on the line of road perhaps several hours, or delayed leaving a terminal, and he can't complete his run within what should be a reasonable length of time.

In order to compensate the engineer for that unconscionable delay, he is paid what is called initial or final terminal delay. This is an arbitrary allowance consisting of a certain amount of money to compensate him for being delayed at the initial terminal and/or final terminal and not being allowed to work his piecework type of performance.

This punitive allowance is opposed by the railroads, as I suppose it might be, but, of course, we are guarding that very zealously, and in fact we are in effect saving the railroads from themselves on that particular thing by making it economically costly for them to have an inefficient type of operation.

We want to get the trains over the road. We don't want to trigger these punitive work rules. The average engineer, the typical engineer, is proud of his performance. He likes to be called for a run. When he gets to the initial terminal he wants the train to be there within a reasonable length of time, and he wants to take the train over the road

as quickly as possible and get it to the terminal and perform his work, pick up his gear, go home and get ready for the next call.

So, in effect, the so-called work rules are for the purpose of triggering an economic payment when operation is inefficient, or, I don't like to say inept, but in some cases it is inept.

Senator McGovern. Mr. Sytsma, we have had some testimony at other hearings as to the efficiency and acceptability of two-man crews.

I think it has special reference to the way it has worked in other countries, some places where they had very good safety records. What are the specific objections raised against the concept of the operations of the two-man crew?

Mr. Sytsma. Senator, I think that that question would probably be more appropriately addressed to my colleague, Mr. Chesser from the United Transportation Union.

As far as the locomotive engineer is concerned, at the present time in most cases he is working alone. I think that a reduction in the size of the balance of the crew increases his responsibility but I am not prepared to say that that is either good or bad.

Senator McGovern. I know you say you have some good things to say about these rail executives who are here this morning, but you have also referred to management or mismanagement contributing to increased labor costs.

Could you just elaborate a little more on what you have in mind with that assertion?

Mr. Sytsma. Well, I don't like to kick anybody when they are down, but some of our rail roads are down and we have some horrible examples, particularly in the Northeast where labor costs are kicked way up because of inefficient operation.

Now, I don't say that it is humanly possible to have a perfect operation, but I think that when you throw, in particular, several bankrupt operations together and try to bring order out of that chaos, that it is a long, arduous task and it is going to require a lot of patience and, well, let's go back to my original statement.

I don't like to kick anybody when they are down. We certainly hope that we will get this entire railroad industry back on its feet and make it viable once again.

We would like to see the Northeastern railroads and some of the other bankrupts in just as healthy a condition as the railroads that are represented by the gentlemen to my left.

Certainly, my organization will do everything possible to try to bring that about.

Senator McGovern. I have been told—and I have no idea of the validity of this—that it is possible under existing work rules for an engineer to take a train, say, from Washington to New York, a distance usually covered in 4 to 5 hours, and earn anywhere from 3 to 5 days' pay, depending on the number of switching yards that are involved.

Is there any truth to that?

Mr. Sytsma. No. I think, Senator, that the Washington-New York runs that are referred to commonly are passenger runs on Amtrak.

The distance is 225 miles, and that is covered, of course, in 4 hours or less actual running time.

The engineer goes on duty, he inspects his train, he fills out reports, then he takes the train to New York.

When he gets off duty, he inspects his train, he fills out reports, so probably his on-duty time is closer to 5½ or 6 hours in the aggregate.

Now, you say, day's pay. I say that is a misnomer. He earns two and and one quarter units of pay, not day's pay. The basic unit of pay is not high enough to constitute a day's pay. In other words, he might earn a $40 base unit of pay, and that would go up to approximately $100 as a result of the fact that he runs 225 miles, which is not an exorbitant rate of pay for a man who performs a task that requires the skill and precision that is required on those particular trains.

Senator McGOVERN. Thank you, Mr. Systma.

I appreciate both your testimony and your responses.

Mr. McKinnon, as I listen to you gentlemen today, it occurs to me that we are listening to executives from some of the most successful rail systems in the Nation.

Just generally speaking, why do you think your rail lines have succeeded and other large systems apparently have failed?

Mr. McKINNON. Senator, I would like to think that it is because of good management, management that spends its time actively pursuing the—I think that is part of it.

I would have to say that part of it, certainly Southern Railway has had the benefit of a territory that has been the Sunbelt territory that we hear so much about, which is the fastest growing in the country in post-World War II times.

We have had the benefit of not having the overcapacity in terms of lines that many of the railroads have had in the Northeast and in the Midwest.

We have said facetiously that we are finally benefiting from the Civil War Reconstruction period because the South was so poor during that period, which was a period of major railroad building, that we didn't end up with the overbuilding that you have in many other parts of the country.

We benefited from climate, although we have suffered in the last winter and winter before, both internally and from the bad weather in the Northeast, but we benefited from that.

Part of it is that we have tended to our business. I am not saying that in criticism of others because I think the problems that I have outlined and the others have outlined here are ones that face us just as well as they have faced the Northeast and parts of the Midwest.

If those problems are not solved, in 10 more years we will be where some of these others are.

Senator McGOVERN. How do you respond to Mr. Sytsma's statement that the work rules concerning initial and final terminal delay actually benefit rail operations?

Do you think this rule is effective and efficient?

Mr. McKINNON. Senator, if you don't mind, I would prefer to defer that response to either Mr. Gessner or Mr. Cena. Both of them are experienced operating men. I am not that. I think either of them could give you a better response.

Senator McGOVERN. Do you want to try that. Mr. Gesssner?

Mr. GESSNER. Yes, sir.

Well, I don't agree with Mr. Sytsma on that particular question. I think perhaps when the rule was formulated it was indeed—and this is predating my railroad experience—unquestionably it was installed as an incentive for the members of the crew to get over the railroad.

I think the times have changed, methods of operations have changed to the point where I think it is a needless waste, it is a duplicate payment.

There is no additonal production of transportation. It is abused. For example, there is another rule—one that comes to mind—on most properties that require the first crew called out of a terminal to operate the first train operating out of the terminal.

We have had classic examples time and time and time again. It seems to be fair game among the crews which is something I don't understand.

A crew is called for a shorthaul freight train that may take 8 hours to go, the case I am thinking about, 188 miles. They hear on the radio that a hot-shot piggyback train is within 20 miles or so of the terminal and so they will delay their departure so that they can be the one to ride the hot-shot and turn the shorthaul, the sweeper, over to the next crew to be called.

Now, this has nothing but nonpoductive, counterproductive, aspects.

I would think, for example, that if the method of pay were based upon an 8-hour workday, you would have the built-in incentive.

If the railroads were inept or mismanaged their properties and caused terminal delays, we would end up paying for it but at least we would have some control.

I think it is the duplication, a crew operating 200 miles, 250 miles, being paid on this 100-mile basis of pay and then collecting the arbitraries.

These arbitraries, as I illustrated in my presentation, start adding up. There are arbitraries for switching on line, detention time both initial and final, and you get an arbitrary for coupling an engine, arbitrary for coupling air, and on and on.

These are nonproductive. They produce absolutely no transportation whatever.

Senator McGovern. Thank you, Mr. Gessner.

Mr. McKinnon, the primary point, as I understand it, that you stressed in your prepared statement, is the need to develop a national transportation policy which deals with all modes of transportation.

You seem to be saying that the overriding goal of such a policy should be the removal of the competitive advantages that are bestowed on highways and waterways under the present Federal subsidy system.

You call for, I think I am quoting now, adequate compensatory charges on commercial users of highways and waterways.

What kind of an increase do you think we are talking about in talking barge freight costs that would be required to give railroads an equal competitive footing with these other modes of transportation?

Have you looked into that?

Mr. McKinnon. I don't have an exact figure for it, Senator.

Senator McGovern. I understand.

Mr. McKinnon. Of course, the Senate has had before it the user charge question on waterways this year. I think the Domenici proposal

made a start. I don't think that we can suggest that user charges have to be brought to a level that put the railroads and waterways and waterways and highways on an exact cost equality.

I think if we cannot make our—hold our costs to the point where we are competitive, when the other modes are paying their fair share of the costs that they contribute to the highway system or waterway system, and we cannot keep our costs in a position where we can then compete, we have no complaint if we go out of business, if we have to be dropped from the business because that is the sort of thing that a unified transportation policy would take you toward letting each mode handle the things which on an equalized basis it can most efficiently handle.

I don't have an exact figure, Senator.

Senator McGovern. No; I understand that.

I think if we were to move in that direction that both the railways and also those of us in Congress would have a tough political problem in how you are going to explain to consumers that we ought to increase their costs on barges and trucks.

Mr. McKinnon. There is no question about the toughness of the political problem, Senator. I think we have all seen that this year.

Senator McGovern. Have you figured out how that could be solved?

Mr. McKinnon. But I would say this, that I think to look at the consumers you are talking about, there is a very limited group of consumers, and, of course, if you are in a State that is loaded with waterways, that group is your constituency.

So, you have to face that group. There is a limited group that is getting this advantage and many, many other consumer users of freight service, who are not or don't have this artificial benefit of Government-supported waterways, are having to both have the rail service with whatever inefficiencies come from our inability to have adequate compensation, but you are eliminating preference not only for a mode of transportation but for a group that have an artificial stimulation to their economies from this.

It is a question of getting the political question—the political question is that of which group can shout the loudest. That is always the political question I suppose.

Senator McGovern. Mr. Gessner, if we can turn to you, I want to at least get a few questions to everyone here this morning.

Due to the problems inherent in the Federal regulations of railroads—some of them seem to be outdated—would the rail industry benefit from deregulation and rate deregulation in particular?

Mr. Gessner. Senator, I don't think that I can speak with authority to the subject of rate deregulation. I saw what the Interstate Commerce Commission had put out recently.

I have not seen the full text of the proposal they have made.

Certainly, deregulation, as I read the Wall Street Journal article on that particular issue, would be a totally unmanageable proposition.

Again, I don't know how much of the regulatory constraint would be removed when the rate structure was allowed the loss of immunity.

I can't really speak with a great deal of knowledge on the rate structures, and I don't think that we have, frankly, formulated a policy on our railroads as to just what type of rate deregulation that we could stand.

Senator McGOVERN. Let me pursue a little different line to your testimony then.

You have stated the need to establish equal economic opportunity among all the various modes of transportation, as have all the witnesses here from industry today.

Presently, all the other major forms of transport operate on federally owned and maintained rights-of-way.

Is that a viable alternative for the railroads? We hear that proposed from time to time. I am wondering if that is something we ought to be looking at as one possible alternative?

Mr. GESSNER. It certainly is one possible alternative. It is not an alternative to which I subscribe.

I do not think that we should solve a problem which in our judgment is solvable on a private-sector basis, with using additional Government funds.

I think, again going back to the rate aspects of it, that the railroad problems cannot be resolved through rates. I don't think this is the answer.

The answer has to be to adjust the inequities on the opposite side, the inequities that occur with the competitive advantages that our competition has.

This is the solution to the problem.

Senator McGOVERN. Let me ask you this, as a final question, Mr. Gessner.

I think it is clear that the railways can't achieve their full potential if we stay on the present course.

What should the role of the Federal Government be in your judgment in facilitating rail improvements?

If we rule out the possibility of acquisition of rights-of-way, what do you see as the most useful steps which the Federal Government can take to strengthen the rail system?

Mr. GESSNER. Well, Senator, I think I pointed out in my testimony, I think that the efforts have got to be directed at a transportation policy which addresses equity among all modes.

We cannot, in my opinion, live with a situation where a new transportation mode, or a relatively new transportation mode, is treated differently with Federal funds supporting it, from a system such as ours that is old, that once occupied a monopoly situation and consequently the regulations.

I think there has to be a somewhat of a withdrawal of some of the regulation imposed on the railroad industry. The regulation is strangling the industry. Far too much of management's time is devoted to trying to accommodate the huge, huge regulatory burden which occurs.

Senator McGOVERN. Is that a carryover from the earlier view that the rail operations were essentially a monopolistic and noncompetitive operation?

Mr. GESSNER. In my view, it is a carryover, yes, indeed.

Senator McGOVERN. Mr. McKinnon, on this matter of rates that I directed to Mr. Gessner, does your railroad favor additional rate flexibility?

Mr. MCKINNON. Senator, we would favor really giving us some of the rate freedom that we thought we were getting in the 4–R Act.

The 4–R Act was supposed to relieve pressure.

Senator McGovern. Right.

Mr. McKinnon. In fact, it has been the contrary in many ways. The ICC has used it in ways adverse to our interests, I think.

If we were given the sort of rate freedom range of reasonableness that was sought there and is now being proposed by the Department of Transportation, Mr. Dempsey has given some testimony in other hearings on this very subject. I think this is the kind of limited deregulation that would help. Don't throw out the baby with the bath water in eliminating all regulation.

Senator McGovern. We have had considerable testimony indicating that there is a clear conflict between the ICC interpretation and what Congress intended on the 4–R act.

Mr. McKinnon. Certainly I agree with that . I happen to have been involved. One of my functions is supervision over our public affairs activities. I am here in the Washington office which is very heavily involved in our efforts to get across in the drafting of that legislation some of the concepts that we thought were worthwhile and workable.

And certainly it appears to me they have been distorted at this point. So I would say, give us this zone of reasonableness freedom, 7 percent up or down, and the Commission can step in if they see inequities developing, but let us try, then see how it works.

Even if you did it for another 3 years, it would be a help.

Senator McGovern. Mr. Cena, if we could turn to you for a few minutes, in your prepared statement, you indicate that given the very high demand for rail service in your judgment no sustained Federal financing ought to be necessary.

If the demand is that high, how do you correlate that with the very sharp decline in annual car loadings? I understand they have dropped some 1.6 million.

Mr. Cena. Yes, Senator.

My testimony was qualified and directed to Santa Fe.

Senator McGovern. To your own railroad.

Mr. Cena. To my own railroad, yes. I could address that in total. I understand what the numbers are, I have seen the numbers. I think that it is quite obvious why some of the decline is there, but on our property it does not happen to be so. There are many other railroads that I believe are in the same position. We have never handled more business than we are handling right today.

Senator McGovern. Do you have anything to add to the question I asked of Mr. McKinnon of why these systems represented here today are—seems to be operating so much better than other large rail lines?

Mr. Cena. Oh, I probably could state it a litte differently. Basically the same as Mr. Gessner said. I think on our property, people—and I would like to include other than management, maybe include some good management—but total people, I think. Geography has something to do with it. I think, also, that we have been able to generate sufficient funds to have the capital investment acquired to keep a fairly decent property. I think you just finally generate an interest in doing your thing of railroading.

Basically, the same thing that the other gentlemen have said.

Senator McGovern. As you know, a lot of rail lines have lost the traffic to other modes of transportation. Do you have any insight as to what you believe is the key to recapturing some of that business?

Mr. Cena. Hopefully we have found the answer. Our business is increasing. I believe that we produce a service that will attract business from other forms of competition. I think that we are probably producing it a bit more quickly for our customers.

We have many time-sensitive customers out there. We feel that we are producing consistent transportation and I believe that maybe some of our competitors out there on the highway might be feeling the result of some of this.

Senator McGovern. Do you think, Mr. Cena, that the question of productivity that has been raised here and elsewhere, that the best way to get at that is through negotiations with labor, between labor and management? If so, what has been your success in improving productivity through negotiations?

Mr. Cena. I really don't know the best way of getting at it. We have attempted every way that we can conceive to improve productivity. That is the thing that gets the job done. Productivity is mainly a function of two things, utilization of labor, and utilization of capital.

Now, many innovative things have come along and the examples that were heard from the BLE are absolutely right. We have improved productivity with diesel locomotives, with radio-controlled locomotives, with new equipment. By and large this is due to capital investment.

We also provide a pretty good railbed out there, we have mentioned that area. We have invested in people also. We do have fine training courses, training situations for all employees, not just locomotive engineers.

I think that we have just about reached the point though, where unless some additional innovative things come along, it is pretty difficult to say mere capital investment is going to improve productivity. There are some ways of improving it, with negotiations with the various organizations we deal with, and we look to that and from time to time we find ways of doing it. We must continue this. I think that is part of what we have just attempted to go through and I think there are avenues open to us there that we can improve productivity on if we set our minds to it. But it has to be a two-way street.

Senator McGovern. Mr. Dempsey, you say that the 4–R Act has failed to achieve its major purpose in enabling railroads to reach adequate income levels. You define an adequate ordinary income as $3.5 billion a year. You point out that the net operating income dropped to $346 million last year, which is roughly one-eighth of what you are saying is fair and adequate.

How in the world can the rail industry realistically look toward a goal of increasing its income some eight times in the foreseeable future.

Mr. Dempsey. Senator, if we can't do that, the industry is going to slide over the brink. There is no question about that. We compete in the capital markets with other businesses and I am using an adequate earnings peg of approximately 12.5-percent rate of return. That is the rate of return that we think, and we think most experts would agree, is necessary to compete for capital in the marketplace.

Now, in the end we have got to be able to get that return or we will go under.

Now, how can we do that? It will have to be through a combination of the kinds of efforts that these gentlemen have described and the legislative programs that seem to me to be absolutely essential to the health of the industry. Otherwise, ConRail will be nationalized first, then we will have a subsidized major system competing with private industries like the Chessie and the Norfolk & Western and they will not be able to make it against the subsidized nationalized system and that system will simply creep throughout the rest of the country over a matter of a quarter century or so.

Senator McGovern. You stated in your prepared statement that no firm or industry can remain profitable or healthy if it has to compete with others who are heavily subsidized with public money, which is the same point other witnesses have made.

You advocate the imposition of user charges on commercial truck and barge carriers to remove the competitive advantage they now enjoy.

If that were done, to your satisfaction, do you have any idea what percentage increase would occur in the trucking and barge shipping costs and what impact that would have on the economy?

Mr. Dempsey. Well, the impact on the economy in general should be favorable. Let me explain in principle the reason I say that. The reason I say that is this: At the present time because barge and truck costs are artificially depressed by virtue of the subsidies, what is happening is that freight is being transported on those modes which are really the higher cost modes instead of on rail which is really the lowest cost mode.

So I think that any economist would say that the overall impact on the cost of transportation in the economy would be favorable and, therefore, that kind of a program would be deflationary, not inflationary.

Now, of course, it would involve a modal shift of traffic, and because their direct costs would be inflated and, therefore, their rates would be.

As the barge industry is concerned, it is very easy to calculate and the data are in the hearings of both the Senate and in the House proceedings this year. My best recollection is that if you talk about it in terms of a fuel tax, that the fuel tax would be in the range of 60 cents a gallon.

While that is a horrendous tax, all that it does is indicate how horrendous the subsidy is. For highways we are less certain—we know that the subsidy runs in the billions of dollars a year, but spread over a much, much larger industry so we are not talking about a fuel tax in anything like that range applying to barge operators.

What is really required here is a full and disinterested study by a government agency to identify precisely the character of the degree of the subsidy.

Senator McGovern. What about the other alternative route of equalizing the competitive position by providing a comparable subsidy to the railroads?

Mr. Dempsey. Precisely, there are only two routes to go in my subject if this industry is not in the end to be nationalized: One, to elimi-

nate subsidies to other modes. Of course, no one can think that this could be done tomorrow, but gradually eliminate the subsidies to competitors.

The other is to provide compensating subsidies for the railroads. This is a thoroughly unsafe form of devising public policy, it seems to me, because what you wind up with is the kind of political fight that surrounds decisions of what region gets how much money. In the end, the money gets spent in a way that the marketplace would not distribute it. This is what is done in France.

At the end of each year the Government calculates how much has been given in the way of subsidies to the barges, how much to the motor carriers and then writes a check by way of compensating to the French national railroads. As I say, I think that is thoroughly undesirable, but it is the only other alternative available.

Senator McGovern. OK.

Mr. Dempsey. It would be enormous, as I say. The subsidies to the railroad system for the subsidies to the barge lines and the highways would be enormous.

Senator McGovern. You and other rail industry leaders have opposed Federal subsidies that are provided to trucking and barge industries. As you may know, Norton Simon, a former director of the Burlington-Northern and now head of the newly formed California Transportation Commission has made this statement.

It is likely that considerable financial strengths could be provided from a disposition of land properties which were given by the Federal Government to the railroads. It is common practice for these same railroads to literally give away millions each year in property to customers, friends and the like through their so-called industrial development departments.

What comment would you make on Mr. Simon's judgment?

Mr. Dempsey. Mr. Simon has had his difficulties with the management of the railroad with which he was formerly associated. I am sorry, I really can't comment on that.

All I can say is that the study made by the Department of Transportation last year pursuant to the mandate of the 4–R Act deals with this matter of land grants and the conclusion is that the railroads by way of reduced rates to the Federal Government has much more than paid back the value of those land grants. Only 10 percent of the rail trackage was involved with Federal grants in the first place.

So if the point is somehow the railroad industry has been subsidized in any measure equivalent to our competitors, that point is thoroughly disproved by that study. Beyond that I really can't comment on what Mr. Simon has said.

Senator McGovern. I would question Mr. Dempsey on this rate matter that I raised with Mr. Gessner and Mr. McKinnon. You say that the ICC—and I quote now—"has simply refused to follow the congressional mandate of the 4–R Act and has instead based its regulations on the false premise that the rail industry is nearly as monopolistic as it was 90 years ago."

Would you advocate rate deregulation of all modes of transportation? If not, where would you draw the line? You say it is clear that the ICC restrictive regulatory policies will continue unless Congress intervenes.

Mr. DEMPSEY. Yes.

Senator MCGOVERN. Would you elaborate on that?

Mr. DEMPSEY. Yes.

Senator, the more that the ICC acts in this rate area—as they have in the past few months—the more persuaded I am personally that we must move toward rate deregulation. Because it is apparently impossible no matter what this Congress says to that agency, to get them to take action that is designed to improve the financial fortunes of the industry.

Now, at the same time I agree with Mr. McKinnon that the problem of having an industry adjust to deregulation, it has been regulated for such a long time, is a terribly complicated one. We at the association have now established a task force that on a first-draft basis is looking at this problem of deregulation.

We hope to have a comprehensive program by next year. But in the interim, let me say that it is clear we need some additional rate flexibility and, therefore, what we have supported is a measure that goes somewhat beyond what DOD is now proposing and that is a range of rate freedom, 15-percent up or 15-percent down, without interference from the Interstate Commerce Commission except on questions of discrimination or prejudice among shippers.

That we would concede should be left in their hands. But a range 15-percent up, 15-percent down, once a year with a cap—we realize we can't do this forever. We can't go up 15 percent forever, but the cap being where the company is earning the cost of capital in the market and on the downside nothing below variable cost. But as an interim measure, it seems to us that that would be a very desirable point and indeed may be essential if the ICC continues along its present paths.

Senator MCGOVERN. Thank you, Mr. Dempsey.

Mr. Cole, at Monday's hearing in this same room some rather serious charges of mismanagement and even possible fraud were levied at ConRail by a union official and by ConRail employees.

Has the U.S. Railway Association looked into this matter, and if so, what light can you shed on that? Have you found what could be referred to as fraud?

Mr. COLE. Senator, before we deal with the specific allegations—and I have with me someone to assist in responding—I would like to put in perspective the issues of fraud and mismanagement with regard to ConRail.

A question came up earlier about labor and efficiency on the Nation's railroads. Those railroads that are down are the ones that probably have problems of inefficiency, that affect productivity.

That is very true. In the Northeast, ConRail is not the sudden creation of a great, efficient system. When Congress acted in 1976, as I believe that was earlier remarked, several bankrupt railroads were put together. The problem was not several bankrupt railroads being put together, because some of them were small and I think their coordination and consolidation went very well.

But it is a fact that the central carrier, the Penn Central, was a railroad that had suffered several years of bankruptcy with little money and a loss of a lot of management talent. It was, flatly, a mess when it was put together. So in 1976 ConRail came along.

ConRail is trying to grapple with this problem. There certainly would be remnants of the managerial inefficiencies that existed in a bankruptcy lack-of-funds situation that would carry on.

Yet, I think the issue we have got to look at is the billion-dollar issue with the Northeast railroads and what the Federal Government is going to be investing. By the end of this year we will have invested over $2 billion in ConRail.

ConRail has requested an additional $1.3 billion of Federal funds. It is questionable whether this will be adequate. As the investment runs into the billions of dollars, the responsibility of the Federal Government is to look closely at some of the big issues on how we are going to cut that.

Now, we can get to the allegations of fraud in specific instances. That is something that the ICC has been involved in. Some other agencies have come forward and looked at other issues as well, such as freight claims and equipment.

We are not surprised that some of these problems are left over. You do not move in with a Federal law, create ConRail, hand it some money to take over the mess, and not expect to have a few problems. The issues that this subcommittee, I hope, is addressing, as in the industrywide policy issues, are the fundamental policy issues that bear on ConRail.

As for the specific allegations, I would like Mr. Fred Yocum, our vice president of operations and marketing, to discuss them. Ever since they were aired originally in the Senate Commerce Committee hearing in April or May, he has followed the issues and can deal with them directly.

Mr. YOCUM. Senator, we have looked at these issues on the order of magnitude of importance, and have done that through general auditing techniques and financial analysis, and while there are a number of areas, including labor productivity and capital investment, which reflect certain kinds of management problems which could be of a large order of magnitude, those things which could be characterized as blatant mismanagement or fraud are a very small portion of them.

We have looked at any specific incidents which have occurred—and there have been relatively few—but we have found that ConRail in and of itself, in its own internal management has very aggressively pursued any incidents of wrongdoing that its management became aware of.

There are some things about railroads that lend themselves to local mismanagement. It is an extremely diverse kind of business and in the best of railroads there are incidents of officers, from time to time, who have not realized what the price would be if misdeeds were done and there have been incidents of fraud in the very best of companies.

There are dispersions of resources and responsibilities at local levels far away from the eye of the corporate leadership, which makes this possible.

There have been people who have tried it and almost without exception they have ended up losing their jobs and sometimes they have been prosecuted criminally. I am sure that ConRail has this capability in terms of a few number of people. In looking at all the specific incidences, we think almost without exception they deal with management decisionmaking and judgment rather than in the misuse of funds or fraud.

Senator McGOVERN. Mr. Cole, you said that USRA had a hand in selection of ConRail's management. Did you have a hand in selecting Mr. Spence, who recently was dismissed as president, and chief operating officer of ConRail?

Mr. COLE. Senator, ConRail was created through congressional action as a corporation in the private sector with a board of directors. And as a private corporation under State law, the basic management lies with that board of directors. That is the area in which USRA has had a role.

By statute, again, ConRail's board consists of 13 members, and of that 13, 2 are the statutorily mentioned chairman of the board and the president. That leaves 11 members. There is one more step which is federally mandated and then it returns to State corporation law. That board, the remaining 11, are split—6 appointed by the U.S. Railway Association and 5 by the holders of the securities that ConRail transferred to the former owners of the properties.

Those five are not selected by the actual future security holders because the securities have not been distributed. So they are selected by voting trustees of the special court. Then there are the six that USRA appoints which are the ones which we have a handle on. So there are 6 and 5, total 11. Therefore six is the majority that determines managerial decisions with regard to personnel because the additional two, the president and the chairman are excluded by statute from any participation in appointment to their jobs.

ConRail's board has had the responsibility for more than 2 years now of dealing with management, that is, the president and the chairman.

In this case, the president and the chairman were originally appointed prior to the creation of the current board by what was then the interim board of USRA—the executive committee of USRA; excuse me, that is, the interim board of ConRail.

To that extent. USRA did have a role 2½ to 3 years ago in selecting management. But it was a limited role because it was a so-called executive committee of USRA which consisted at the time of the chairman of the ICC, the Secretary of Transportation, the chairman of USRA, and two other board members of USRA who were elected by the executive committee.

So at that time, yes, both Mr. Spence and Mr. Jordan were selected before the statutory board that exists now came into being. But that statutory board has reelected them and has dealt with the officers over that last 2 years as reelections came up.

Senator McGOVERN. One of the questions that has been raised by the subcommittee—I personally don't know much about it—but we have had statements made that some 17 ConRail officials have been discharged recently and at the same time were given rather large bonuses. The question has been raised as to whether or not that is a good practice where you have a line in a deteriorating financial condition paying out large bonuses to management people after they have been discharged.

Mr. COLE. I am not familiar with the discharge issue at all, Senator.

Senator McGOVERN. I was not sure you were the one to be on top of that.

Mr. COLE. I do not recall, other than Mr. Spence, and that was a resignation—anybody else who would have had a bonus over the last period who was discharged or who had even resigned. The issue of bonuses with respect to ConRail, Senator, was an issue that was left entirely to the board of directors of ConRail as part of its management activities in determining compensation.

The theory was—and I think it was quite good, even though ConRail was losing money—to provide bonuses for performance, where appropriate, when the basic salary structure was below that compared to certain other railroads and to use the bonus to bring up the salary to the base salary otherwise prevailing.

Theoretically, it had some good aspects. But I think even purely private corporations have difficulty explaining to stockholders any bonuses when they are losing money.

I can see that ConRail has had great difficulty in explaining to Congress the use of bonuses when it is losing money. So it is something that does raise problems. But the bonus situation was a determination of ConRail's board of directors on how to build a compensation system.

Now, as far as any discharged employees having bonuses other than the resignation of Mr. Spence, I do not know of anything else along that line.

Senator MCGOVERN. Mr. Cole, we may be looking at the proposed $1.3 billion supplemental appropriation for ConRail as early as this week, as I think you know.

Mr. COLE. Yes.

Senator MCGOVERN. You mentioned in your prepared statement that USRA is attempting to do a little tighter monitoring job over ConRail. In that spirit, do you think it might be useful for Congress to require, when we grant these additional funds, that there be a quarterly, if not monthly, reporting to us and to USRA?

Mr. COLE. Senator, we intend to do some reporting with or without any requirement. Monthly is probably—well, it adds nothing and may be somewhat burdensome in the main, because you do not really see where you are going on a monthly basis. It takes a quarterly picture to understand the trends.

Senator MCGOVERN. I don't think anybody here wants to just cook up needless paperwork. The question is how do you stay on top of the situation closely so that there are not surprises down the road, or shock, from things we were not aware of.

Mr. COLE. I think by two ways. One, the quarterly reports, which we intend to provide without any additional legislative direction. Of course, if Congress feels that it ought to increase the annual reporting to a quarterly basis, we are completely sympathetic with that. Again it is not just a question of the flow of information. It is our analysis—as we look at the situation—and we may inform Congress on certain issues even before a report may be due. I have tried to perform briefings for different committee staffs as issues arise and I think in the future we have to do even more of that that is outside the formal reporting requirements.

Senator MCGOVERN. I know you have studies underway on possible alternatives to ConRail. Can you give us any brief sketch today of what some of those alternatives might be?

Mr. COLE. Well, Senator, some of them are spinoffs of some of the testimony we have heard this morning. Some regulatory changes might be the answer. This is more in the hands of the Department of Transportation because it does have an impact on the entire rail industry rather than just on ConRail.

We, of course, are following it quite closely by working with the Department of Transportation concerning regulatory changes. But it is clear that ConRail's problems are much more fundamental than mere changes in regulation can solve. This is because ConRail's level of traffic—what they are dealing with now and even if it is increased—is probably considerably less than that necessary to recover the revenue for the railroad's plant costs. Therefore, any alternatives have to deal with the size and configuration of ConRail plant and also, I think, with the number of employees because it is a very high labor cost system. ConRail points out itself that its plant—even with the $1.3 billion supplemental approach—will require some $500 million in savings in labor costs over the next 5 years. And we still have not seen the results of that.

There also is the problem of ConRail's carrying some commodities that cannot be fully compensated for. In this case, even rate changes may not prove enough. In order to deal with it they may just have to get out of certain markets.

Finally, I think that ConRail's equipment needs are so great that not only does the company have to increase utilization, but that we have to look at some alternatives to the equipment needs of ConRail relative to the entire rail industry, as well, because the equipment that ConRail uses is very often owned by other railroads. This means that any issue you deal with concerning ConRail equipment affects the rest of the Nation's railroads.

These are the variety of things we are beginning to look at. It involves doing a network segmentation analysis of ConRail's plant system to determine the profitability and the losses found on different segments of the system. And then we have to decide what to do with those segments. If you have a segment of ConRail losing money, you must decide whether it is in the terminal areas or in the route structure. Do you work ConRail out of that market or that segment, or out of certain markets? Or do you provide subsidies for that type of operation if it is felt by the Congress to be socially necessary?

Obviously, there are a lot of approaches to the problem and there are also a lot of public policy decisions that have to be made in order to deal with it.

Senator MCGOVERN. Just one final question. Mr. Cole, and members of the panel: One of the problems that we feel most acutely out in our part of the country is this almost annual boxcar shortage that develops in the movement of grain.

It was discovered earlier this year that about a third of the Nation's boxcars were accumulating on the ConRail system.

What has been done to prevent this problem from recurring again?

Mr. COLE. As you see, of course, we have taken some action. I don't know whether it is preventive or not. But with regard to ConRail, I think ConRail itself is partially guilty for not controlling its equipment fleet in the earlier part of the year. I am sure this made it much

more difficult for other railroads to meet their own equipment needs later on. While there certainly was enough grain movement this year along with other movements, to have caused a car shortage, it may have been exacerbated by ConRail's actions, or lack of action.

ConRail is moving to deal forcefully with the issue of car utilization in managerial changes and is starting to enhance its computer system that provides information with regard to car movements.

However, there remains the basic problem of national car utilization, national equipment needs, that ConRail may not be the only one able to solve.

That is why I think, as we look at the alternatives to ConRail, we have to look at what the entire rail industry is doing and what the Federal Government is assisting in—whether it be investment tax credit incentives, or whether it be with the per diem system by which the ICC regulates railroads at this time. If you carry it all the way out, you could easily solve the issue of the ICC's role in setting per diem for railroads. I think it is a very complicated issue for ConRail and certainly, for ConRail, it is important. I think other people on this panel can specifically address some of the problems that contributed to the car shortages this year and whether you can ever eliminate such shortages when two harvests of grain are trying to move at once.

If it is a peak season move, you probably always will have some shortages.

Senator McGovern. Well, many thanks, gentlemen. We appreciate your testimony, and your patience. This has been very helpful to us. We thank you for appearing today.

[Whereupon, at 11:30 a.m., the subcommittee recessed, to reconvene at 9 a.m., Friday, July 28, 1978, in Sioux Falls, S. Dak.]

NATIONAL RAILROAD POLICY: WHICH WAY IS UP?

FRIDAY, JULY 28, 1978

CONGRESS OF THE UNITED STATES,
SUBCOMMITTEE ON ECONOMIC GROWTH AND
STABILIZATION OF THE JOINT ECONOMIC COMMITTEE,
Washington, D.C.

The subcommittee met, pursuant to recess, at 9 a.m., in the Sherwood Room, Howard Johnson Motor Lodge, Sioux Falls, S. Dak., Hon. George McGovern (member of the subcommittee) presiding.

Present: Senator McGovern.

Also present: Philip McMartin, professional staff member; and Robin Carpenter, member, Senator McGovern's staff.

OPENING STATEMENT OF SENATOR MCGOVERN, PRESIDING

Senator MCGOVERN. I think we will proceed now with our hearing. Today's session is going to focus on the Midwest rail crisis. The ills of the Northeast rail system, now called ConRail, has spread to the Midwest network which has experienced both massive abandonment and also disinvestment. Disinvestment is a big word, but what it means is that railway corporate boards are using rail revenues, not primarily for the purpose of upgrading rail service, but for nonrailway investment with the hope of a quicker profit. In addition, the regulatory burden imposed on our system is crippling its ability to compete with trucks and barges in the key area of grain shipments and other agricultural related cargoes.

Recent legislation, specifically the Railroad Revitalization and Regulatory Reform Act, was designed in part to assist the deteriorating system of the Midwestern States. Considerable financial assistance has been made available to railroads in the process of reorganization and restructuring. We appreciate many of these efforts.

However, we are seeing very little from the Transportation Department or the Interstate Commerce Commission in the way of immediate assistance to resolve the problems of the Midwest and the transportation needs of the agricultural industry. As you are all painfully aware, South Dakota and other grain States face the prospect of a grain car shortage nearly if not equally severe to the record shortage we experienced last year. While we in South Dakota have lived with lesser shortages every year for almost a century, last winter's crisis created financial hardships on our agricultural communities that we cannot afford to allow again this season. We depend upon the farmer

and the agricultural industry. They are at the heart of our economy. To allow such shortages to recur is to invite economic disruption.

The wheat harvest has just begun in portions of our State and many elevators are still full with 1977 grain. The farmers' own bins are full and grain is beginning to be piled on the ground. Despite the insistence of the Interstate Commerce Commission that the car shortage is getting better, our elevators cannot move the grain. There are not enough hoppers and box cars. The dilemma is further compounded by the fact that when we get cars for shipment, turn-around times at major rail switching points may range from 20 to 30 days before the rolling stock can return to the State. If South Dakota does not get cars quickly, we may see 90 million bushels of grain on the ground. Statistics from other Midwest grain States indicate that they are facing similar problems.

The emergency car service orders issued by the ICC during last winter's shortage did little to alleviate the crisis. We must now look to other emergency alternatives.

At present there are some 90,000 bad order narrow door box cars which have been retired from service by the rail industry. A significant number of these worn, damaged, and unrepaired idle cars could be placed in immediate temporary service to augment the number of grain cars presently in use in order to reduce the shortage that is presently occurring. With minimal repairs, additional box cars could be put back in service to further alleviate the impending crisis.

The Interstate Commerce Commission has the authority to issue an order placing thousands of the most usable bad order box cars in service for Midwestern grain shipments after the completion of minimum repairs. I have requested that the ICC exercise their authority immediately to do so. The commission is presently conducting a field survey of the numbers of such cars that would need minimal repairs and the capacity of the individual railroads to conduct repairs. In light of the emergency situation with which we are faced, I have requested the ICC to issue these orders immediately without the final results of their survey.

Because many of these bad order box cars may not meet regular grain shipment standards, I will also ask the ICC to relieve railroads from liability in the case of grain lost through car leaks or derailment damage when the derailment is due to rolling stock conditions.

This proposal will serve as an immediate, temporary solution to the impending shortage. However, we have waited far too long to resolve the shortages we and other grain States experience every year at the expense of the farmer and the agriculture industry.

The solution to future grain car shortages is based in the fundamental concept that grain consumption occurs at equal levels all year round. Theoretically, grain shipments should move on a level approximating consumption patterns. This is not the case in the Midwest. Farmers must move much of their grain immediately after harvest due to a lack of cost-efficient grain storage capacity. The need to ship vast amounts of grain simultaneously results in car shortages, poor car utilization, and bottlenecks at major grain switching yards.

Essentially, my proposal to resolve our perennial grain car shortage depends on the expansion of storage facilities near the point of harvest. This will provide adequate elevator and storage capacity. This concept also allows the local farmer and elevator operator additional control over when he sells his grain. With adequate storage capacity, farmers can wait for better prices.

The construction of new elevator storage facilities could be accomplished on a subterminal basis, preferably on or as close as possible to existing main rail lines. I am proposing a series of studies to be conducted by you, the growers, and the railroads with Federal assistance to determine the location of these terminals.

Under my plan, there would be minimal displacement of existing elevator operators. Grain for area feed stock would continue to be stored at existing elevators. When the subterminals along main line tracks are constructed, existing area elevators would have the first opportunity to buy into the new facility with governmental financial assistance when needed. The key issue is that the farmer and the local elevator operator would still control the movement and the sale of grain. Additionally, the use of these subterminals would facilitate the use of longer heavier trains.

Therefore, the economy of local farming communities and elevators would be maintained while infusing regional economies with additional revenues due to the new subterminals.

Without going into much more detail, I would like to add that financing and Federal assistance for some of this concept is available through the 4–R Act and other legislation. I will propose additional appropriations and legislation for this purpose.

While the focus of today's hearing is to examine several critical Midwestern rail issues, including branch line abandonment and possible overcapacity on the Midwest system, the rail car shortage is again approaching crisis proportions in our State and must be immediately addressed. I would like to begin today's hearings with testimony from Prof. Phillip Baumel, who originated this concept with others in Iowa.

Professor Baumel is a member of the faculty at Iowa State University, and he is going to describe this relatively new, and as I indicated, promising approach to grain storage and shipment problems. Professor Baumel will use a slide projector over in this part of the room, presenting figures and tables to illustrate his proposal, and these figures and tables will be included in the hearing record. I understand Professor Baumel has to return immediately to Iowa State University. After his testimony, we will have the first panel composed of Messrs. Harris, Ingram, Wolfe, and Radcliffe. Then there will be a brief stretch, and following them we will have the second panel composed of Messrs. Newkirk, Cederholm, Stenseth, Ensz, and Hagen. So Professor Baumel, the room is yours, and we will be more than interested in what you have to show us about this proposal. Do I understand, Professor Baumel, that you are the author and instigator of the so-called subterminal concept?

STATEMENT OF C. PHILLIP BAUMEL, PROFESSOR, DEPARTMENT OF ECONOMICS, IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY, AMES, IOWA

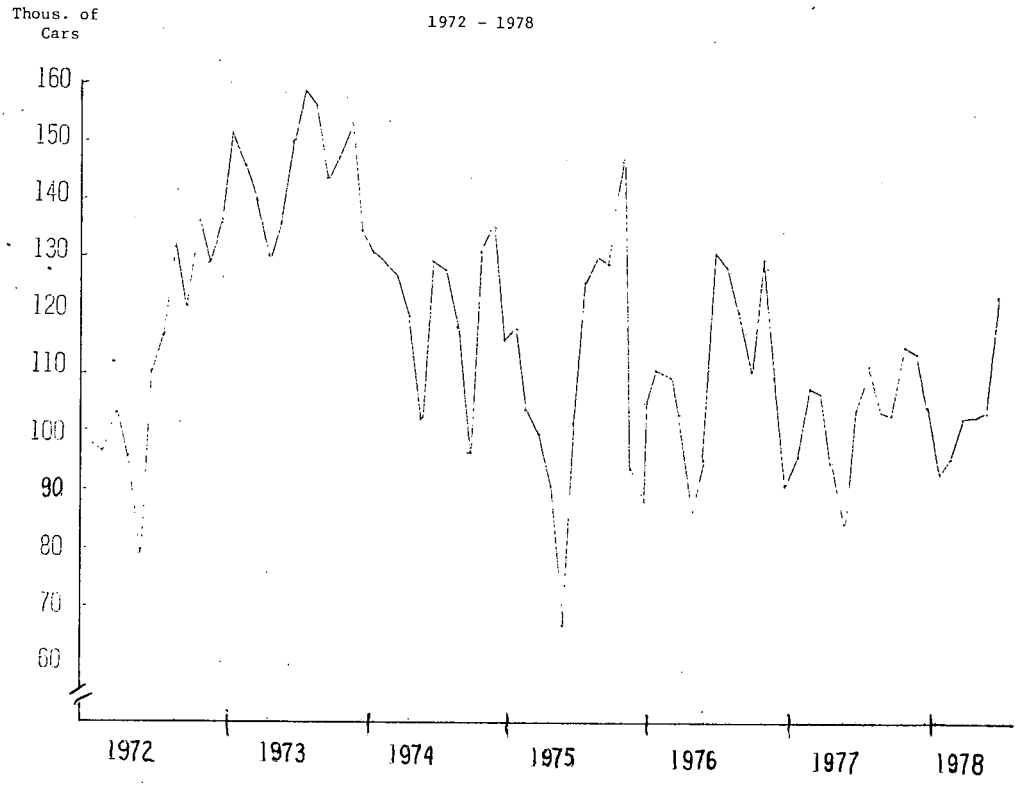
Mr. BAUMEL. Well, Senator, I don't claim to take credit for the concept, but we have evaluated it in Iowa. We have probably done more work on this particular subject than anyone else, but again I don't claim to take credit for the basic concept. I would like, Senator, if I may, just to expand a little bit on your earlier comments about the way in which grain is shipped, and particularly by rail. Figure 1 shows the number of rail cars loaded by months from 1972 to 1978. You can see that there are enormous fluctuations in the monthly rail car loadings of grain. The highest number was about 160,000 cars per month back in 1973 and 1974 during the Russian wheat sale. The lowest number of grain cars loaded in a month was about 70,000 in 1975. The fluctuations have narrowed somewhat this winter. This was largely due to snow which made it difficult to move train. We had a lot of bad order locomotives. The Milwaukee, for example, at one time had up to 50 percent of their locomotives on bad order, and ConRail about 25 percent on bad order. You can see a fairly dramatic improvement in rail car loadings in May and June of this year.

[Figure 1 follows:]

Figure 1

NUMBER OF GRAIN CARS LOADED IN THE UNITED STATES BY MONTHS

1972 - 1978



Senator McGovern. Just for the information of people who aren't familiar with all the technical terms, what is a bad order locomotive or bad order car?

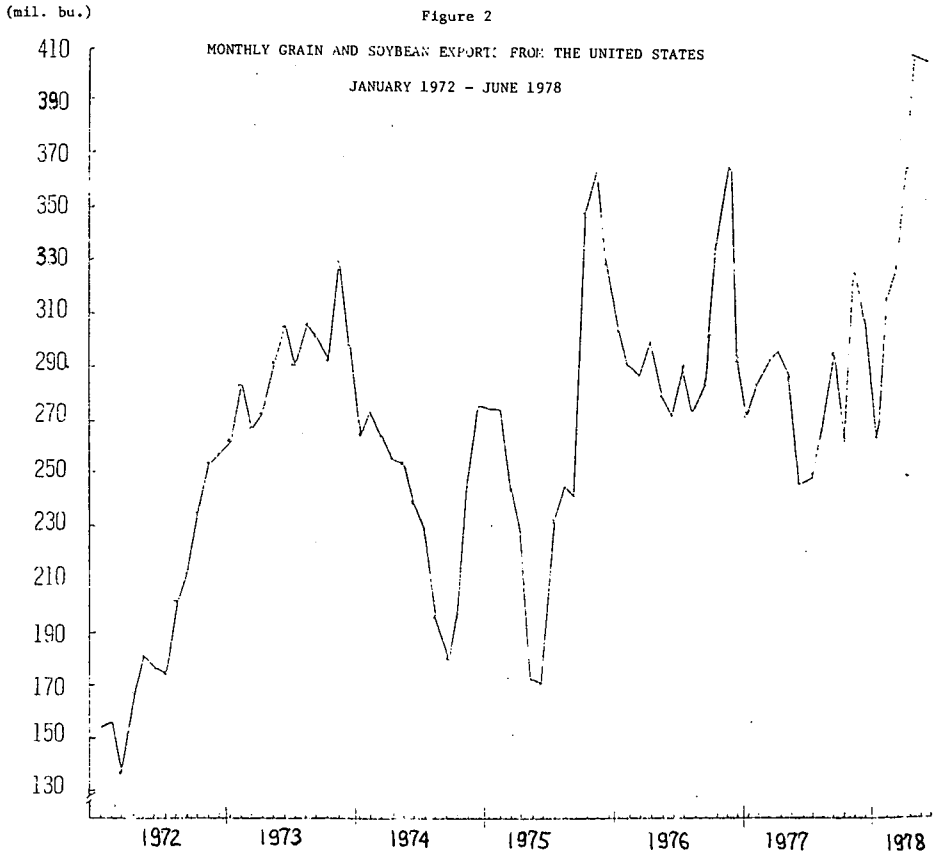
Mr. Baumel. It is a locomotive that is out of operation and needs repair. Figure 2 shows the monthly grain and soybean exports from the United States from January 1972 to June 1978. You can see that the trend is upward fairly sharply, and that we have made enormous improvements in our ability to transport grain for export. In 1972–73, during the Russian wheat sale when we were loading about 160,000 cars, we were loading any rail car that had wheels on it, including open top hopper cars and boarded up cattle cars. I even heard reports that we were loading grain into passenger cars with seats still in them. We learned our lesson that open top hoppers lose a lot of grain. Rain creates a 3- or 4-inch crust on top and the cars leak through the bottom doors. We have since made a significant step forward in converting the grain rail car fleet to covered hopper cars. You can see that our largest exports ever were in May and June of 1978. We were exporting about 400 million bushels per month during May and June.

[Figure 2 follows:]

Figure 2

MONTHLY GRAIN AND SOYBEAN EXPORTS FROM THE UNITED STATES

JANUARY 1972 - JUNE 1978



Senator McGovern. Is my memory right, professor, that one of those things that happened in the 1972 movement was that cars were piling up at gulf port areas because they couldn't unload them?

Mr. Baumel. Right. There were several ports embargoed because cars were backed up into Oklahoma and Arkansas.

Senator McGovern. Are we better at handling that problem now than we were?

Mr. Baumel. Yes; there were relatively few problems at the ports during the most recent increase in exports. I must say that we have car shortages when we have large exports. Figure 2 tells us that we have had large car shortages every time we have a peak in grain exports, but the port facilities have improved. We did have two elevators explode last summer, and a third one that exploded a couple of years ago in Houston. It is about ready to come back in operation.

I would like to point out that at over a 3½-year period, we had peak grain shipments of durations of 2 months, 1 month, and then 3 months. There is no way that the railroad companies can afford to buy standby fleet of hopper cars to service peak movements of grain. It simply is uneconomical for them to buy cars to service peak movements. Something must be done to try to even out those flows.

To illustrate just one more point that we are going to have to do something about, table 1 shows total grain exports from 1970 through 1977. During the Russian wheat sale in 1973, we exported about 3½ billion bushels. We exceeded that in 1976 and we will probably exceed it again in 1978. Depending upon which export projections you are looking at for 1985, we are expecting 4½ to 5 billion bushels of exports in 1985. Now if we were to maintain the level of exports that we had in May and June of 1978, we could almost move 4.5 to 5 billion bushels of grain to market in 1985. I don't think we can do that on an annual basis because the rivers and lakes are frozen part of the time. What I'm suggesting is that if we are going to move this much grain to export in the coming years, we are going to have to change the way in which we move it.

[Table 1 follows:]

Table 1.—*Total grain exports and soybean exports from the United States 1970–77 and projections to 1985*

Year:	*Billions of bushels*
1970	1.8
1971	1.7
1972	2.3
1973	3.5
1974	2.9
1975	3.2
1976	3.6
1977	3.4
Projected 1985	4.5–5

Mr. Baumel. Table 2 shows the trend in the number of rail cars that haul grain. The second and third columns show the number of covered hopper cars with 4,400 to 4,800 cubic feet capacity. I must say before I give you these numbers that I got these from a leasing company. I have another set from another leasing company. The two sets are slightly different, but the point remains that the railroads own or lease about 69,000 jumbo-covered hopper cars and have been increasing their

ownership somewhat. Private shippers, on the other hand, have held a fairly constant number of jumbo-covered hopper cars. The orders currently flowing into the car manufacturers are large. Manufacturers are booked through almost 1979. Car manufacturing capacity is about 17,000 cars per year. I expect that we are going to see a large increase in the number of covered hopper cars in the next 18 months.

[Table 2 follows:]

TABLE 2.—NUMBER OF RAIL GRAIN CARS, UNITED STATES, 1975–77

	Covered hopper cars 4,400 to 4,800 ft³		
	Railroad owned or leased	Private shippers	40-ft narrow door boxcars
1975	61,435	25,581	131,810
1976	64,704	25,044	107,269
1977	68,660	25,701	86,081

Mr. BAUMEL. The 40-foot narrow door boxcars are decreasing very rapidly. You can see that in 1975 we had about 130,000 boxcars. About 24,000 boxcars were retired in 1976 and another 21,000 in 1977. The average age of the fleet of 40-foot narrow door boxcars in January 1978 was 25½ years old, and 84 percent of them were over 21 years old. The fleet is worn out. It may serve us on a temporary basis over the next few years as you are suggesting, but over the long pull we might as well forget about this fleet. It just isn't going to be around.

The Interstate Commerce Commission held a series of hearings on grain car shortages around the country recently. Table 3 presents some of the suggestions that were presented at those hearings. These include increasing car numbers through shipper leasing. Another suggestion was a national car fleet. A national car fleet is predicated on the idea we would have two-way movement. Grain simply doesn't move in that pattern. Grain is a one-way movement, so this idea isn't going to work. We have tried open top hoppers and they do not work. I would like to discuss the standby fleet and seasonal rate ideas. Table 4 shows the economics of standby jumbo-covered hopper cars. When I made this analysis about 3 months ago, hopper cars were selling for about $37,000. The price is up to about $39,500 now. The price is increasing very rapidly. This is another problem railroads face in that the price of railcars is escalating rapidly. On an annual cost basis over a 20-year life and 10-percent investment, the annual cost of owning a jumbo-covered hopper car is about $4,500. Add another $500 per year for management costs. This analysis is made from the standpoint of a State DOT buying railcars to be made available to shippers on a standby basis. The annual cost per year is about $5,000. Assuming that we could optimistically get 6 months use out of a car or six trips to the gulf export ports at 1,200 loaded miles per trip. Assuming optimistically a 24-cent mileage allowance—it is currently 18 cents and expected to go to 24 cents—revenue after deducting maintenance costs would be about $1,000 per car. Thus, the loss per car would be almost $4,000 per year. The loss on the basis of six trips per year would be about 20 cents per bushel.

[Tables 3 and 4 follow:]

TABLE 3.—*Selected solutions suggested at Interstate Commerce Commission hearings on grain car shortages, 1978*

A. Increase car numbers.
   a. Shipper leasing
   b. National car fleet
   c. Standby fleet leased at high rates
   d. Use open top hoppers
B. Eliminate short hauls by rail.
C. Revise grain inspection rules.
D. Increase car per diem and demurrage rates.
E. Seasonal rates.

TABLE 4.—*Estimated cost of a standby jumbo covered hopper car*

Price:	
4,750 cubic feet, with lining, early 1979 delivery	$37,300
Annual cost, 20-year life, 10-percent interest	4,434
Management cost	500
Total annual cost per car	4,934
Revenue:	
Assume car used 6 months per year, 1,200 loaded miles per month, 24 cents mileage allowance	1,728
Less 5 cents per mile maintenance	720
Net revenue	1,008
Net loss per year	3,926
Number of bushels hauled, assume 1,200 miles per trip	19,800
Net loss per bushel	19.8¢

Mr. BAUMEL. Let's examine two ideas that the Senator suggested. One was to build facilities that would use multiple car shipments. Table 5 shows the turnaround times for grain cars from central Iowa to Gulf of Mexico ports in days by type of shipment for privately leased cars. A single car in 1974 took about 33 days to go to the gulf and back. At that time, 50-car trains took about 18 days. In 1977, single-car shipments took 34 days, while a 75-car train took only 16 days. In 1978, single-car shipments took 33½ days while 75-car trains took about 20 days. So what I'm suggesting here is that if we use our fleet more efficiently in multiple-car movements, we can move more grain with our existing fleet.

[Table 5 follows:]

TABLE 5.—TURNAROUND TIME FROM CENTRAL IOWA TO THE GULF IN DAYS (PRELIMINARY)

Size of shipment	1974	1977	1978
Single car	32.7	34.2	33.5
75-car trains	[1] 17.7	16.4	20.6

[1] 50-car units.

Mr. BAUMEL. What is the impact of multiple-car shipments on farmers? Table 6 presents the rail rates from central Iowa to gulf export ports at the *Ex Parte 343* rate level. Prior to June 17, the freight rate from central Iowa to Gulf of Mexico ports in 75-car trains was 37 cents a bushel. In a single-car it was about 48 cents per bushel. So the difference was about 10 cents per bushel. I receive reports from a State agency in Iowa on prices paid to farmers by elevators. I picked out prices from May 7 to June 14, 1978, for two elevators that are located fairly close

together; one loads 75-car trains and the other loads single cars. The 75-car loader, which is a cooperative, was paying 6 cents more on corn and 19 cents more on soybeans than the single-car shipper. These prices suggest that not only would the Senator's concept enable us to move grain more rapidly with a smaller fleet, but it would also result in increased revenue to farmers.

[Table 6 follows:]

TABLE 6.—RAIL RATES, CENTRAL IOWA TO GULF PORT, X-343

Size of shipment	Rate per bushel	Prices paid by 2 elevators May 7 to June 14	
		Corn	Soybeans
75-car train	37.2	$2.29	$6.67
Single car	48.2	2.23	6.48
Difference	−10.0	.06	.19

Mr. BAUMEL. Data on fuel consumption are hard to come by, but table 7 provides an indication of the impact of this concept on fuel consumption. The basic concept is that we would have a few elevators shipping multiple-car or unit train shipments rather than all elevators shipping out all of the time. This would mean that we would perhaps need to haul the grain a little further to the loading elevators maybe 5 to 10 miles further than we currently haul it, and that is going to take a little more fuel consumption by trucks. On the other hand, if you look at the 1972 U.S. rail industry average of Btu's per ton-mile in 1972, it took about 676 Btu's to haul a ton 1 mile. The unit train numbers are varied, but the range of 300 Btu's per ton-mile is fairly close to being right. Thus, the subterminal concept suggested by Senator McGovern would result in a reduction in the total amount of fuel required to move grain to market.

[Table 7 follows:]

TABLE 7.—*Fuel consumption*

	BTU/Ton-Mile
Unit trains	300
1972 U.S. railroad industry average	676

SOURCE: Transportation Research Board Report 43, 1977.

Mr. BAUMEL. If we were to move to this kind of a concept, we have a bit of a regulatory problem. The Interstate Commerce Commission has recently issued a whole series of car service orders. Service order 1304 restricts the number of covered hopper cars greater than 4,000 cubic feet in unit grain trains to 20 percent of each railroad owner's fleet ownership. What this meant was that the Interstate Commerce Commission forced the railroad companies to break up some of the grain trains and in effect reduce our ability to move grain during a period when we needed to move it most. I understand that there is some discussion right now about breaking up all of the unit grain trains. This would further reduce our capacity to move grain. So we do have somewhat of a regulatory problem. It raises the question about what is our objective? Is it to move the grain rapidly or is it to spread our car shortage around to all shippers?

I would like to just close with my thoughts on what the long-term solutions are to the rail car shortage. First, we must get better utilization of the existing fleet of rail cars. Second, we must have some increase in the number of covered hopper cars, a limited increase, preferably by the railroads and by the shippers who can manage them more effectively. Third, we must even out the peaks in grain flows through some kind of a mechanism like a contract rate for unit trains or for multiple-car rail shipments. Thank you Senator.

Senator McGOVERN. Professor Baumel, thank you for your presentation. I just had a few questions that I wanted to raise.

What role do you see the Federal Government playing in promoting the use of the subterminal elevator concept, that is the grain shipment plan that you developed in your study for the Department of Transportation?

Mr. BAUMEL. Well, certainly one role that needs to be reversed is the service orders of the Interstate Commerce Commission which effectively is working against this kind of a concept. Second, there could be a role in providing financing for some of the facilities. Third, a role would be appropriate in upgrading main lines which would be utilized more heavily.

Senator McGOVERN. Would you favor a concept under which the growers would be given some option at participating in the ownership of the so-called subterminal, even if it involves some Federal guarantees of loans that were below the going rate?

Mr. BAUMEL. Is the question: Should the producers participate in the ownership?

Senator McGOVERN. Yes; even if it required Government guaranteed loans?

Mr. BAUMEL. I think that is a must. If you look at table 8 which shows the number of facilities in Iowa that now ship unit trains or multiple cars, 70 percent are owned by farmer-owned cooperatives. This is the way the farmer can maintain control of these facilities. I think it is essential that the farmer have ownership in a large percent of the facilities to make sure that he can control and can receive the economic benefits of this concept.

[Table 8 follows:]

TABLE 8.—MULTIPLE CAR GRAIN SHIPPERS IN IOWA AS OF MAY 5, 1978

Type of organization and size of shipment	Number of shippers	Percent of total
Farmer-owned cooperatives:		
75 cars	16	
50 cars	22	
25 cars	44	70
Independent firms:		
75 cars	0	
50 cars	4	
25 cars	15	16
Major exporting firms:		
75 cars	7	
50 cars	7	
25 cars	3	14
Total	118	100

Senator McGOVERN. Who makes the decision as to where these subterminals would be located? Is that a Federal decision? Is it a local

or cooperative State and local decision? How do you go about deciding?

Mr. BAUMEL. These decisions have been made locally in Iowa. There has been no Federal or State effort to decide where those are built. There is some indirect impact in deciding which rail lines are going to be upgraded, because the rail line must be upgraded to handle these trains. The branch lines must be at least upgraded to 90-pound rail to be able to carry the 263,000-pound cars.

Senator MCGOVERN. For the benefit of the hearing record later on, would you explain what a unit train is?

Mr. BAUMEL. Well, the definitions of the unit train vary quite a bit. The Interstate Commerce Commission uses any shipment that is 20 cars or more. My personal definition of a unit train is one that goes directly from one origin to one destination without any switching in or out of other trains.

Senator MCGOVERN. From your own experience in Iowa, are there lessons that you have learned or obstacles you encountered you hadn't anticipated?

Mr. BAUMEL. Well, we have had some difficulty in the trains being broken up. There needs to be some effort made to make sure that they stay together, particularly on the return trip. This is not only a problem with the railroads per se but also at the export ports. Second, we have had somewhat of a tendency to overbuild these facilities in Iowa. In some cases we have had them too close together, and there has been some difficulty in making them pay when they are too close together. We have had them as close as 5 miles. To make this concept work, the grain typically must go directly to the subterminal except at harvest time. Anything that is stored on the farm should go directly to these facilities rather than through the nearby elevator. The other observation that we have made, and I think this is a fairly important one, is that the multiple-car facilities have not put any elevators out of business. We are seeing elevators on branch lines build new concrete facilities. We are seeing elevators on main lines continue to expand even though they don't have access to this kind of facility. They continue to serve the local market and to serve the river market. We are seeing farmers use these facilities more and more, particularly 100 miles west of the Mississippi River.

Senator MCGOVERN. To what extent have the railway companies cooperated with you in this proposal?

Mr. BAUMEL. Well, the railroad companies, of course, have been behind this concept and introduced the rates, and have continued to be innovative. Originally they came out with 50-car rates and recently introduced 75-car rates. The railroads are obviously interested in this increased efficiency. They can get the cars loaded much more quickly. The tariff gives the elevator 24 hours to load 75-car trains. Many elevators can load no more than 3 or 4 box cars in a day whereas these facilities frequently will load 75 cars in 12 hours or less. The railroads obviously have been interested in this.

Senator MCGOVERN. What about this, the central terminal? Would you anticipate any opposition or anxiety on their part about the creation of the subterminal system?

Mr. BAUMEL. I think that there will be some opposition, particularly in the wheat-growing areas where grain has historically moved to central terminals at harvest time for shipment to millers and export ports during the year. This concept would have the grain moving directly from the subterminal to the final destination without that intermediate move. Obviously if you can cut out that intermediate move which uses more car time and more miles, you reduce the total cost. A significant portion of these savings can be passed back to the farmers.

Senator MCGOVERN. Can you give us just a rough estimate of the cost of constructing one of these subterminals and also your view as to where the funding ought to come from?

Mr. BAUMEL. Well, most of them that have been constructed in Iowa have been existing facilities that have been upgraded and expanded. My personal view is that this is the most efficient way to go rather than starting from scratch and building brand new facilities so existing elevators can participate with minimum investment. The amount of the investment, if you go that way, depends on what type of facilities are already out there and what size until you are attempting to load. I would suggest that the wheat growing country probably would not economically support 75- or 100-car trains. Maybe something near to 40 or 50, and so the cost of those would be less than loading a 75- or 100-car train. It is very difficult to say what it would be, but in the wheat producing area roughly somewhere in the neighborhood of 250,000 to 500,000 would catch most of them. If you are starting from scratch, then you get above $1 million. The way the facilities in Iowa have financed their expansions have been through the Bank for Cooperatives and from insurance companies. I think that there is a role for the Federal Government in providing financing for these facilities.

Senator MCGOVERN. Well, I agree with that. I was thinking as you made your explanation here, if we can offer the farmer a higher return, a higher per bushel price by reducing the transportation and handling cost, in a sense that has the same impact as raising the target price.

Mr. BAMUEL. Yes, precisely.

Senator MCGOVERN. Or doing other things that might otherwise be a burden on the treasury.

Mr. BAUMEL. If the facilities are indeed built and owned by farmer-owned cooperatives, then we are sure that the savings are indeed passed back to the producer. One other observation on the question of what have we learned from Iowa? This has obviously had a positive impact on the communities where these have been built, but there has been no negative impact on the communities where they have not been built. It is simply added to the entire agricultural income, which is again spent in the communities where the farmers buy and sell.

Senator MCGOVERN. Well, many thanks Professor Baumel. We appreciate your willingness to come to Sioux Falls today and tell us about this effort in Iowa. I am very much interested in it, and I would like to stay in touch with you.

Mr. BAUMEL. I would be happy to talk to you. Thank you for having me.

Senator MCGOVERN. Thank you. If the first panel will come up now. Messrs. Harris, Ingram, Wolfe, and Radcliffe. We will have you sit as a panel. Because of the time constraints we are under today, I wish

each one of you in your opening remarks would not exceed about 10 minutes. If you have got a 30-minute prepared statement, just hit the highlights and give us the most important observations, but hold your opening remarks to not more than 10 minutes, that will give us a little more time for some questions after your initial presentation. I want to assure you that any prepared statements you have or supporting documents will be made a part of the hearing record; so don't be concerned about your prepared statements not being made a part of this hearing record; we will see that they are. Mr. Harris, I guess we will begin with you.

STATEMENT OF ROBERT G. HARRIS, ASSISTANT PROFESSOR, SCHOOL OF BUSINESS ADMINISTRATION, UNIVERSITY OF CALIFORNIA, BERKELEY

Rationalizing the Physical Structure of the U.S. Rail Industry

Acknowledgements

Mr. Harris. Senator, while the views expressed in this report are those of myself, I would like to express my gratitude to those who have significantly affected my attitudes on national transportation policy: Michael Conant, Bill Garrison, and Ted Keeler, faculty colleagues at Berkeley; John Williams and David DeBoer, Southern Pacific Transportation Co.; Tom Till and Jim Newkirk, Federal Railroad Administration; Jim McClellan, Southern Railway; and Schef Lang, Association of American Railroads.

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A. *Introduction*

At the outset, let me offer my credentials. Currently an assistant professor in the School of Business Administration at the University of California, Berkeley, I earned B.A. and M.A. degrees from Michigan State University, and a Ph. D. in economics at Berkeley. My graduate fields of specialization were industrial organization and public finance; the title of my dissertation was "Rationalizing the Rail Freight Industry: A Case Study in Institutional Failure and Proposals for Reform."

In addition to my teaching responsibilities in transportation economics and business-government relations, I am currently conducting research on railroad rationalization and highway cost allocation and financing. I have served or am now serving as a consultant to: Southern Pacific Transportation Co.; Committee on Transportation, National Research Council; Regulatory Review Task Force, State of California; and the Federal Railroad Administration, Office of Rail Industry Structure.

It should be noted here that this testimony is based upon a conception of the rail industry that is not universally shared, namely that revitalization of the industry critically depends on major structural reforms. Although once the dominant mode of transportation in the country, railroads are not now and will not regain that position. That is not to say railroads are not important to the Nation's economic life. Rather, it suggests that the principal role of railroads has changed—and should change even further—from the ubiquitous, all-purpose common carrier to a low-cost means of high volume, long-distance freight transport.

While the central concern of this testimony is with railroad infrastructure, it should not be taken to mean the most important railroad problem. Labor relations, regulatory policies, operating practices, and corporate structures are all important, and all must be dramatically modified if the industry is to be revitalized.

We will examine the development and current status of the U.S. rail system in the context of a highly dynamic economy with constantly changing technology, markets, sources of natural resources, and population and industrial demographics. The nearly static rail route structure stands out precisely for its inability to adapt to a rapidly changing environment. It is this inability to adapt which is the main cause of the current plight of the industry, and provides the rationale for public policies which will promote a dynamic, adaptive rail industry.

We begin with an historical overview of the development of the U.S. rail industry, covering the industry's growth to 1920 and its subsequent decline. The current state of the rail infrastructure, in particular deferred maintenance and rehabilitation needs, are also examined in section B of this testimony. In section C, we will consider the potential costs and benefits of physical restructuring, of branch lines, redundant main lines, and yards and terminals. Finally, we will discuss public policies which will promote physical rationalization in section D.

B. *The Historical Development of the Rail Infrastructure*

The importance of the railroad industry to the economic development of this country is well known and widely documented. In the 19th century, railroads replaced coastal and inland waterways as the dominant mode of transportation. Radical improvement in the quality and cost of freight and passenger transportation was the major impetus for opening the West, creating national markets, and expanding the exploitation of the Nation's vast natural resources. Whereas the location of urban trading centers had been strictly limited to coastal ports and major inland waterways, the advent of the "railroad age" established new strategic criteria for future settlements.

In the 150 years since, the railroad industry has achieved considerable technological progress: from wooden to steel rails, from steam to diesel locomotive power, and from manual to automatic signaling and train control. Yet even today, the defining characteristic of the industry is its physical structure, namely, railway.

Built and maintained at enormous cost in materials and human labor, the railroad infrastructure is at once the chief asset and the chief liability of the industry. In the provision of low cost, high volume transport services, railways have been, and in many cases continue to be, unparalleled.

Yet if anything has characterized the distribution of people and economic activity in this country during the past century, it is change. Population centers, industrial locations, and natural resources extraction sites of 1977 bear only slight resemblance to those of 1877. Given the magnitude of those changes, it is remarkable that a contemporary railroad map is only modestly different from one of 1927, or for that matter, 1887. This section, therefore, is based on the premise that the current structurally related problems can be fully understood only if they are examined from a historical perspective.

"History matters" for quite another reason. At any given time, the stock of materials—rails, ties, ballast, tunnels, bridges, and so forth—which comprise the rail infrastructure has been put in place over a long period of time. Thus, the age and remaining life of those materials, individually and collectively, is a function of prior construction and maintenance practices. In a cyclically sensitive industry such as the railroads, the cushion against hard times is the industry's stock of assets. When cash is in short supply, investment and/or maintenance rates are quickly reduced. Alternatively, in good times, excess cash is often "banked" in the infrastructure, thereby avoiding current income taxes.[1] This "life-cycle" nature of the railroads physical structure is critical to understanding the present condition of the industry.

HISTORICAL DEVELOPMENTS TO 1920

As distinguished from the history of rail development in most other countries, American railroads were originally built and operated by private firms.[2] It is undeniable though, that the rapid rate of investment in the industry was largely a product of public subsidies; more than 180 million acres of land, as well as billions of dollars in cash grants, loans, and loan guarantees were given to promote railroad construction. It is important to note that a large portion of these incentives were offered by State and localities. Given the dominance of railroads in the emerging American economy, access to rail service in the 19th century was more than a competitive advantage—it was a virtual necessity. Thus, in order to compete with the burgeoning ports at Boston, New York and Philadelphia, the civic leaders of Baltimore expended large sums of public funds to construct a railroad that would channel export-bound farm products to the Midwest through their city. Likewise, in the Great Plains, promoters of towns-yet-to-be aggressively competed for the benefits which a railroad line could bestow. Though

[1] Railroads are able to reduce tax liabilities during profitable years because maintenance of way and structure are treated as current expenses; in fact, many of those expenditures are really capital investments.

[2] For excellent surveys of the early history of American railroads, see Goodrich, "Promotion of American Canals and Railroads," and Fishlow, "American Railroads and the Transformation of the Ante-Bellum Economy."

there are no rigorous empirical studies to support the view, there is plenty of casual evidence which indicates the result of construction subsidies and local competition was the overbuilding of railways.

The public was so willing to subsidize railway construction because, in most cases, there were no other practical means of transportation. Coastal shipping and major rivers were important, of course, especially in North-South trade. But increasingly, goods and people were moving East-West. Precursors of highways existed in the form of dirt roads, but those were of little use for long-distance travel and the unit of production, the horse and wagon, was not economical for large-volume movements. Accessibility to the railway system was consequently a major factor in locational decisions. Once in place, the location of the rail infrastructure virtually dictated which towns would flourish and which would not. The strategic superiority of railroads was such that shippers had little choice but to design their plant locations and distributive patterns around them.

As railroads dominated freight transportation, so did they dominate intercity passenger transportation. In those days, the population was far more dispersed; the majority of people lived in towns and on farms. Accordingly, the rail infrastructure was designed to fulfill both freight and passenger transport needs. The common use of the railways and structures were thereby reduced.

Finally, the regional makeup of demographic and economic patterns of the period are important with respect to rail infrastructure development. During the boom period of railway construction: (1) The Northwest was the focal point for most heavy industry; (2) the Midwest was undergoing rapid settlement and economic development; (3) the South was still suffering from the Civil War Reconstruction era; and (4) the West was still a relatively unpopulated frontier. Consequently, railroad construction was concentrated in the East and Midwest rather than the South and West. Thus, the problems of "excess capacity" in the East and Midwest far antedated the "Sunbelt migration" of recent years.[3]

HISTORICAL DEVELOPMENTS, 1920–77

The construction of a national railway system in the 19th century was nothing less than a transportation revolution. The extensivity of the infrastructure, the importance of the industry in inducing demand in steel and timber production, the sheer volume of goods and people moved annually by the railroads by 1920, all would have astounded even the staunchest early proponents of railways. Yet in retrospect, it is clear that the heyday of railroading was to be shortlived. By 1920, another transportation revolution was already well underway: the technology of the internal combustion engine, development of mass production techniques, and massive public investment in streets, roads, and highways would coalesce to usher in the "automobile age."[4]

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[3] That is not to say there is no excess route mileage in the South or West; rather, the problem is relatively more serious in the East and Midwest.

[4] This is not an exaggerated characterization. Joseph Schumpeter, eminent economist and student of economic development and business cycles, has persuasively argued that in addition to short-term fluctuations, economies grow according to "long-term swings" and depend on revolutionary innovations which, in turn, affect all segments of the economy. Thus, Schumpeter has classified the past two "long-term swings" as the age of the railways, and the age of automobiles.

The initial impact of the automobile was a drastic shift of passengers from railways to highways. In 1920 railroads carried 47 billion passenger-miles; by 1970 the number of rail passenger-miles had dropped dramatically to 10.2 billion. With nearly the same infrastructure, the decline in passenger traffic meant that rail freight users had to bear an increasing portion of the costs of the fixed rail plant.

The situation was exactly reversed for the rail freight industry's major competitor, motor freight carriers. With a publicly owned right-of-way paid for mainly from automobile gasoline taxes and local property taxes, also paid largely by auto owners, the motor freight operators increasingly enjoyed a crucial competitive advantage.[5]

The automobile was also largely responsible for two major demographic shifts, both of which had unalterable impacts on the viability of the rail industry: urbanization and suburbanization. Meyer and Morton [6] have described those changes in the following terms:

"A rural population, geographically disbursed about its manufacturing and distribution centers, requires intercity hauls for distribution of its consumer goods. Much of the rail network was constructed to provide both freight and passenger transportation to rural communities that, at the time, had no suitable alternative means of transport. The delivery of consumer goods to a rural population supplied the railroads with traffic that was doubly valuable (1) because manufacturers tend to be relatively high-rated, that is, profitable traffic; and (2) because manufactures can be back-hauled into rural communities while bulk commodities are being moved out. As the rural population has migrated to cities, this flow of manufactures has diminished causing much of the rural rail network to become superfluous * * *.

"Concurrent with the migration from rural to urban areas has been a migration of population and industry from the central cities to the suburbs * * *. As long as cities remain dense and compact, clustered around the rail facilities on which they were so dependent, traffic readily moved by rail. Rail lines have not been extended in most cities to serve emerging suburban areas as completely and efficiently as they serve the central business district * * *. Suburbanization, therefore, tends to carry consumers, warehouses, and factories away from rail service * * * suburbanization also transforms the pattern of movements * * *. Formerly, the distribution pattern for manufactured goods tended to be radial, outward from urban manufacturing cities to satellite cities and towns, thus paralleling the rail network. The present trend is toward movements of manufactured goods that originate at one suburban point and terminate at other suburban points scattered about the metropolitan area. This emerging distribution pattern is less radical, more dispersed and "random," with an increasing number of shipments moving over trans-suburban routes not paralleled by rail lines and lacking the density for conventional train operations * * *.[6a]

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[5] K. Bhatt, M. Beesley, and K. Neels, "An Analysis of Road Expenditures and Payments by Vehicle Class, 1956–1975." Washington, D.C., The Urban Institute, 1976.

[6] J. R. Meyer and A. L. Morton, "The U.S. Rail Industry in the Post World War II Period: A Profile," "Explorations in Economic Research," vol. 2, pp. 465–468.

[6a] Ibid.

The net effect of these demographic shifts on the economic viability of the rail industry has been unmistakable. With a more or less fixed physical structure, the sources generating freight traffic have been moving away from rail. Thus, the industry's problem is not simply a matter of too much rail capacity; but also the extraordinarily high costs of moving rail capacity to where it is needed. New rail lines have been built, of course, and yards and terminal facilities have been relocated. But relative to the degree of demographic change, those accommodations of the rail infrastructure to its environment have been minimal. There is no reason to believe it should have been otherwise.

As a publicly-owned right-of-way, highways are extended or relocated almost immediately in response to changing transport demands; indeed, in many cases, highways are constructed in anticipation of demand. When demographic shifts away from particular roadways occur, the costs of early obsolesence are borne by the public. We do not abandon "branch" roadways—but neither do motor freight carriers support their continued maintenance. With no liability for unamortized capital investment, a motor carrier enjoys the freedom of exit too often denied to rail carriers. Thus, the dichotomy of privately owned railways and publicly owned roadways strictly inhibits the responsiveness and adaptability of the rail industry.

In addition to the major changes in the railroads' economic and demographic environment, major technological developments within the rail industry have had a profound impact on the need for and use of the rail infrastructure. The significance of these developments is that, collectively, they have enormously increased the economies of density in the industry.[7] These potential economies mean the cost per unit of output can be reduced by concentrating flows of traffic over the system. The dieselization of motive power, for example, has increased optimal train size, as measured by number of cars and total weight. As train size increases, train frequency decreases, thereby effectively raising the capacity of any particular line. Also, as train size increases, the benefits of blocking or other mechanisms for avoiding classification and switching increase as well; the higher the volume through any yards or over any route, the greater the potential for realizing these benefits.[8]

Automated signaling and centralized train control systems have also increased the capacity of links in the system, reducing the number of parallel links needed to serve a particular volume of traffic in a corridor. Because these modern technologies are capital-intensive, that is, high fixed costs, low variable cost, a substantial volume of traffic over the line is required to justify the investment. If, in any given corridor, one or more lines are upgraded technologically by installation of these devices while other lines are not, the modernized lines gain a strategic advantage over their competitors. But given the

[7] The loss of passenger traffic has also increased economies of freight traffic density; the route capacity formerly used to accommodate passenger trains is now available for freight trains.

[8] There are also potential diseconomies of density, e.g., yard congestion, or the difficulty of scheduling maintenance crew because of train frequency. Perhaps more important, though, are the diseconomies that accrue to rail freight users: Longer trains may mean lower costs, but they may also decrease frequency and reliability of service. Many observers claim that railroads have sometimes sacrificed service quality to cost reduction.

technologically increased capabilities, there will seldom be sufficient traffic in the corridor to merit upgrading all the lines.

There can be no doubt that this process of "densification" would have proceeded even further were the corporate structure of the industry not so fractionated. Although mergers have played an important role in the history of the rail industry, the effect of most mergers has been to extend capacity, that is, end-to-end, rather than consolidate capacity via parallel mergers.[9] Thus, the failure of the industry to fully exploit economies of density by route and flow rationalization has been a function of having too many carriers, each operating its own line in particular corridors. This subject will be further addressed in section C.

CHANGES IN THE RAIL INFRASTRUCTURE SINCE 1920

In addition to the significant technological changes within the rail infrastructure, the size and location of the infrastructure have been constantly changing since 1920. Rail route mileage reached its peak in 1920, when there were 252,588 miles of railway. Between 1920 and 1972, the Interstate Commerce Commission authorized 63,332 miles of roadway for abandonment.[10] During that period, the ICC also authorized construction of 9,926 miles of new rail lines,[11] so there has been a net decrease in route mileage of roughly 54,000 miles.

Abandonment of rail lines requires a "certificate of public convenience and necessity" from the Interstate Commerce Commission. Since line abandonment necessarily entails rail service discontinuance, there is an inherent public interest in the provision of the railroads' common carrier services. The intent of abandonment regulation, accordingly, is to balance the public interest in transport services in any particular locality against the public interest in the viability of railroads and their ability to provide adequate transport services in general.

Abandonments of railways are essentially of two types: Abandonment of lines, or abandonment of carriers.

Carriers seek to abandon parts of their infrastructure when the revenues no longer cover the cost of maintaining service. In most cases, these are branch lines whose continued operation is not required to maintain the "connectivity" of the carriers' remaining lines. In a few cases, usually in dire financial circumstances, carriers have sought to abandon main lines, then obtain trackage rights over the parallel line of another carrier. In general, though, the abandonment of redundant parallel lines has been limited to cases where the entire system of a carrier is liquidated in bankruptcy proceedings. In 1957, for example, the ICC approved abandonment of the New York, Ontario & Western Railroad; of 473 miles of road, only 38 miles were purchased by other carriers upon abandonment. In the *Lehigh & New England* case in 1961, 137 miles were abandoned, and the remaining 40 miles, which originated or terminated 97 percent of Lehigh's traffic, were sold to the Central of New Jersey.

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[9] For a discussion of railroad mergers, see: Michael Conant, "Railroad Mergers and Abandonments." University of California Press, 1964.

[10] Conant, ibid., p. 113.

[11] T. J. Humphrey, F. N. Krutter, and James S. Sloss, "An Analysis and Evaluation of Past Experience in Rationalizing Rail Networks," MIT, 1975.

There have been very few cases of the carrier liquidation-type abandonment and even in those the mileage involved has been inconsequential. Thus, while railroads have been moving over a long period to eliminate economically nonviable branch lines, there has been very little progress in rationalizing the mainline network. One reason for that lack of progress has been that given the current institutional environment, individual carriers perceive few benefits from initiating such actions.

If there are six carriers in a corridor, each would benefit if any other carrier would discontinue service, because the remaining carriers would operate at a higher level of capacity utilization. But no carrier is willing to give up its line.[12]

A frequent consequence of continuing excess capacity is the financial deterioration of the carriers involved. Though poor management or bad luck may be involved, bankruptcy is often an economic signal that too much capacity exists in an industry. The exit of individual firms and their respective physical plants is essential to the balancing of supply with demand. Unfortunately, special bankruptcy provisions and regulatory attitudes have prohibited those capacity adjustments. As Fortune recently put it:

> Regulators seem to have forgotten that failure plays a vital role in a free-enterprise system. Freedom to exist is just as essential to a procompetitive regulatory policy as is freedom of entry. If no companies were allowed to go under, many industries would suffer from excess capacity. Inefficient firms would clutter up the market place, tying up labor and other resources that could be more profitably employed.[13]

CONDITION OF THE RAIL INFRASTRUCTURE

The current condition of the rail infrastructure is a product of maintenance and investment practices of the past several decades. In order to understand the present condition and future needs of railways and structures, it will be necessary to describe its historical development. First, though, it will be helpful to present a number of terms and concepts which are essential to the discussion.

Maintenance of way and structures (M/W) expense accounts for actual expenditures in maintaining the rail infrastructure.[14] M/W expenditures are very sensitive to cyclical variations for two reasons. First, because a decrease in rail traffic volume occasions a less than proportional decrease in expenses, the internal funds available for M/W fluctuate more than rail revenues. Second, though many maintenance materials have long lifetimes, M/W expenditures are treated as a current expense for tax purposes. Consequently, $1 spent on maintenance reduces profit by $1, and vice versa. Thus, rail carriers can improve their profitability by reducing M/W expenditures, and lower their tax liability by spending more. While the same is true of any expense category, the important characteristic of M/W expenditures is that in

[12] The tendency of corporate entities to protect their own positions at the expense of industrywide rationalization is certainly not limited to railroads, but is an especially serious problem given the decline in demand for rail services. The steel industry, for example, is facing the same problem.

[13] Samford Rose, "Bank Regulation: The Reforms We Really Need." Fortune, December 1977, p. 129.

[14] Much of the description of M/W practices also applies to the maintenance of equipment (M/E expense account). Since this report is concerned with physical structure, however, the discussion will be limited to M/W expenditures.

any given year they are discretionary; that is, they can be deferred without serious immediate effect.

"Normalized" maintenance refers to the average annual expenditures required to maintain a fixed plant over the long term. With respect to track material installation, normalized maintenance is defined as the average annual material requirement based on the total number of material units in the track divided by the average material life. Over the long term, installation of the average annual material requirement results in a 50-percent remaining life of track materials. The amount by which the actual remaining life of track materials deviates from 50 percent remaining life—that is, normalized condition—has been defined as deferred maintenance by the Federal Railroad Administration and the Association of American Railroads. The principal reasons for this definition are that: (1) Track materials, which constitute 30 to 35 percent of fixed plant investment, are not depreciated, and the extent to which the average annual requirement is not installed may be considered depletion of the track structure investment; and (2) it is computed by methods which can be mathematically defined and applied to any railroad property for comparative purposes.

The term "deferred maintenance" is often used incorrectly; however, if a railroad intends to retire a physical plant (for example, a branch line), then it would make no sense to maintain it at "normalized" levels. Instead, the fixed plant would be "used up," with only the minimum maintenance needed to keep the line in service until retirement. There would be a gap between actual and normalized maintenance-of-way expense, but no deferred maintenance. As shall be seen, much of the "deferred maintenance" in the rail system is falsely classified as such; it represents the deliberate exhaustion of economically redundant capacity.

The issue of deferred maintenance is currently under study by the Federal Railroad Administration, which will be reporting its findings shortly. In the interim, however, we can reasonably rely upon observations by railroad managers and analysts, while these observations do not provide specific data, they do point to the outlines of the deferred maintenance problem.

What is critical to understanding the current condition of the rail infrastructure is the fact that maintenance of track and right-of-way has been very uneven over the past several decades. In particular, railroads replaced an enormous number of ties during the 1930's and 1940's. The reasons for this were the development of the creosote-coated tie in the 1930's, which greatly increased tie life, and the railroad boom—freight and passenger—during the war. Rails were also replaced at an extraordinarily high rate during the war, as railroads *over*maintained their physical plants, at least in part to reduce the "excess profits tax" liability.

Because of this high level of tie and rail replacement during the 1930's and 1940's, railroads were able to reduce maintenance below "normalized" level during the 1950's and 1960's with no serious deterioration of their physical plant. Since tie life is roughly 35 years and rail life is 40 years, the railroads have been able to live off their prior investment. Consequently, most railroads have been maintaining their tracks and structures at levels significantly below normalized levels. The problem will become even worse in the very near future, since even

"normalized" maintenance will not be sufficient to replace all obsolescent materials, as the historical "lump" of the 1930's and 1940's wears out. Furthermore, deferring maintenance has had the effect of seriously understanding rail costs, which serve as the basis of ratemaking decisions. Substantial rate revisions will be required, therefore, if railroads are to meet expected material replacement requirements in the next decade.

Estimates of the total cost of railroad rehabilitation, that is, the amount of accrued deferred maintenance, vary from $4 to $10 billion. That represents a significant, indeed, probably unobtainable, investment for an industry in which total annual operation income has been less than $0.5 billion the past 3 years. In one respect, though, this aggregative picture of railroad rehabilitation needs is overly pessimistic. Inherent in any forecast of maintenance requirements is an assumption about how much of the physical plant should be retained. In fact, many of the replacement "deferrals" have been on lines and yards which, by the time the existing stock of materials is worn out, will be economically obsolete. It makes no sense whatever for railroads, with either their own or public money, to rehabilitate rail lines which serve no economically or socially useful purpose. Thus one of the chief benefits of physical rationalization of the rail industry will be the avoidance of unwarranted rehabilitation expense.

C. *Political Costs and Benefits of Rail System Rationalization*

At least since 1956, when John Barriger published "Super-Railroads," leaders in and observers of the industry have argued that one of its chief problems was the existence of excess capacity in duplicative terminals and yards, unnecessary parallel main lines, and unviable branch lines. In this section we will present empirical evidence to substantiate the claim of excess capacity, and to estimate the potential costs and benefits of abandonment or downgrading, that is, from main line to branch line status. Because the analysis of excess capacity is critically dependent upon the economics of rail freight service, we begin with a discussion of that topic, then consider rationalization potential in main lines, branch lines, and yards and terminals.

ECONOMIES OF RAIL TRAFFIC DENSITY

The basic economic concept underlying proposals for rationalizing the rail system through line consolidations is that unit costs, that is, costs per ton-mile, decrease as traffic volume over a given track segment increases. This concept is known as economies of traffic density and should not be confused with economies of scale, which implies that average cost decreases as the total output increases. Economies of density are measured for a given number of route-miles, while economies of scale measure the cost effects of increasing the number of route miles, for example, by end-to-end merger.

Two recent econometric studies of rail costs have concluded that there are substantial economies of density in the rail freight industry.[15]

[15] T. E. Keeler, "Railroad Costs, Returns to Scale and Excess Capacity," Review of Economics and Statistics, vol. 56 (May 1974); and R. G. Harris, "Economies of Traffic Density in the Rail Freight Industry," Bell Journal of Economics, vol. 8 (Autumn 1977).

Although the studies were based on quite different assumptions regarding the rail production function, and although they utilized different statistical cost estimation methodologies, the resulting estimates of the economies of density were nearly identical. Estimates of the relationship between density levels and average costs derived from these two analyses are presented in table 1. Note carefully that the statistical techniques used to estimate these cost/density relationships measure only central tendencies; no claim is made that all lines of a given density have the same average costs.

The lowest two density categories in table 1 apply, respectively, to B and A branch lines, using 503 report definitions.[16] The average cost for B branch line with 500,000 gross tons per mile is equivalent to 7 cents per net ton mile. Given the comparative cost of motor freight service, 3–5 cents per net ton-mile for truckload service,[17] it is not difficult to understand why so many branch lines are not economically viable. But as table 1 indicates, economies of density continue to lower costs even at higher density levels. On average, traffic moving over B main lines 5–20 million gross tons—costs nearly twice as much per gross ton mile as moving on the high density A main lines.

[Table 1 follows:]

TABLE 1.—RELATIONSHIP BETWEEN AVERAGE COST AND TRAFFIC DENSITY

	Median density	Average cost per 1,000 GTM [1]	Average cost as percent of minimum average cost [2]
Density class:			
0 to 1,000,000 gross tons	0.5	$28.80	738
1,000,000 to 5,000,000 gross tons	2.5	12.80	328
5,000,000 to 10,000,000 gross tons	7.5	8.40	215
10,000,000 to 20,000,000 gross tons	15.0	5.60	144
20,000,000 to 30,000,000 gross tons	25.0	4.10	105
30,000,000-plus gross tons	45.0	3.90	100

[1] Derived from equations reported in Harris, R. G., "Rationalizing the Freight Industry," op. cit., p. 52; assumes length of haul equals 300 mi.

[2] Minimum average cost is defined here as the average cost of the highest density class, or $3.90 per 1,000 GTM.

Mr. HARRIS. A significant source of enonomies of traffic density is in maintenance of way and structure expense: a 100-percent increase in gross tons per mile results in only a 30-percent increase in maintenance cost per mile. Thus, as traffic volume increases, maintenance expense per GTM falls very rapidly at low density levels, but continues to fall even at high density levels, until the economic capacity of any given line is reached.

The economies of density are not limited to maintenance expenses, however. Both of the econometric studies cited earlier found very significant economies arising from the transportation expense savings; according to my own work, 39 percent of the economies of traffic density are derived from the transportation expense account, indicating improved equipment and crew utilization economies.[18] This should

[16] U.S. Department of Transportation, "Final Standards, Classification, and Designation of Lines of Class I Railroads in the United States," Federal Railroad Administration, vol. 2 (Washington: June 30, 1977), p. 45.

[17] For evidence on motor freight costs in general, see Ann F. Friedlaender, "The Dilemma of Freight Transport Regulation," pp. 28–50. For specific cost comparisons on the substitution of motor freight service for branch rail line service see Baumel et al., Iowa Study, pp. 36–37.

[18] Harris, "Economies of Traffic Density in the Rail Freight Industry," p. 561.

not be surprising: the inherent advantage of rail technology is the ability to haul large volumes of freight at low costs. In order to exploit the potential efficiencies of the technology, however, high traffic densities are required. Traffic density implies longer trains, increased schedule frequency, preblocking, and runthrough trains. Since many technological innovations are capital intensive, traffic density provides the volume needed to justify expenditures on centralized train control, automated signaling, intermodal facilities, and other way and structure investments. Thus, not only are costs dramatically reduced by high density operation, but the quality of rail service is greatly improved.

MAINLINE CONSOLIDATION

The mounting evidence of economies of traffic density leads logically to the question of whether consolidation of mainlines could lower rail costs and/or improve rail service. Thus, the 503 report attempted to measure the potential for consolidating redundant portions of the rail network. While many of the complexities of rail operations were not included in the analysis, the results provide reasonable estimates of at least the nature and extent of mainline consolidation potential, if not the identification of an "essential" rail system.

The 503 report identified nine "Corridors of Consolidation Potential," involving markets in which the total capacity of all lines serving the market is at least twice as great as the volume of traffic.[19] In each of those corridors, there are at least four and as many as eight different railroads providing mainline service. In corridor by corridor analysis, the report generally concluded that only modest maintenance cost savings could be realized if traffic were consolidated on a few of the lines, with the remainder downgraded to local service branch line status. But major savings could be attained by such a program, since substantial future rehabilitation costs would be avoided. Furthermore, even greater savings would be achieved if service were not merely downgraded on the redundant lines, but discontinued—and the lines abandoned.[20]

An earlier analytical study by the FRA reached essentially the same conclusions: A rationalized rail network or only 25,000–30,000 miles of high density main lines could carry virtually all of the long-haul rail traffic.[21] Indeed, under even the most favorable forecasts of rail traffic volume, the high density core system would have a capacity utilization of less than 30 percent, in spite of the tremendous consolidation of traffic. Rationalizing the flow of traffic over the high density network would allow many main lines to be downgraded from medium density to low density branch line service, thereby assuring continued local service. In addition, the study estimated that 75,000 miles of light density lines could be abandoned with virtually no loss of traffic. The estimated operating savings from the proposed rationalization were estimated at between $992 and $1,641 million annual, in 1971 dollars. Given the state of the art in network modeling at that time, we should

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[19] DOT "Final Standards, Classification, and Designation of Lines of Class I Railroads in the United States," appendix A–3.

[20] Notification of intended or possible abandonment of several of these lines has already been submitted to the ICC under provisions of sec. 802 of the 4–R Act.

[21] The Economic Potential of Rationalizing the Railroad Network," by John H. Williams, Federal Railroad Administration (Washington, D.C., 1971). For a summary and discussion of this analysis, see John H. Williams, "A Revised Public Policy Toward a Restructured

not rely heavily on these specific numbers; they do indicate the magnitude of cost savings from main line consolidation.

A logical response to this line of argument is that, given deferred maintenance in the industry, there is not sufficient capacity to concentrate traffic on a "core" system. By all accounts, though, the high-density mainline rail network is in good condition. While not all deferred maintenance is located on the lines which would be downgraded or abandoned under a full-scale rationalization plan, the large majority of it is. That is hardly coincidental; on the contrary, it is precisely because those lines carry so little traffic that the owning carrier is disabled from maintaining them adequately.

As was discussed in section B, the balkanization of the railroads' corporate structure has greatly inhibited the main line consolidation in the past. In all of the nine "Corridors of Consolidation Potential," for example, there is an exact equivalence between the number of main lines and the number of carriers serving the market. Eliminating a line in any corridor, therefore, necessarily means eliminating a carrier from that market. While the remaining carriers would definitely gain from the increased revenues and decreased unit costs, the eliminated carrier would suffer losses. Now if it were the case that, in a national rail rationalization program the gains and losses were more or less evenly distributed, then any carrier's losses in one market would be offset by gains in other markets—and a voluntary, railroad-initiated consolidation plan might be feasible. That is decidedly not the case: There is every indication that some railroads would bear a disproportionate share of the losses—so much so that the survival of those firms would be highly unlikely.

To see why this is so, it should be noted that main line deferred maintenance is concentrated almost entirely on low density main lines, and that the major shift in traffic under a rational system plan would be traffic from low density main lines to high density main lines. It need also be noted that typically, strong and profitable carriers have high density main lines, while weaker carriers have mostly low density main lines; indeed, high traffic density is precisely why strong carriers are profitable and weak carriers are not. The effects of a national system plan are, consequently, very unevenly distributed among rail carriers. The particulars of different main line consolidation programs will vary, of course, but to the extent that any rationalization plan attempts to rely primarily on well-maintained main lines and avoid those requiring substantial rehabilitation, the benefits would accrue mostly to strong carriers, while the losses would be incurred by weaker carriers.

The relationship between system rationalization and corporate structure is vividly demonstrated in table 2, which presents mileage by density class, average density, and rates of return figures for each of a dozen railroads. As is readily apparent, there is a strong correlation between traffic density and carrier profitability; but even these numbers do not tell the whole story. Measures of rail profitability are biased by the treatment of maintenance as a current expense, so that carriers which undermaintain or defer maintenance, report inflated profits.

It is precisely because of these differences in profitability and capacity utilization that the weak carriers have considerable deferred maintenance and the strong carriers do not. Furthermore, given the dim prospects of the low density carriers, it is highly improbable that

they will be able to obtain sufficient capital in private markets to rehabilitate their physical plants. Thus, a central issue in national railroad policy is whether public funds ought to be used for rehabilitating these lines.

The evidence in table 2 suggest not. It is remarkable that such a large share of the low profit railroads carry so little traffic. There is no doubt a "vicious cycle" effect: The less traffic, the more deterioration of the railway, the less traffic, et cetera. But the fact that these lines now carry so little traffic means that they are, in most cases, economically obsolete. It would be a waste of taxpayers' money—and the height of political folly—to invest capital on projects where the market indicates the investments are not justified.

[Table 2 follows:]

TABLE 2.—COMPARISON OF RAILROAD TRAFFIC DENSITIES AND PROFITABILITY

	Route mileage by density class[1]						Average density (RTM/MR)	Return on investment[2] (percent)
	0 to 1	1 to 5	5 to 10	10 to 20	20 to 30	30 plus		
ATSF	3,455	2,421	1,036	1,300	1,766	2,481	4.2	4.0
BN	7,104	4,559	2,029	1,747	4,101	1,741	3.5	2.7
BO	703	1,012	568	914	657	848	4.9	4.7
CNW	3,814	3,310	640	811	918	523	2.3	2.8
CO	1,070	871	770	98	501	870	8.3	6.4
MKT	267	511	336	626	108	23	2.2	0
MP	2,062	1,301	1,368	1,613	1,001	534	3.9	5.3
MR	2,963	2,504	1,416	1,840	240	22	1.7	(3)
RI	1,790	939	1,761	1,351	345	6	2.2	(3)
SOU	1,501	2,887	1,151	970	2,197	701	3.9	6.3
SP	2,207	2,361	810	889	1,376	3,164	5.6	2.1
UP	2,587	1,391	1,043	498	959	2,022	5.9	5.7

[1] Derived from "Final Standards."
[2] Return on investment obtained from "Ascertaining the Relationship," table II.
[3] Negative.

Mr. HARRIS. Still, there is at least one group which benefits in the shortrun from public expenditure on railroads: Those who manage the railroads receive the funds. Shareholders and debt holders may well be better off if the carrier is liquidated—either abandoned or sold off to other carriers. But that leaves managers with nothing to manage. Thus it is that any policy designed to promote physical rationalization of the rail industry must come to grips with the institutional cause of excess capacity, the corporate structure of the industry. Under a rational corporate organization of the industry, individual carriers will have strong economic incentives to rationalize their physical plants and their operations.

BRANCH LINE RATIONALIZATION

The descriptive terms "branch line" and "light density line" are often used interchangeably; but historically they have had different meanings. "Branch line" is a designation based on the service and physical characteristics of the line. A branch line, by that designation, may have light, medium, or even heavy density. Traffic density, on the other hand, is a classification based solely on the volume of traffic moving over the line. Thus, a light density line may, according to the owning carrier's classification, be either branch or main line. Because of the confusion caused by this ambiguity, we will adopt the conven-

tion employed in the 503 report: Branch lines "are those lines which carry lighter density traffic, whether they are stub-ended lines, low-density through lines, or lines which connect two through routes." Specifically, light density lines include "A branch lines," with less than 1 million gross tons per mile per year; and "B branch lines," with less than 1 million gross tons.

There is another ambiguity prevalent in discussions of light density line issues which needs to be clarified at the outset, viz, that between traffic carried over the line and traffic generated on the line. Table 3 presents the distribution of route miles, traffic carried, and carloads originated or terminated by the density classification of the lines. While light density lines constitute nearly half of the class I route mileage, they carry only 7 percent of all class I traffic. It is in that sense that light density lines are said to be relatively unimportant to the U.S. rail system. But as is clear from columns (5) and (6) of table 3, the branch line portion of the rail system is essential from a traffic-generating perspective. More than 30 percent of all carloads originate on light density lines, and over 20 percent of carloads terminate on those lines. Discounting for duplications, that is, cars which both originate and terminate on LDL's, 40 percent of all rail carloads either originate or terminate on branch lines. Clearly, at least some branch lines play a vital role in the access to and provision of rail service. The implication of these traffic data is that, if all LDL service were discontinued, there would be a dramatic loss of rail service.

The numbers presented in table 3 are misleading in one very important respect, however. By aggregating traffic on all lines of the same density class, the paramount fact of the branch line problem is obscured: Some branch lines generate substantial traffic, while many generate very little. B branch lines constitute 60,000 route miles; collectively they originate 17 percent of all carloads, and terminate 13 percent—see table 3, columns 5 and 6. But as shown in figure 1, only 14 percent of the B branch line miles generate—originate or terminate—77 percent of the B branch line revenues. Alternatively, 73 percent of B branch miles generate only 11 percent of B branch revenues. Viewed relative to the total rail system, those 44,000 miles of B branch lines constitute 22 percent of all class I route mileage, but originate or terminate less than 3 percent of class I revenues.

[Table 3 and figure 1 follow:]

TABLE 3.—DISTRIBUTION OF CLASS I ROUTE MILEAGE AND TRAFFIC BY DENSITY CLASSIFICATION

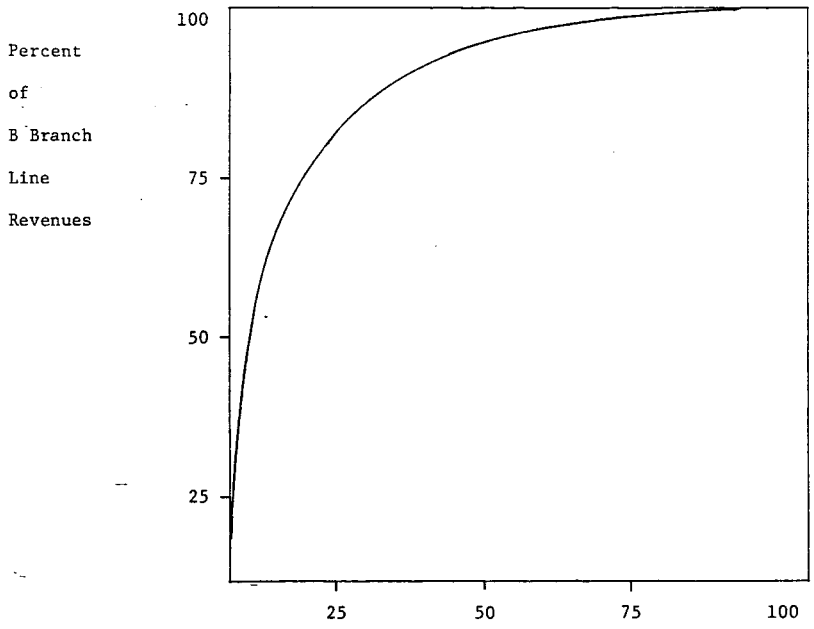
Density class	503 report designation [1]	Percent of total route mileage [1]	Percent of ton miles carried [2]	Percent of cars originated [3]	Percent of cars terminated
(1)	(2)	(3)	(4)	(5)	(6)
0 to 1	B branch	27.5	1.4	16.7	13.2
1 to 5	A branch	21.3	5.6	15.0	9.6
5 to 20	B main [4]	25.2	31.6	21.1	15.3
20 plus	A main	26.0	61.4	47.2	61.9
Total		100.0	100.0	100.0	100.0

[1] Density classifications, designations and route mileage are derived from "Final Standards," p. 52.
[2] Ibid., p. 52 and p. A2-2.
[3] Percent of cars originating, terminating on lines of each density classification are derived from "Rationalizing the Rail Freight Industry," p. 83.
[4] The B main line category includes 5,100 mi of lines with density less than 5,000,000 gross tons, but which is designated as main lines because they are needed either to assure service to major markets or for national defense reasons. For further explanation, see "Final Standards," pp. 32-36

44-399 O - 79 - 30

FIGURE 1

Distribution of Revenues
Originated/Terminated on B Branch Lines*



* Using the 1973 FRA Waybill Sample Data, revenues from traffic originating or terminating on each B Branch Line were assigned to that line. Then, the 3024 Branch Lines were ranked from highest to lowest, in terms of revenues per mile of line. The figure above displays, in percentage terms, the correlation between mileage and revenues generated. For a similar figure showing the correlation between route mileage and traffic carried, see Final Standards, page A2-2.

Mr. HARRIS. Hence, it is evident that in discussion light density line issues, caution is advisable. Some branch lines are important sources of rail traffic; the revenues they generate attest to their importance to shippers, communities and rail carriers. Many other branch lines generate little or no traffic; the fact that they are so little used often indicates that their abandonment would not have serious impacts.

Econometric and engineering studies of rail costs have shown that the unit costs of rail service are very high when traffic volume is very low.[22] Thus, the economic viability of branch lines depends mainly on whether the hauls originating—or terminating—on branch lines move far enough over the main line rail system—where unit costs are much lower, so that the total revenues associated with those hauls cover the total costs of the service. In my doctoral dissertation I used a simulation model of traffic flows originating and terminating on branch lines to assess their respective contribution to the viability of the rail system, hereafter referred to as "Branch Line Study".

Before reviewing the results of that study, it should be noted that there may be a significant difference between standards of viability based on private profitability versus some measure of social welfare.[23] When there are declining average costs and significant externalities in the production of economic goods or services, strictly private decision criteria may not be synonymous with public interest criteria. It is the divergence between these two standards of viability which provides the rationale for subsidizing branch line rail service.

Inherent in any attempt to measure branch line viability, whether of a specific line, or branch lines in general, is the need to define and measure relevant costs. On that subject there is, to say the least, considerable disagreement; not surprisingly, those who seek to abandon lines claim the costs are higher than those attempting to retain services. In acknowledgment of this diversity of opinion, the cost parameters used in the Branch Lines Study were derived from a variety of rail rationalization studies, including those by Banks,[24] Baumel, et al,[25] and the United States Railway Association.[26] These studies utilize a range of methodologies, including econometric modeling, economic simulations and retrospective studies of abandoned branch lines. While differences remain, the similarities in estimates of basic cost components, such as net salvage value, maintenance of way, rehabilitation, are quite striking. In measuring branch line costs, a "zone of reasonableness" has clearly emerged, and those common cost estimates are the basis of our Branch Line Study.

As shown in table 2, light density lines—A and B branch lines—as defined by the 503 report constitute approximately one-half of the total class I rail route mileage. Although there are, no doubt, some A

[22] For a review of recent rail cost studies, see Harris, "Economies of Traffic Density in the Rail Freight Industry."

[23] A discussion of the economic principles which underlie private profitability and social welfare standards of branch line viability is presented in Robert G. Harris, "The Simple Analytics of Rail Costs and Disinvestment Criteria," Proceedings of the Transportation Research Board (January 1978).

[24] Development and Evaluation of an Economic Abstraction of Light Density Rail Line Operations, by R. L. Banks and Associates, Federal Railroad Administration (Washington: June 1973).

[25] C. P. Baumel, J. J. Miller, and T. P. Drinka, A Summary of an Economic Analysis of Upgrading Branch Rail Lines: A Study of 71 Lines in Iowa, Iowa State University, Ames, Iowa, 1976.

[26] U.S.R.A., Viability of Light Density Lines, Washington, 1976.

branch lines which are not economically viable, the branch line study utilizes data for B branch lines. According to the 503 report, there are approximately 3,000 such B branch lines, comprising 60,000 route miles. The question is: Given the costs of maintaining those lines in service, and the revenues they generate, how many of them can be reasonably classified as economically viable.

Under the most conservative branch line cost assumptions, such as minimum values for each component cost category, there are 1,196 B branch lines, or 24,063 miles which do not meet economic viability standards. In other words, on each of those lines, the total costs of providing rail service exceed the revenues generated on the line. Furthermore, these results are based on the assumption that none of the branch lines is in need of rehabilitation. In fact, that assumption is almost certainly not true for the large majority of B branch lines. The Baumel study of 71 Iowa branch lines stated explicitly: "* * * the two alternatives considered in this study are upgrading to 263,000-pound capacity and abandonment. Maintaining branch lines in their current condition is not a viable alternative." [27]

Accordingly, the branch line study also estimated viability on the basis of moderate cost assumptions such as the middle of the "zone of reasonableness", including the annualized cost of rehabilitation. In that case, 2,310 B branch lines constituting 46,987 miles, fail to meet economic viability criteria.[28] That result should not be construed as meaning that 47,000 miles or 80 percent of B branch lines should be abandoned. As already noted, because of externalities and economies of density, private profitability and social welfare criteria are not equivalent in the case of branch rail lines.

The main inference to be drawn from these results is that nonviable branch lines are a tremendous financial burden on the railroad industry. So long as railroads were the dominant mode of transportation, they may well have been able to afford to support uneconomic services by cross-subsidizing from shippers on high-density lines to those on light-density lines. The message of the financial decline of the rail industry is that, in a highly competitive transportation environment, rail carriers are no longer capable of practicing cross-subsidization. If the public determines that in some cases unprofitable rail services should be maintained, the proper source of subsidization is public funds.

EFFECTS OF BRANCH LINE ABANDONMENTS

Actual rail line abandonment or downgrading decisions must necessarily be based on individual line case studies, given the importance of local variations in rail costs, community impacts and revenue loss implications. The branch line study was not intended to determine, nor does this report recommend, specific branch line abandonments. The procedure established in section 802 of the 4–R act are intended to serve that purpose. It is highly germane to this hearing, though, to estimate the probable aggregative effects of rationalizing the rail infrastructure. Accordingly, this report will attempt to quantify those effects, thereby placing in perspective the potential of branch line

[27] Baumel, et al., Iowa Study, p. 68.
[28] Harris, "Rationalizing the Rail Freight Industry," p. 119.

abandonments as one mechanism for achieving a viable rail system.

For the purposes of this section, we will assume LDL abandonments on the order of 24,000–35,000 miles.[29] The main impacts of an abandonment program of this scale would be: (1) improvement of the financial status of the rail industry; (2) loss of service to shippers and communities; and (3) reduction in the need for public subsidies for service continuances and rehabilitation. These will be considered in turn.

The chief benefit of an LDL abandonment program would be that railroads would realize, over the term of the program, approximately $1 to $1½ billion in salvage values from the sale of property, scrap steel and ties and other salvaged materials.[30] As one-time savings, these benefits would be an enormously important source of capital for railroads, and could be used to finance rehabilitation of the remaining viable rail lines. When compared to total annual investment in roadway and structures by all class I railroads—$449 million in 1973, $527 in 1974, $486 in 1975—it is apparent that the effect of those proceeds on the financial position of the industry would be considerable.

The rail industry would also realize M/W expense savings of $50 to $75 million and additional cost savings of $125 to $175 million in other operating categories. Compared to total net railway operating income which in 1977 dollars has ranged from $395 to $965 million in the past 8 years, annual cost savings of that magnitude would significantly increase the railroad industry's return on investment, and thereby improve its ability to attract private capital.

These benefits to rail carriers are partially offset by the costs of loss of service to shippers and communities.

In some cases the discontinuance of rail service can have serious detrimental effects. There is accumulating evidence, however, that the fears of communities facing rail abandonment are often unfounded. The Iowa study, for example, found that:

(a) Using an analytical model which estimated costs and benefits for 71 branch lines on the basis of maximizing not the railroads' but the shippers' net revenues, only six lines had a benefit-cost ratio greater than 1.00.[31]

(b) "Shippers—and/or farmers would enjoy increased income with the shift to a system with large volume shipments and fewer rail lines; they would encounter higher fertilizer costs, but this additional cost would be far more than offset increased grain income."[32]

(c) Based on a survey of Iowa communities which had recently lost rail service, the authors concluded that "abandonment had little effect upon employment and business * * * ; business activity remained relatively unchanged * * * ; and * * * rail abandonment has had not significant effect upon community growth."[33]

Another evaluation of rail abandonments concluded that:

Virtually all line abandoments have taken place in rural areas of low population densities. The actual economic impact on shipping firms and communities has consequenty been small. Alternative truck service has been found generally adequate to serve firms and communities losing rail service.[34]

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[29] This represents the lower half of the range between the estimates of LDL viability based on conservative and moderate cost assumptions.

[30] For derivation of these figures, see Harris, "Rationalizing * * *," chapter 6.

[31] Baumel, et al., Iowa Study, p. 8 of executive summary.

[32] Ibid., p. 17.

[33] Ibid., pp. 14–15.

[34] James Sloss, T. J. Humphrey, and F. N. Krutter, An Analysis and Evaluation of Past Experience in Rationalizing Railroad Networks, report to U.S. Department of Transportation at the Massachusetts Institute of Technology, Cambridge, March 1975.

That is not to suggest that rail abandonments have no negative impacts or that those who lose service should not be compensated for their losses. But the fixed-costs of providing rail service are so high, that unless traffic volume justifies the investment, it is not in the public interest to maintain uneconomic transport services.

Finally, by abandoning LDL's which are not economically viable, there would be rehabilitation cost savings of between $1 and $4 billion, depending mainly on whether branch lines are rehabilitated to minimum class I standards, or are upgraded to heavier rail and class II or III standards. The Iowa branch line study estimated rehabilitation costs on the basis of upgrading the lines to higher operating standards. Under that assumption rehabilitation costs per mile are between $87,000 for medium weight rail replacement, and $110,000 for heavy weight rail replacement. Based on these estimates, the cost savings from not rehabilitating the 35,000 miles of nonviable branch lines would be between $3.05 billion or $3.85 billion in current dollars.[35]

It is eminently clear that rail carriers cannot and should not raise the capital required to rehabilitate thousands of miles of nonviable branch lines. It makes no economic sense whatever to borrow money at 10 percent or more—the assumption that rail carriers could borrow the sufficient capital is doubtful—to invest in projects which earn negative rates of return. If these lines are to be rehabilitated, it will be the public who must incur the costs. Unless the public is willing to commit virtually unlimited funds to rehabilitate the rail infrastructure public investment must be directed to those projects which offer greatest social benefit. Few branch rail lines fall into that category. Furthermore, even if the public does cover the rehabilitation costs, it is not clear that the net long-term effect on the rail industry's vitality would be positive, since rehabilitation would merely postpone the ultimate day of reckoning. Thus, far from solving the problem, massive public investment in economically nonviable branch lines would simply perpetuate the problem.

BRANCH LINE ABANDONMENTS AND SUBSIDIES

Abandonment of rail service requires approval of the Interstate Commerce Commission by means of a "certificate of public convenience and necessity." As was outlined in section B of this chapter, the ICC has approved abandonment of 62,000 miles of rail line during the past 55 years. Recently, the ICC has indicated, in unambiguous language, its position on the continuance of rail service on branch lines requiring substantial rehabilitation and/or significantly higher "normalized" maintenance express. To quote from a recent decision,

> * * * even though the branch line represented a gain to applicant's system net operating income in the aforementioned 3 years, it is certain to represent a loss in the future when rehabilitation and maintenance estimates become actual maintenance expenses * * *. The mere fact that a rail line is operated profitably does not preclude its abandonment where its continued operation requires extensive rehabilitation expenses. Under the circumstances, expenditure required for rehabilitation of the branch line must be taken into account

[35] Maumel, et al., Iowa Study, pp. 64–74.

in determining whether continued operation thereof would impose an undue burden upon interstate commerce.[36]

Section 802, paragraph (5)(a) directed each rail carrier to submit to the ICC a system plan containing detailed descriptions of lines "potentially subject to abandonment." The ICC has recently issued the results of those filings for public comment and consideration, in "Rail Systems Diagram".[37] That report identifies 4,438 miles of line abandonment petitions currently pending; 8,535 miles which carriers will seek to abandon within 3 years; and 7,129 miles of line currently under study by the carrier, which may be subject to future abandonment attempts. Total miles in the three categories is 20,102; by 503 report definitions, some of those miles are lightly used B main lines, but most are A or B branch lines.

Thus, the railroad industry is moving toward rationalizing its infrastructure by eliminating highly unprofitable light density lines. The industry has, in fact, been "using up" the capital embodied in those light density lines over the past several decades. In this respect, the term "deferred maintenance" is a misnomer, since it implies "put off until later." In fact, in many cases, the carriers are not delaying maintenance, but disinvesting capital stock which is no longer economically viable. There is good reason to believe that, if left to natural economic forces, that process will continue—much to the net benefit of the railroad industry and transportation users.

There is an important qualification, however. Because of the nature of branch rail line service, the average cost of service declines sharply as volume increases. In cases such as these, there will be a lack of correspondence between private profitability and social welfare disinvestment criteria. In other words, if left to the "dictates of the market," rail carriers would seek to abandon some branch lines—because costs exceed revenues—even though the social benefits derived from the continued operation of the lines are greater than the costs of service. There is, consequently, a straight forward economic rationale for subsidizing some branch rail lines.

The great difficulty, of course, is that there are a large number of branch lines for which the costs of rehabilitation and continuing operation exceed even the most optimistic measure of social benefits. It must be remembered that in one fundamental respect, branch line rail service is not comparable to other subsidized public services. Telephone and postal service, for example, are absolutely essential; we could not reasonably talk of abandoning parts of either system and expect to maintain social cohesion or integrity of the political system. It is unquestionably in the national interest to subsidize the provision of these services in rural areas, even though on a strict economic criterion they may be unprofitable.

The difference between rail service and postal or telephone service is that there is a close substitute for the former, but not the latter. Using public subsidies to maintain branch rail lines past the point of economic usefulness would be equivalent to subsidizing local telegraph service after the development of a cheap, easily accessible, nearly

[36] Interstate Commerce Commission, AB–1 (sub–8), Mar. 31, 1975; similar language was used to support abandonment approval in "East Carolina Railway, Abandonment," 324 ICC. 514.

[37] I.C.C., Rail System Diagram, September 1977.

ubiquitous telephone system. What is essential for economic development is transportation service, not rail service. If, because of the terrain, commodities shipped, or inaccessibility of highways rail service is the best means of transport, then subsidization of continued branch line operation may be in order. Increasingly, however, motor freight service is readily available, cost competitive, and usually more frequent and more reliable.

There is another type of branch line "subsidization" that is compensation for those who lose service. The economic rationale for compensatory subsidies can be based on either equity or efficiency. The equity argument is one of reliance; people—or firms—have made locational decisions based in part on accessibility to rail facilities; since rail is a regulated common carrier, those who lose its service have a to be compensated for their losses. The efficiency rational based on easing transition costs, that is, it may be less costly to relocate a shipper on the main line than to continue to provide branch line service.

Thus, the 4–R Act establishes a national program for continuation of local freight based on comprehensive State rail plans. The chief problem in implementing such a program will be to establish fair and effective criteria for determining (1) which branch lines merit public subsidies and which do not; and (2) which communities and/or shippers ought to be compensated for loss of service or relocation expenses. The potential benefits of a subsidy program, if limited to socially viable lines and if fully compensatory to railroads costs, would include significant improvement in the vitality of the rail industry. To the extent that a branch line subsidy program attempts to perpetuate economically obsolescent rail service, though, both railroads and the public purse will suffer.

YARD AND TERMINAL RATIONALIZATION

The common perception of railroads focuses upon the provision of line-haul transportation, yet yard and terminal operations are an essential component of rail service.

As a proportion of track mileage, yards are increasingly important to the rail infrastructure. Excluding ConRail and its predecessors, main and branch line—that is, running—track miles decreased from 201,833 in 1940 to 182,237 in 1975. During the same period, yard track miles actually increased from 79,279 to 80,170. Hence, the ratio of yard to running track miles, and thereby the relative cost burden of yards, has grown from 0.39 to 0.44 in the past 35 years. This is surprising considering that in terms of carloads—which is the unit of production in terminal operations—rail traffic has declined from 34 million in 1940 to 24 million in 1975. The annual number of carloads per yard track-mile has declined from approximately 400 to 1940 to 300 in 1975.[38]

The irony of rail terminal operations is that often a decrease in carload volume increases the track mileage needed per car. In high volume yards, the primary purpose of terminals is the classification and switching of cars—that is, coordinating the flow of cars over the tracks. If the rate of flow is high enough, the ratio of cars to track

[38] Associate of American Railroads, Yearbook of Railroad Facts, 1977 Edition, Economics and Finance Department, Washington, D.C., 1978.

miles can be correspondingly high. When volume is low, however, train frequency is also low; in this instance yards perform a second role by providing storage for cars waiting to be delivered to customers or pulled out by departing trains. This inventory function is track intensive; the lower the volume, the longer the waiting time, the more track miles required for a given number of cars.

Thus, it is apparent that economies of density apply to yards and terminals as well as main lines. For typical individual railroads yard track maintenance costs range from 24 cents per gross ton-mile for a high tonnage road, to 38 cents gross ton-mile for a low tonnage road. As traffic declines for particular carriers, their relative cost of maintaining these "support facilities" such as yards and terminals, will concomitantly increase, further deteriorating their competitive positions in the industry. Hence, there is a downward spiral at work; one with potentially severe consequences for the viability of the rail industry.

By all accounts, a large share—perhaps 50 percent—of all deferred maintenance is in yards, terminals, and sidings. Barring a major recession or depression in the next decade, it is probable that high tonnage roads will be able to finance the rehabilitation of yard tracks when needed, as will medium tonnage roads whose traffic is growing. It is eminently clear, though, that light density rail carriers, or those with declining traffic, will not be able to meet future maintenance requirements wihout substantial retirements and public assistance.

Whether or not many of these low-volume yards ought to be rehabilitated at public expense is problematic. The same corporate structural deficiencies which act to maintain excess main lines in some corridors also inhibit the rationalization of yard and terminal facilities. Yard and terminal consolidation was found to have sizable cost savings potential among the carriers merged to form ConRail. Unfortunately, there has been no comprehensive national study of terminal consolidation, and associated rehabilitation cost savings potential. Given the magnitude of the problem, however, it would be judicious to undertake such a study before investing billions to rehabilitate redundant yard and terminal facilities.

D. *Summary and Public Policy Proposals*

The future of the U.S. railroad is highly uncertain. Uncertainty in energy, the natural environment, technological change, population demographics and industrial location will have enormous impacts upon that future. Yet there is one certainty: The railroad industry, in its current form, cannot cope with that future. For the central cause of the decline of the railroad industry is institutional failure: A failure of organizational structure, physical structure and operating practices to adapt to remarkably changed circumstances. If we are to revitalize the industry—as opposed to perpetuating it—the heart of public policy must be the creation of institutions which are capable of anticipating and adapting to a changing environment.

This will require considerable human ingenuity. While organizations seem quite able to adapt to a growth environment, we see few successes in declining environments, and hence, the term declining in-

dustries. In large part these failures reflect public policies which attempt to support the industry in its current form, rather than face the hard reality that what is needed is a drastic change. Nowhere is that more true than in our railroad policy, which can be best stated in its ritualistic form, "maintaining prevailing patterns of service." If there is a formula for failure in public policy and industry performance, it is attempting to maintain prevailing patterns of service in a dramatically changing environment.

In the preceding sections, we have cited the manifestations of institutional failure and the potential for improvement. Though dealing with only one aspect of the overall problem, the physical structure of the industry, it is perhaps most symbolic. For legislators, regulators, transportation users and railroad people must recognize that what is needed is a new conception of the role of railroads in our transportation system. And what that new conception implies is a rail system greatly reduced in extent. With greatly increased rate of utilization. Given present technology and need for transport services, railroads can no longer serve as our primary transport system; for better or worse, highways have usurped that role. But railroads can play an extraordinarily valuable role, nonetheless: Moving large volumes of freight over long distances on high density traffic lanes. In so doing they will make their maximum contribution to an efficient transportation system.

It has been argued that there is substantial excess capacity in the rail system, and that there are significant potential benefits from rationalizing the physical structure of the industry. The evidence suggests that at least 35,000 miles of branch line should be abandoned, with annual cost savings of at least $250 million. Furthermore, abandonment of nonviable branch lines would greatly reduce rehabilitation costs, with savings of at least $1 billion and as much as $4 billion. While specific quantitative results are not available, there would be substantial savings from elimination of redundant main lines, yards and terminals as well. The major benefits of route and terminal consolidation are greatly improved service, lower operating costs—from economics of traffic density—and significant savings in foregone rehabilitation costs.

Though ours is a "private enterprise economy," railroads are unarguably public enterprises. This country's economic philosophy is based on the premise that private initiative and market exchange are the preferred mechanism for meeting economic needs. But if and when private institutions fail, we should utilize public policy for assuring performance consistent with national economic and social objectives. Public provision of services has been historically considered a last resort, and most would argue that public ownership is not now in the national interest.

Public policy must therefore rely upon mechanisms for modifying the structure and behavior of private organizations. And surely, public agencies must bear a good share of the blame for the demise of the rail industry. Revitalization of the rail industry must be a joint effort, with Congress, the Interstate Commerce Commission, the States, rail users, and railroad companies working cooperatively. We must face the fact, though, that there will be some losers in the process. If those who would lose are allowed to sabotage the effort, society will be the ultimate loser.

I would not pretend to know all that needs to be done to revitalize the railroad industry. I would suggest, though, that the following proposals are essential components of a revised public policy toward railroads:

(1) Encourage and promote mergers in the industry; the evidence strongly suggests that there are too many railroad companies. In an interdependent system, decisionmaking must be relatively centralized if decisions are to be rational. Elimination of excess capacity in the physical structure is dependent upon corporate restructuring. Consolidated railroad organizations will reduce redundant facilities, increase utilization of remaining facilities and improve the quality of servce offered to their customers.

(2) Increased reliance upon intermodal competition: Given the economics of railroad operations, promoting intramodal competition is highly inefficient. In most markets there is not sufficient volume for more than two rail carriers. Regulating the conduct of monopoly carriers can prevent inequities while achieving inherent economies of scale and traffic density.

(3) Judicious and limited use of rail service continuance subsidies: In few cases are subsidies socially justified, and even then, subsidies should be used mainly to compensate rail users for losses and/or to ease transition (for example, relocation of fixed facilities to nearest railhead).

(4) Allowing greater ratemaking freedom: In many cases, rail services are not economically viable because the rates are too low. That may benefit those users in the short run, but at a loss of viability of the rail system over the long run. In particular, railroad rates must take differing traffic density levels into account, since that is the main determinant of the cost of rail service. It is neither discriminatory nor unfair to charge rail users on light density lines higher rates than users on high density lines.

(5) Restricting rehabilitation grants and loans to lines which are essential to a revitalized rail system: In most cases, lines requiring rehabilitation do not provide essential rail service. There is a very high correlation between current condition of the line and essentiality. If there is sufficient demand for rail services in a given market, railroads will earn revenues sufficient to maintain their lines. Deferred maintenance is usually a signal of economic obsolescence; subsidizing obsolescent rail facilities is a waste of public funds.

(6) Implementing highway and waterway user charges which cover the cost of those systems: We should not as a general proposition subsidize the rail industry; neither should we subsidize motor carriers and water carriers. We are no longer a developing nation; the original justification for publicly subsidizing transportation development has long since expired. Those who benefit from publicly provided transport facilities—highways and waterways—should pay for them.

Mr. McGovern. Do you think you can solve that politically?

Mr. Harris. Senator, you are the politician. I am an academic.

(7) Replacement of internal subsidies by public subsidies: As a general matter, subsidies to rail users or rail employees—via labor protection provisions—are seldom justified. But if they are, then the public must bear their cost. We have acted on the premise that railroads

are giant monopolists who can pass these costs along. What happens, in fact, is that some rail users susbidize others, with deterioration of the industry as the long-term consequence. The misallocative losses of forced cross-subsidization far exceed the redistributive gains.

It would be foolhardy to suggest that these proposals, even collectively, are a panacea for the railroad industry. They have one thing in common, and it is the main point I seek to make here today. The current conception of railroads is a misconception: they cannot be in the future what they have been in the past. The world has changed radically, and if the railroads are to become a vital contribution to our economic well-being, they must change radically as well. That will be neither easy nor quick. But the time for ad hoc, piecemeal solutions is long since past. It is time to think, and act boldy.

Senator McGovern. Thank you very much, Professor Harris, for your testimony.

Our next witness is Mr. John Ingram, who is the president of the Chicago Rock Island & Pacific Railroad. I'm happy to welcome you to Sioux Falls.

Mr. Ingram, I am going to wait for all of you to make opening statements before we have any questions, but your prepared statement, will be included in the hearing record.

STATEMENT OF JOHN W. INGRAM, PRESIDENT, CHICAGO, ROCK ISLAND & PACIFIC RAILROAD

Mr. Ingram. Thank you very much, Senator. I am delighted to be here. I will summarize my statement down to an acceptable length, and I assume the balance of the statement will be included in the hearing record.

Senator, thank you for this opportunity to present comments on the subject "National Railroad Policy: Which Way Is Up?" I am heartened that you have brought the hearings to the heartlands, having already taken testimony in New York City and in Washington. Mid-America today is the largest sitting target in the absence of a national railroad policy; it is here that the absence of a policy will impact first and hardest; it is here that the dominoes of transportation inefficiency will start to fall if those who guide national economic courses fail to act.

I am aware that the problems of freight car supply and the dangers of branch line abandonment attract first attention in attempting to isolate the Midwest rail problem. And these are certainly matters that deserve your close attention. But—as Secretary Adams says when talking about the Rock Island and the Milwaukee Road—these first two issues are "only the tip of the iceberg."

Just as most people do not bother to go the dentist until they have a toothache, most societies do not reform abuses until the victims begin to make life uncomfortable for others. The American railroad industry—throughout the Nation and not just in the Midwest—is well on the path of making life uncomfortable for others.

Bankrupt railroads defer paying property taxes, to the consternation of local and county public officials. Solvent and semisolvent railroads seek to temporarily avoid bankruptcy by lopping off their own

extremeties—and claim they are doing this in the name of progress, to the consternation of local and State industrial development officials, not to mention the users who are being abandoned.

Rich railroads seek to do that which they do best—which is to run fast trains over long distances between major cities while ignoring everything and everyone along the way—to the consternation of everyone along the way. Especially the pigeons that get blown off courthouse roofs in smaller cities and towns.

All railroads—caught in the throes of diminishing returns—combine decreased track maintenance with longer train lengths and increased car size, leading to costly derailments, explosions, release of toxic materials, injury and death. This, to the consternation of all.

It is this atmosphere of discomfort for others that is causing our society to demand improved railroads and improved railroading. Believe me, the victims of the crisis want to join you wholeheartedly in seeking a solution.

Further, there are a number of us who want to suggest constructive ways to meet the problem. We would rather fix a tooth than pull it out; we would rather put a branch line back on a for-profit basis than rip it up; we would rather provide more jobs and more service than shrink our own turf in the name of short-run efficiency.

Before moving to specific examples, based on our own experiences, of how a start can be made at addressing the problem, I think it would be well to repeat a few basics, at least for the record.

The rail industry is in trouble today-primarily because the Government has spent a long time, and a lot of money, financing our competition. This Government financing has come not so much through subsidization of other modes, although a case can well be made here regarding inland waterways; rather, the financial assistance has been much more subtle. Government has provided the initial right-of-way capital investment needed by truckers, for instance, by assuming the construction costs of what we rightly call the best highway system in the world. The same holds true for municipally-owned and federally funded airports—and for federally financed waterway improvements.

Whether user fees will eventually recapture the initial investment is irrelevant. The fact remains that there would not be the proliferation of transcontinental truckers and midcontinental barges if the operators of those services had been required to install and pay for their routes prior to engaging in for-hire services.

As the subcommittee is well aware, the Rail Revitalization and Regulatory Reform Act of 1976 was intended to correct these wrongs. For the first time in decades the rail industry would have access to $1.6 billion front money—all to be repaid, of course—not with user fees, but with straight interest-bearing repayments not related to the volume of traffic generated by the rebuilt plant.

The early history of the implementation of the so-called "4–R act" has been a tedious and slow-moving narrative. The funds are made most accessible to those who don't need them as much as others. In fact, I am sure Mr. Wolfe of the Chicago and North Western will report to you that he is having a most satisfactory relationship with the DOT in arranging financing. He will probably not note that in order to assure his credit-worthiness, his company ran sizable ads

in the Wall Street Journal, the Chicago Tribune, and at least one Washington newspaper, stating that they are a nice profitable outfit with a bright future and a great outlook for long-term success. For his sake, I hope what he says is true—despite his first quarter financial figures; and I recognize that his second quarter did show sizable improvement. My point is simply that the FRA is looking for borrowers who can prove to a fare-thee-well that they don't really need money, they just feel it would help a lot. And I am sure that Mr. Wolfe would agree that DOT's requirements for documentation are massive. I have had the pleasure of seeing his latest application for $120 million in borrowings, and it is several volumes thick. If such documentation had been required for the construction of the Interstate System back in 1956, the bulldozers would still be somewhere in the Alleghenies headed west.

I bring these matters to the attention of the subcommittee simply to point out that as long as the Federal Government has decided to finance at least three vital modes of transportation, there is no reason whatsoever for failing to finance—expeditiously—the continued service of the fourth.

Senator McGovern. Mr. Ingram, I don't mean by this question that I disagree with your judgment about the financing of competition, the barge lines, the airways, the Interstate Highway System, all the rest. One of the answers that is sometimes given is that railroads got great public financing in terms of the public lands that were made available.

Mr. Ingram. That is exactly correct on part of the railroad system over our country. Certainly not all. Namely the lines west of the Mississippi, the transcontinental routes that were surveyed initially by the Corps of Engineers, and established by land grants in that territory. That did not take place in the South or Eastern parts of the country. Secondly, the railroads paid for the financing or repaid it through discounts on Government freight, as it was handled for almost a hundred years after those railroad lines were built. Government freight was handled at about half price, something like that, up until just after World War II as partial repayment of those land grants. It is not my position that railroads were not assisted in their initial construction. It is my position that they do not continue to be assisted in the capital improvement, roll over and front end money that is necessary to keep them a vital form of transportation. I think the railroads have a great record in paying back what the Government has given them in the way of assistance over the years, and I think they continue to do that job of paying it back either in user fees or as repayment of direct loans.

Senator McGovern. I think that is a story that is not well known by even people that have looked on a preliminary basis at the rail problem, that there has been a certain amount of payback.

Mr. Ingram. Yes, sir. Railroads, after all, have quite a decent payback record. The Reconstruction Finance Corp, back in the 1930's, actually made a profit for the taxpayers with the interest earned on rehabilitation and reconstruction loans. The Rock Island itself, even while under the protection of the Federal courts, has an exemplary record of repayments to the State of Iowa branch line rehabilitation program, as well as the Federal Government in connection with a $17.5 million loan made under the provision of the Emergency Rail Services Act of 1970.

The alternative to front-money financing, Senator, is Government ownership of many miles of railroad. Nationalization by default is a very real risk in this county—whether the Government has to take over a railroad because it insisted on getting a first and prior lien on the property when it lent money, or whether the Government moves in to provide service at the insistence of shippers once private industry, lacking rehabilitation capital, has given up the ghost and collapsed. And nationalization is an unpleasant and expensive alternative. The Union Pacific—a few years back—collected data on the economic fortunes of nationalized railroads around the world. None make profits—all incur deficits. In fact the Italian National Railroads have annual labor costs alone that amount to about 125 percent of their revenues from all sources. I think we want to avoid nationalization—if we can find answers with alternatives.

And this takes me to another school of thought that has been at large recently, Senator. This is the one that frightens me the most—not on behalf of the Rock Island, but on behalf of the national economy. This is the approach that we refer to as "How to Save Railroads Through Infiltration, Euthanasia, and Suicide."

People who should know better start their arguments with three articles of faith, as follows: First, "the problem with midwestern railroading is that there are too many tracks—the only way to solve the problem is to tear up all those branch lines." Second, "once the branch lines are torn up, successful railroads can come in and take over what's left and will operate them to their usual high standards." And third, "the only places that need reliable rail service are major city hubs that generate traffic by the trainload. Communities that generate only carloads should ship by truck."

Each of these statements is fallacious. First—the matter of "too many tracks." Agricultural States in the Midwest need those tracks, Senator. The fault lies in the railroad's institutional inability, and traditional reluctance, to broach meaningful change. Gathering lines—serving farm-loading points and country elevators—can be cost-effective if they are rehabilitated so as to accommodate the new and larger cars. Iowa is proving this. Rehabilitated branch lines do make money. There are not too many tracks; rather, there's too little imagination and willingness to be different. Anyone who tells you that cutting off branches improves your product is a manager bent on suicide for his enterprise.

Second, the matter of strong and solvent railroads coming in to take over the so-called "better" lines of the marginal roads. These would have to be purchased, of course. No one buys problems with cold hard cash. If such transactions were carried off, the railroad properties would be bled, not developed. The underlying philosophy is infiltration—that is, "if we take it over, we can shut it down, and that's competition we won't have to live with any more."

Third, the philosophy that says railroads are only good for running heavy fast trains between major traffic centers with sealed-door boxcars and nonstop schedules between city pairs such as Chicago and Omaha. That's one of the DOT's favorite examples of what they call a "corridor of excess capacity." We decided to check out that particular corridor last year when DOT was making a big issue out of the fact that there are five different mainlines connecting these two

cities. Three of those mainlines belong to carriers that are either bankrupt or very marginal; yet on the tracks of these three carriers sit 38 percent of Iowa's grain elevators, with a total capacity of 188 million bushels of grain. In order to preserve high-speed intercity service between major rail hubs, America's transportation policy framers are ready to cavalierly wave off 188 million bushels of corn and soybeans in Iowa alone. "Let those lines die a natural death." This is euthanasia.

In the formation of a national rail policy, I would suggest very strongly that there is one factor that policy shapers must force themselves to ignore. That is the measurement of traffic density. Senator, shippers are not crazy. If there are two rail routes between A and B, and one of them is 25 percent longer and has steeper grades and costs more to operate—but is in far better repair—the shippers will use the longer line because its better condition will provide more reliable service. Yet if policy shapers are looking for efficiency, they won't designate the line with the traffic as the preferred choice; they'll opt for the line that offers the best transportation product once rehabilitated. The text for such decision tactics was written by a man called Wellington over a century ago and is still required reading at West Point. If we are to find out which way is up we must start at the bottom—with the basics of railroad service. We must determine what services are needed by the public—not what railroads will need public assistance when all else fails. We must look at what we once had and what we expect to need if we are to break the vicious circle that has surrounded us absent any policy whatsoever.

A major investment is needed—one perhaps as large as the investment started 20 years ago on our highways. But it is an investment that will pay off, with interest. I have been advised that the Commerce Committee subcommittees in both the Senate and House—recognizing this need—are looking to major rail legislation in 1979. Chairman Rooney on the House side has already called for a high-level workshop in November to begin to formulate rail transportation needs for the remainder of the 20th century; Chairman Long on the Senate side has opened his doors wide and entertained proposals and suggestions as well. It is good that the Joint Economic Committee, at your subcommittee's motivation, is becoming involved as well. We welcome your interest. You have the Rock Island's pledge that we will work with you as closely as possible. I will be glad to respond to any questions.

Senator McGovern. Thank you very much, Mr. Ingram, for the excellent testimony.

I think we will move now to Mt. Wolfe who is the president of Chicago and North Western Transportation Co.

STATEMENT OF JAMES R. WOLFE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, CHICAGO & NORTH WESTERN TRANSPORTATION CO.

Mr. Wolfe. Thank you, Senator. The Chicago and North Western is a wholly employee owned transportation company which is the second largest railroad in the State of South Dakota. The North Western

operates in 12 States, has 12,000 employees, and operates an extensive railroad service in this State through Rapid City, Huron, to the State line.

The main problem that you are addressing demands definition, and it has been defined. It has been defined by Professor Harris of the University of California, and it also has been defined by Mr. Ingram. I find myself for all practical purposes on the side of Professor Harris. The main question here, at least one of the main questions is: do we have too much plant? Do we have a considerable amount of obsolesent plant in the present railroad situation, and particularly in the Middle West? We at the North Western feel very strongly that we do, and we think it is quite obvious that we do. Those who agree with us are the Department of Transportation, the Interstate Commerce Commission, the Departments of Transportation of most of the States through which we operate. The academic type experts such as Professor Harris and history, we think, shows it also. The North Western has in fact abandoned 2,500 miles of branch line since 1968, and that is one of the main reasons that the North Western is presently a solvent railroad and not in bankruptcy. In examining this question, I think you have to take a good look at how the railroad's present plant came to be. The present railroad plant was laid down either before or at the turn of the century. At that time the railroads were in fact total transportation. Until very recently you simply couldn't get more than 7 or 8 miles away from a railroad any place in the State of Iowa. That was because 7 miles was the distance that a horse-drawn wagon could travel to and from the elevator located on a rail line and return to the farm during the daylight hours. I think today we have to look at what has happened in the intervening years.

As Professor Harris has said, the railroads are living in a dynamic economy, an economy that has changed, but they have not. What, for example, if we now decided, and if we had no railroad plant, what if we set about to build the epitome railroad plant in 1978. I don't think anybody here would argue that it would follow the lines of the plant we have today. The main reason is because of the advent of the hard road. In the turn of the century when the present railroad plant was put down, we didn't have hard roads. The farmers had to rely on the railroad. In the meantime, we have had hundreds of thousands, millions of miles of hard roads built which have completely changed the economics of railroading. I say this to you, Senator, it has not been the railroads who have abandoned the branch lines. It has been the customers who have abandoned the branch lines, because we at the North Western, for example, have not applied to eliminate branch lines until the economic situation was such that they had proved themselves unprofitable. We strongly feel that we have to continue to restructure the railroad plant to bring it in line with the needs of the 20th century. Not only from a branch line standpoint, but also from a main line standpoint. The professor stated that it would seem very unusual for the computer industry to come to a hearing such as this in order to solve its problem, and I think he goes right to the kernel of the problem today, right to the very kernel of it. The computer industry is not a regulated industry. The computer industry does not have to go to the Interstate Commerce Commission to get approval to

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restructure its plants or its marketing philosophies. The computer industry does not have to seek rate increases in order to meet inflationary costs. The computer industry does not have to compete with competition such as the barges and the trucks which are subsidized both insofar as their main arteries are concerned, but also they are not regulated in many of the commodities that they haul in competition with us.

I think the best example of that is probably grain, which, of course, you are so intimately concerned with for good reason, and so are we. We are a large grain-carrying railroad. With Professor Baumel we initiated the multiple car-grain units in the State of Iowa. We have over 100 large collecting elevators in the State of Iowa from which North Western has 25-, 50-, and 75-car unit trains operating, but do you know now the trucks push farther into the State of South Dakota. Now you have trucks going as far as Pierre, invading our market and carrying that grain to the river. Now why are they able to do that? No. 1, they are able to do it because they aren't regulated insofar as rates are concerned in hauling grain. When grain demand is low, they can carry their rates well below their tariffs. Just high enough to be above the railroad regulated standard rate, and cream off the traffic. In periods of high demand such as now, they raise their rates 200 to 300 percent over tariff in some cases, with the railroads offering the same standard regulated rate regardless of whether demand is high or low. I say to Mr. Harris, this is one of the problems we have. We are in a regulated industry. I think this is one of the main pleas we are making to Congress this year, and we certainly ask your help in obtaining a deregulated goal, particularly in ratesetting.

Bill Dempsey appeared before the Transportation Committee a week or so ago, and presented the industry request insofar as rate deregulation is concerned, and I certainly recommend that testimony to you. Also, insofar as deregulation is concerned, the current policies of the Interstate Commerce Commission are extremely harmful to the industry in being able to recoup inflationary costs. Just recently the Interstate Commerce Commission rolled back a cost-collecting-type increase which is going to cost the railroads $50 million. With the cost of fuel having increased 300 percent since 1972, the railroads simply can't stand that kind of regulation. If we were a nonregulated industry such as the computer companies, we wouldn't have such rollbacks. In a sense, Senator, I am saying we have not been able to respond to the dynamic changes in the environment of this country; namely, because of regulation. We do need institutional changes. I certainly agree with Mr. Harris, we do need to restructure our companies, and believe me we are prepared to do that. We at North Western have been doing everything within our means to do that since at least 1968. I want to thank you for the opportunity to appear here and give you my views.

Senator McGovern. Thank you very much, Mr. Wolfe, for your testimony. We are very grateful to you.

[The prepared statement of Mr. Wolfe follows:]

PREPARED STATEMENT OF JAMES R. WOLFE

My name is James R. Wolfe. I am president and chief executive officer, a trustee and director of the Chicago and North Western Transportation Company, a position I have held since October, 1976. Prior to that time, I was president and

chief operating officer, vice president-operations and vice president-labor relations. I came to the C&NW from the National Railway Labor conference where I was general counsel and general attorney.

Chicago and North Western is an employee-owned company operating in eleven midwestern states. A group of employees of the Chicago and North Western purchased the assets and assumed the liabilities of the railroad on June 1, 1972. Today, some 3,350 of our employees own stock in the North Western. About one in four of our employees is a stockholder.

We at North Western are pleased that this subcommittee of the Congress, as well as others, are taking a serious and constructive look at the situation of the railroads in the midwest, since most of our problems are politically oriented. As an entrepreneur and firm believer in free enterprise as a basic business principle, this situation is critical and immediate.

Also, as the president of a healthy railroad in the middle of a midwestern railroad crisis, our interest is both obvious and intense. And, it is not a simple problem. The midwestern railroad problem does, indeed, involve all of the areas of concern that this committee has indicated it wishes to examine: rate regulation, route consolidation and abandonment, car utilization and rail managements and labor.

I'd like to describe for members of this committee, what we regard as the heart of the midwestern railroad problem, our perception of it, its likely ultimate resolution and the effects of that resolution on everyone in the midwest and, indeed, the entire nation.

The recent bankruptcy of the Milwaukee Road vividly demonstrates, if any further proof were needed, following as it did by less than three years, the bankruptcy of another major midwestern railroad, the Rock Island, that there is simply not enough rail traffic in the midwest to support and keep viable the numbers of routes and railroads now being operated. Or put in reverse, there's too much rail plant for the available traffic. Bill Quinn, chief executive officer of the Milwaukee Road, recognized this essential truth when he told the House Committee on Interstate and Foreign Commerce a few months ago that "there is too much railroad in the West and that, looking down the road, I don't believe it to be realistic to expect the Milwaukee * * * to be a 'core' railroad—a key around which a system would be built—though parts of it clearly will be included in any essential railroad system of the future."

There is general agreement among knowledgeable transportation people that the heart of the Midwest rail problem is a surplus of rail plant and railroads. The D.O.T., I.C.C., and F.R.A. are all of that opinion. We agree.

As a part of the solution to the problem of excess capacity, North Western has long been an advocate of consolidations and coordinations through joint operating agreements and abandonments, rather than corporate consolidations, to solve the problem of excess Midwestern plant. In making coordination agreements, however, competitive considerations are a significant factor, and, therefore, trackage rights arrangements simply cannot be mandated without a careful analysis of all pertinent facts. For example, a coordination agreement, which would permit a bankrupt to operate over a solvent railroad's tracks resulting merely in redistributing available traffic and injuring the solvent railroad, should not be made.

Thus, it has been and still is our view that consolidations and coordinations are feasible only on a line-by-line, route-by-route basis, and then only if the lines and routes from which traffic is rerouted are abandoned. By such an approach, two basic objectives are met: Enough density on needed rail lines is created to assure the viability of the needed lines, and substantially all shippers which rely on rail service are assured of better service over the long term. Thus while consolidations and coordinations are helpful, they cannot, alone, solve the problem.

Further, we do not believe that a Midwestern rail rationalization can be accomplished by corporate mergers. The North Western is not interested in merging with the essentially parallel and bankrupt Milwaukee and/or Rock Island. Merging the North Western with the bankrupt Milwaukee and Rock Island would accomplish one thing. . . . It would reduce the number of bankrupt Midwestern railroads from two to one. The merger of these corporate entities would not solve the problem of plant excess which is the main reason for the demise of our two neighbors. The other merger alternative, end-to-end merger, obviously does nothing to reduce rail plant.

Nor do we believe that the Rock Island's plan—"Farmrail"—serves the purpose of properly restructuring the Midwest rail plant. That kind of scheme won't solve the problem—it will preserve the problem! Indeed, it is designed to preserve existing plant, and corporate entities with all of their overhead expenses, rather than to eliminate redundant plant.

We envision a restructuring plan in which viable Midwestern Railroads would take over the parts of the bankrupt carrier's plant needed by the public, with the balance of the plant liquidated. Incidentally, such a plan would assist the trustees of the bankrupts in satisfying their creditors. The Rock Island estimates that its liquidation value is about $470 million. The liquidation value of the Milwaukee Road, with its 10,074 miles, as compared with the Rock Island's 7,247 miles, should be much greater. We are satisfied that all creditors would receive 100 cents on the dollar under a properly conceived Midwest restructuring program.

Under any plan which eliminates surplus plant and reduces the number of rail managements, there will be dislocations of people. Some will be hired by other railroads, but many simply will not be needed. In fairness to the people involved, we believe that the Federal Government should assume financial responsibility for reasonable protective conditions for this latter group. Assumption of this burden will be far cheaper than the cost to the Federal Government of underwriting the maintenance of the redundant parts of the Midwest rail plant.

So we believe that the bankruptcies actually offer an excellent opportunity to rationalize the railroad plant to meet the conditions of the last two decades of the 20th century and to be ready for the 21st century.

The reports of the Federal Railroad Administration under the 4–R Act already have established the extent of main line redundancy in the Midwest. It is our view that the Burlington Northern, Soo Line, Illinois Central Gulf and North Western, under the umbrella of the Federal Railroad Administration utilizing the powers granted it in section 401, can reach agreements which will reduce the redundancy in the corridors of excess capacity. They would acquire those lines of the bankrupts necessary to serve the corridors effectively and would cooperate with the trustee of the bankrupts to abandon the others. At the same time, these four railroads also should be able to make agreements among themselves which will further reduce redundant main lines.

But if the problem of redundant mainlines in the Midwest is serious, the problem with uneconomic branch lines is, truly, staggering. About ten years ago, we at North Western embarked on an ambitious program to prune away thousands of miles of wasteful, unproductive branch lines. Virtually all of this railroad had been laid in place well before the turn of the century when the railroads were total transportation. Until very recently, you simply couldn't get much more than seven or eight miles away from a railroad anywhere in the State of Iowa. That was because seven miles was the distance that a horse-drawn wagon could travel to and from the elevator located on a rail line and return to the farm during the daylight hours.

No serious person would argue that during all the intervening years, rural America has not changed. Of course, it has changed. The railroads must be permitted to change too . . . to bring their physical plant into tune with 20th century transportation demands. Let me put it to you this way: suppose all this railroad plant didn't exist. Suppose further that someone proposed to construct a plant just like the one we have now. Make no mistake that the financial community would not only refuse to underwrite it, they'd laugh it off the drawing boards and the Interstate Commerce Commission would refuse its permission for construction.

Let's look at the problems in terms of the real public interest, setting aside for the moment the private self-interest of the railroads, the private self-interest of this or that community, the private self-interests of this or that shipper, and the private self-interests of politicians. A primary public interest in the whole region and its people is the ability to lay down midwestern grain in world ports at a competitive world price. In order to accomplish that, we need a first class rail transportation system. We don't have that yet. But we can have if we now seize this opportunity to restructure the existing plant.

For the first time, I'm now optimistic that we can and will accomplish that historically elusive goal, because now, for the first time the basic nature of the problem itself seems to be clearly understood by officials of the U.S. Department of Transportation and its railroad arm, the Federal Railroad Administration,

as well as by officials of the Interstate Commerce Commission. We need congressional understanding and help too and hopefully these hearings will be a link toward attaining that goal.

At recent hearings in Chicago, hearings occasioned by the Milwaukee Road's petition to the bankruptcy court, Secretary of Transportation Brock Adams made one point crystal clear: If the only thing that will keep bankrupt Midwestern Railroads creaking along is massive injections of public money . . . your money . . . then forget about that, he said. He made it clear that he didn't regard his job as one of seeking to preserve corporate structures, but rather to preserve essential rail services and then get rid of the excess plant that everyone agrees is a drag on this industry's ability to render first rate freight transportation service. In other words, DOT and FRA are not simply going to look at the problem and start throwing federal money at it. They're going to insist on logical and rational restructuring and not simply at preserving any particular corporate structure. Too often, Congress' answer to the problem has been just the reverse.

Brock Adams is precisely 100 percent right! And North Western supports those efforts to the hilt.

If this restructuring happens, and I think it must, then everyone in the Midwest is going to benefit because the surviving railroads, including the North Western, are going to be stronger carriers, much better able to provide the kind of transportation the public has a right to expect. And they are going to be free enterprise companies, not government bureaucracies.

There are, of course, other areas of vital concern to the railroads operating in the Midwest . . . areas of acknowledged concern to this committee.

Railroad rate regulation, for example, is an area where the rail industry and the public it serves would benefit from change. We favor substantial deregulation of the railroad industry, particularly in those areas where our competitors are not regulated. In such situations, there can be significant public benefits from greater reliance on the forces of competition.

In the Midwest, for example, the Granger Railroads face major competition from trucks and barges in the movement of agricultural commodities. These competitors can enter and exit the market without restriction and can set the price for their services at market levels without regulatory interference. They do, in fact, carry their rates in their hip pockets. The railroads cannot construct or abandon lines or service without long, expensive procedures before the Interstate Commerce Commission and cannot change rates, up or down, without Interstate Commerce Commission approval.

There are two principal results in the regulatory restraints on railroads in the agricultural Midwest. Railroads must carry agricultural commodities on branch lines, at substantial losses, unless and until they can obtain abandonment authority. This weakens the midwestern rail carriers and lessens their ability to handle agricultural commodities in an efficient manner at rates which cover costs.

Secondly, in large measure, it is the regulatory controls which are responsible for the chronic grain car shortages. For two years, the North Western had a surplus of grain cars. Then the grain market turned, and there was a sudden surge of grain movement. If we had been able to reduce rates during the period of car surplus with assurance that rates could be increased promptly when demand permitted, the car supply and demand would have evened and, equally important, the North Western could economically justify buying more cars for grain service.

It is now popular, and has been for some time, to condemn rail managements as inept. Many say we don't know how to run our own business . . . and, among other things, these critics offer as proof of our stupidity the assertion that we don't even know what our costs are. The managements of most of today's railroads are, by and large, good, and they stack up well against the rest of American industry. Until one spends some time in the rail industry, one cannot easily understand how difficult it is to manage an enterprise that operates outside in the elements, whatever they are, twenty-four hours a day, 365 days a year, serving everyone who asks for service, with operations often spread out over several states, with small groups of employees working, of necessity, under only minimal supervision, regulated in the rates charged, yet competing with barge which have free use of their right-of-way and motor carriers which pay only a fraction for use of their right-of-way, and both competitors having either complete or substantial rate setting freedom.

I don't need to tell you that the rail manager's job in no way resembles that of a manager of a widget company, even one that sells a billion dollars worth of widgets. His company operates under cover, usually at a comfortable 70 degrees, with hundreds, even thousands, of employees under the direct eye of a supervisor, often for only 8 hours a day, 5 days a week. His major regulatory worry is to avoid talking to his competitor about what price they should charge for the widgets. He may also have to worry about some environmental regulations, but so does the rail manager—only more so.

And what about costs. The Interstate Commerce Commission's consultants can tell you how much more difficult it is to obtain "variable costs" for our transportation product than it is to obtain the variable costs of a widget. We have too many joint, common and indirect costs. Of course we don't know with absolute precision what our costs are. And with all due deference to the commission's consultants, we still won't know what our costs are. I am not a cost nihilist—far from it. At C&NW we have a very good idea of what our costs and revenues are through a computer system called TREX (transportation and revenue expense system) and a computerized profitability simulation process called PROSIM. As to the all-knowledgeable consultants and the I.C.C., I only offer a caution—the mere fact that a methodology produces a precise number and has come from the computer does not make the number right. In sum, you are not yet involved in a science; rail cost finding, I believe, is still an art. But there is nothing wrong with that.

As for railroad labor, I suppose it is fair to characterize rail labor-management relations as historically one of great struggle. But it has changed in recent years and particularly on the North Western. Although it is difficult to measure with any precision, I think that on the North Western, employee ownership has had a significant positive effect. It is certainly fair to say that the day of the heavy-handed railroad supervisor is over with . . . especially on the North Western. Where we have found evidence of unfair treatment of our contract employees, we've taken immediate corrective action, including the dismissal of supervisors up to top officers.

On the North Western, we're rather proud of our record in recent years . . . years we think have witnessed great progress toward improving the productivity of our work force. As far back as 1973, we reached an agreement with the United Transportation Union which permitted us to operate fully one third of all our trains and yard engines with just one brakeman instead of the usual two, a landmark agreement. Other such agreements include the operation of our so-called commoditrains, solid trainloads of both cement and sand and gravel with short crews. This is traffic that formerly moved on trucks and we were only able to recapture this business as the result of the savings and increased productivity made possible by short crew agreements. Another such agreement was reached with the Brotherhood of Railway Clerks permitting improved productivity and much more efficient operation of our huge Escanaba, Michigan iron ore dock.

In summary, I think the rail industry in general and the North Western in particular have come a long way toward solving many of the labor-management problems that have plagued us for so many decades. And I think much more progress is clearly on the horizon as both management and labor increasingly realize the commonality of their interests in recreating and preserving a healthy rail system.

I would like to thank the members of the Subcommittee on Economic Growth and Stabilization for the opportunity to present these views.

Senator McGovern. The final witness on this panel is Mr. Ben Radcliffe, an old friend of mine who is president of the South Dakota Farmers Union. Ben Radcliffe.

STATEMENT OF BEN H. RADCLIFFE, PRESIDENT, SOUTH DAKOTA FARMERS UNION, HURON, S. DAK.

The Railcar Shortage—A Symptom of a Larger Problem

Mr. Radcliffe. Senator, I am president of the South Dakota Farmers Union, our State's largest farm and ranch organization.

First of all, I would like to take this opportunity to thank the Senator and the members of this subcommittee for scheduling this important hearing in South Dakota. I don't believe that there is any question that South Dakota and the other States of the north-central area have been hardest hit by the current railcar shortages.

As president of the South Dakota Farmers Union my personal involvement in and familiarity with the crisis that now confronts our transportation system goes back several years. In 1973 I was appointed to a special "Rail Abandonment Task Force" established by Governor Richard Kneip. I served in that capacity until the division of railroads was established within the State department of transportation in 1976.

Secretary of Agriculture Bob Bergland has called this year's railcar shortage the "worst in history." That evaluation was echoed time and time again during a survey of cooperative grain elevators which the South Dakota Farmers Union conducted earlier this week. In fact, Herb Sibson, manager of the Pierre Equity Exchange, thought the situation was so devastating that a Federal disaster should have been declared.

All across South Dakota, co-op and private elevators share the predicament of the Watertown Co-op Elevator. Despite the fact that harvest is barely underway, manager Jack McBreyer said the Watertown Co-op has been unable to accept any grain for the past 3 weeks.

Virtually every co-op manager who we contacted reported that delivery of railcars was running far, far behind schedule or that it was virtually impossible to get cars. According to Mr. McBreyer, the Watertown Co-op is currently 60 days behind on shipment of grain by rail.

The South Dakota Wheat Growers Association, based at Aberdeen, operates 15 cooperative elevators in the State. They currently have 316 railcars on order. The situation is measurably more difficult for elevators situated on branch lines facing the threat of future abandonment.

Jerry Worlie, manager of the Farmers Union Cooperative Elevator at Kennebec on the Milwaukee line betwen Mitchell and Rapid City reports the delivery of just eight cars during July. Mr. Worlie said he has about 50 cars on order, but questions whether there is any use in ordering cars. Meanwhile, manager of the Jerauld County Farmers Union Elevator, Harvey Christensen, has virtually given up ordering cars. The Wessington Springs Co-op is on the end of a Milwaukee branch line currently up for abandonment.

It's extremely difficult to estimate just how much this year's railcar shortage has already cost South Dakota grain elevators. Elevators have suffered heavy financial losses in interest paid on grain which should have been shipped. As an example, manager Elmo Cain of the Lemmon Equity Exchange reports that his elevator lost 7 cents per bushel on more than 30,000 bushels of grain which should have been moved in March. Money is also being lost on penalties for late delivery of grain.

Another area of loss for elevators has been in grain purchases which could have been made if adequate transportation and storage had been available. Watertown Co-op manager McBreyer said his co-op could have moved an additional 300,000 to 350,000 bushels during the past

few months. It has often been suggested that highway transportation can shoulder a much larger portion of the grain transport business as the abandonment of branch lines leaves more and more smalltown elevators cut off from rail service.

However, it was apparent from our survey that trucking can provide only a partial answer. Jerry Worlie, manager of the Farmers Union Co-op at Kennebec, told us that he has been moving grain continually by truck—390 trucks so far this year—and yet there just aren't enough trucks available to meet his needs. Worlie told us that there are millions of bushels of grain stored in the country and I quote, "I just don't know how we are going to move it."

On the other hand, manager Herb Sibson, of the Pierre Equity Exchange told us that trucks are of little use to his co-op. The 4-year-old Pierre elevator is a fast-loading facility designed specifically to handle unit trains. It is capable of loading 80,000 bushels of grain in 5 hours. Sibson notes that he has to handle at least 2 million bushels per year just to break even.

Other managers report that a significant portion of South Dakota grain for export now moves to the west coast and adequate trucking is simply not available for that long haul.

As Senator McGovern noted this week in his "Letter from Washington" column, truck and barge shipping rates are not regulated by the Interstate Commerce Commission. As a result, trucking rates for grain shipment are comparable if not more favorable than rail rates in areas of South Dakota that still have rail service. However, it's a different story for communities that are cut off from rail service through abandonment. Recently final abandonment of the Chicago & North Western line between Winner, S. Dak. and Norfolk, Nebr., was approved. The result is there has been a move to substantially increase trucking rates.

SOLUTIONS

I am convinced that the 1978 railcar shortage which is the subject of this hearing cannot be viewed in isolation from the overall crisis confronting our national transportation system. What we are dealing with is not an independent event, but rather a symptom of the growing disease which is today eroding our once great national railroad system. Therefore, I think that is is important to recognize that while we can institute measures aimed specifically at alleviating the railcar shortage, we are not dealing with the central problem.

One potential stopgap measure would be an emergency service car order by the Interstate Commerce Commission requiring that the majority of all boxcars be used only for transport of grain. Such an order was issued last spring, but it was not extended.

Another temporary measure could include punitive fines against railroads in other parts of the country who fail to return cars to railroads serving grain producing areas. It is also clear that better management on the part of railroads serving this area could help alleviate the problem. Many elevator managers have reported instances where badly needed rail cars were left on rural and small town sidings for days and weeks on end. For example, Elmo Cain, manager of the Lemmon Equity Exchange reported to us that he loaded two carloads

of wheat on December 5, 1977, but they remained on a siding until January 21, when they were finally shipped.

But even if these steps were taken, we would not be dealing with the overriding problem. That problem is the basic economic sickness of the bulk of our Nation's railroads and their own policy of deferred maintenance, particularly with regard to branch lines.

Since 1965, this policy has resulted in the abandonment of more than 700 miles of rail line here in South Dakota. In addition during the past year we have been confronted with the potential loss of more than 50 percent of all the remaining rail mileage in South Dakota. That amounts to more than 1,600 miles of rail line.

If that situation were not bad enough, Edward Heitz, an official of the U.S. Department of Agriculture's Transportation Services Branch recently told a midwestern rail conference at the University of Wisconsin that about 90 percent of all branch lines in the Midwest could be abandoned in the immediate future. Heitz was particularly gloomy about the future of the Milwaukee Road—one of the two largest rail carriers in South Dakota. He pointed out that large sections of the Milwaukee line are virtually inoperable and questioned whether the railroad will be able to remain a major agricultural carrier.

As we see it, what is needed is a national commitment to rebuild our rail system. We had hoped that passage of the Rail Revitalization and Regulatory Reform Act of 1976 was a signal for that commitment. It did result in efforts across the country to develop statewide rail plans. In fact, South Dakota was the first State in the Union to have its rail plan approved by the U.S. Department of Transportation. Development of "State rail plans," such as the "South Dakota plan," is important because even though we recognize the inevitable abondonment of some branch lines, for the first time some priorities were established.

However, it remains a simple fact that the individual States are largely unable to finance the rebuilding of most branch lines. A significant national commitment will be necessary, and that commitment has not been made to date.

While the Carter Administration has made conservation a cornerstone of its national energy policy, it has exhibited little or no interest in the proven energy efficiency of railroads as opposed to trucks. As I see it, we are headed for disaster if we continue to allow the profitability of individual carriers to determine the extent of our rail network. Railroads and highways are equally important links in our overall national transportation system. We feel that railroads should receive the same degree of public consideration that we now afford to our Nation's highway system. The only real answer to the disaster now confronting our transportation system may well be some form of Federal and or State ownership of both main and branch line roadbeds. The mechanisms by which we could rebuild and revitalize our rail system are open to debate. What is clear is that if we do nothing, we may well be faced with the loss of our agricultural export markets through our inability to move the grain to market. And if that happens, farmers won't be the only losers. Thank you.

[The notice attached to Mr. Radcliffe's statement follows:]

[From the Watertown Public Opinion, Watertown, S. Dak., June/July 1978]

NOTICE

Due to the failure of the railroads to supply sufficient equipment to move grain into the marketplace, the Watertown Co-op Elevator will no longer be in a position to buy cash grain, except for millet, flax and sunflowers, until all existing contracts have been delivered to the elevator and shipped against our sales contracts.

We will keep you posted as the situation improves.

BOARD OF DIRECTORS,
Watertown Co-op Elevator.

Senator McGOVERN. Professor Harris, may we begin our questioning with you? I am familiar with your study of branch line utilization. It is my understanding that you believe some branch lines could be abandoned with little economic loss to the communities involved, but that you have some concerns regarding the way in which the railroads are presently attempting the abandonment process. If I am right on those general interpretations of your own views, I wonder if you would elaborate for us a little more on your own thinking?

Mr. HARRIS. Could you clarify what you mean by the way in which the railroads are going about abandoning them?

Senator McGOVERN. That's really what I was asking you.

Mr. HARRIS. I think they are not abandoning them fast enough. That's my major disagreement. Mr. Ingram mentioned the problem with most of the analyses having been node to node; that is precisely what I did not do in my study. It was not done point to point, it was done line by line. It attributes to the branch line not simply the traffic moving over that branch line, but all of the revenues that are generated on that line from traffic flowing over the rest of the main line system. That has been the traditional argument for maintaining branch lines, that they "feed" the rest of the rail system. In fact, 35,000 miles of our rail system—there being 200,000 miles in all, so roughly 17 percent—are simply not economically viable, giving them every benefit of the doubt, and that was including a 50-percent rate increase. Those 35,000 miles of rail line generated 2 percent of total rail revenues. I wonder, if a farmer had a 2,000-acre farm and 350 acres of it generated 2 percent of his total crop, would he bother to plow up those 350 acres every year and seed them and harvest them. It is just not worth the effort. It is clearly not economical to do that, and it is uneconomical to maintain those lines. We have an image of corporations in this country as some would say greedy, some would say profit-maximizing entities, so why don't they figure this out for themselves? How can some academic possibly be right that these lines aren't making money and the companies are keeping them anyway? I think the problem relates to the problem of institutional failure.

Railroads are much more like a church than they are like modern business corporations. They look at a railroad as though somehow it is so important, so intrinsic to this country that we simply can't do without it, and they are not facing modern economic reality. We are talking about technicological imperatives. It is more efficient, including energy efficiency by the way, to serve low-volume movements with light vehicles on rubber tires on a cement highway than pulling in a

couple thousand horsepower locomotive to pick up one railroad car. It just doesn't make any sense. It doesn't make energy efficiency sense. It doesn't make economic efficiency sense, and in the long run, it doesn't make sense to the people shipping out the product either. It may be traumatic to experience the change, but in the long run they will be better off as well.

Senator McGovern. Professor Harris, as you know better than I, the argument is sometimes made against rail line abandonment of the kind you are recommending that it disrupts the economy of the local communities along the right-of-way. I understand from your testimony that according to some survey studies that have been made in Iowa that has not proved to be the case; that where these abandonments went through, they had very little impact on the local economy. Could you elaborate a little on that? I should tell you that many hundreds of letters have been written to me over the years on the question of rail line abandonment which are viewed as a great threat to the community.

Mr. Harris. It is not the railroads that are abandoning the rail lines, it is the communities that are abandoning the rail lines. The passengers are traveling by automobiles now, they used to go by railroad. The freight is going much more by truck. The Iowa study which I cited was coauthored by Professor Baumel who knows more about this than I do, so I will quote from his study. That study did not take losses on branch lines into account. It was done by the Iowa State University for the Iowa State Department of Transportation. Its sole purpose was to determine what is best for the grain producers and elevator operators. They studied 71 branch lines; 6 of them had a cost benefit or a benefit to cost ratio greater than one, meaning they were economically viable. To quote from that study, "shippers and/or farmers would enjoy increased income with the shift to a system with large volume shipments and fewer rail lines. They would encounter higher fertilizer costs, but this additional cost would be far more than offset by increased grain income." Based on their survey of Iowa communities, which had recently lost rail service, over 20 communities if I remember correctly, the authors concluded, and again I quote, "abandonment had little effect upon employment and business. Business activity remained relatively unchanged and rail abandonment has not had significant effects upon community growth."

Senator McGovern. What about the grain shipping companies?

Mr. Harris. The grain elevators not only remained in business, some of them have actually expanded since they lost rail service, shipping by truck into subterminals or central terminals.

Senator McGovern. What is your reaction, Professor Harris, to the subterminal long-term storage plan that I outlined here today?

Mr. Harris. I like it. It makes good sense.

Senator McGovern. Thank you. Mr. Ingram, in your testimony you were critical of the Department of Transportation's proposed restructuring program. Since we didn't get to hear all of our prepared statement, could you discuss in more detail what you believe the impact of that program would be if it were implemented?

Mr. Ingram. Well, Senator, the difficulty in abandoning branch lines just because they are branch lines can be well pointed up. In

Iowa, most of those subterminal elevators have been built on branch lines. If those branch lines had been torn up, the subterminal system wouldn't work at all. They are not on main line railroads except in occasional locations. Many of them are located on branches. If we had torn up all the branch lines, most of those subterminals could never have been built where they were presently built.

The success of the Iowa program relates in part to the rehabilitation program for branch lines which Iowa developed and it is an excellent program. It involves the cooperative study of those who were involved, not those who come from far away places such as Washington or Berkeley, Calif. The farmers in the area, the elevator operators in the area, and the railroads in the area and the State got together and worked out something that would work, that would improve the transportation of corn by rail, and it was based on the study done by the Iowa State University, a very successful thing. I think if policy shapers are looking for efficiency, they should not designate the line with the traffic as the preferred choice. I think they should opt for the line that offers the best transportation product once it has been rebuilt. The text for such decisions was written by a man named Wellington over a century ago, and it is still required reading at West Point where they take civil engineering rather seriously. I think if we are to find out which way is up, we must start at the bottom with the basics of railroad service and with the needs for railroad service. It is almost amusing to sit here and listen to the benefits that can accrue from abandonment on the one hand and the tremendous need for freight cars on the other. I expect any minute for someone to tell me that somehow or another that abandonment will improve car supply, and I don't believe it.

Mr. HARRIS. I would love to make that kind of a statement. The reason we have a car shortage is that there are so many cars sitting out on branch lines waiting to be picked up by trains that only run once a week or once every 2 weeks——

Mr. INGRAM. I would be happy to take you over to Estherville to show you branch lines that——

Mr. HARRIS. Nobody is advocating abandoning all 100,000 miles of branch lines. I studied 100,000 miles and found 35,000 which should be abandoned. That leaves 65,000 miles. That is a lot of branch lines. And those are the branch lines we are talking about. That's the ones that are economically viable. We ought to keep them. We ought to subsidize them to rehabilitate them if we need them. The problem is that if we throw money at the whole problem, we'll waste a big chunk of it on lines that do not need to be rehabilitated.

Mr. WOLFE. There is viable branch lines and obsolete branch lines. You have to distinguish between the two kinds.

Senator MCGOVERN. You are saying, Professor Harris, that of the 100,000 miles of branch lines across the country, you would retain two-thirds of them even if it required Federal subsidy money?

Mr. HARRIS. Exactly. They need to be kept. They are vital to the transportation system.

Senator MCGOVERN. Is there anything around that——

Mr. WOLFE. In 1968 when we started our branch-line study which was a very complete effort, it involved marketing, it involved all of

our disciplines on the staff, it involved talking to people like Professor Baumel.

Senator McGovern. This was done by your company, the Chicago and North Western?

Mr. Wolfe. By our company to determine what was a viable railroad. We discovered from a marketing revenue producing standpoint, that over 94 percent of our revenues were generated by 60 percent of our lines. Just think about that for a minute. Ninety-four percent of our revenues by 60 percent of our lines. That meant that 40 percent of our lines were only making up on contributing 6 percent of our revenues. We then proceeded to isolate those lines, examine their grain marketing postures. Where does the grain come from? Why weren't they shipping? Why were they using trucks to go to the river or why were they using trucks to go to the larger terminals? We determined what was the proper mix of branch and main, but it differs in each State, Senator. I don't think you can say one-third from a practical standpoint. From a railroad standpoint. We have to take our lines, we have to take the marketing, the grain marketing trends and come up with what is a viable railroad. And that is what we have done. In the process we decided that the North Western should be a 7,500-mile railroad. It was then a 12,000-mile railroad. We are now a 9,200-mile railroad. It has taken us 10 years, and that is why I say that we are not an institution like a church. We wanted to go to 7,500 miles in 1968, but we have not been able to because of political interference. It is that simple.

Senator McGovern. Mr. Wolfe, on that point, there seems to me to be a contradiction between the conclusions you and Mr. Ingram came to. I thought I understood Mr. Ingram to say that he would like to see greater mergers in the rail industry, and that the reason that would be safe is that it is a regulated industry. In other words, you could move toward semimonopoly condition without the public being concerned because you have got a regulated industry. If I understood your testimony, you are saying the basic problem facing the rail industry is that it is a regulated industry.

Mr. Wolfe. I certainly feel that way. I don't feel, however, that the deregulation, the type I'm talking about, rate deregulation, the ability to restructure our plant to bring it in line with the 20th century rather than the 19th, precludes mergers within the industry. I think the disagreement there was between the Professor and I. I don't think Mr. Ingram mentioned mergers.

Senator McGovern. I think you did, didn't you, Mr. Ingram?

Mr. Ingram. I see nothing wrong with mergers. They have been going on for hundreds of years. Some of the railroads as we know them now today, were made out of hundreds of railroads that existed in the past for the benefit of the public and the railroads.

Senator McGovern. I guess it was Mr. Harris that developed the thesis that there needs to be more mergers. Did you not argue then, Mr. Harris, that this was safe because of the regulated character of the industry?

Mr. Harris. Yes. I think we do not need to restrict mergers. Look at the origins of the two main instruments for regulating industry in this country, the antitrust laws, which govern largely the manufacturing

sector and independent regulatory commissions in transportation and utilities. They have the same antecedents, the Granger movement and the "Populist" movement before the turn of the century. We could remove many of the antitrust exemptions which railroads now enjoy, for example the exemption which allow rate bureaus, that is, allow railroads to collude on rates. If we are going to deregulate railroads, then we also have to deexempt them, that is apply antitrust standards. Rate bureaus would not be allowed so railroads could compete among themselves.

Mr. WOLFE. Senator, may I go back to the merger point. I think you have to differentiate between the type of mergers you are referring to. In general I agree that mergers can be desirable. However, there are situations where they are not. For example, if we look at the Midwestern situation today, I do not believe that corporate mergers will solve our problem, because it would end up with the North Western merging with two bankrupts, and instead of having three bankrupts you would have one. I do believe that end-to-end mergers, once the restructuring process has been done in the Midwest, makes some sense. One other thing I wanted to say, and that is going back to the branch line point, you asked about the percentage of branch line. On the North Western we fully believe in viable branch line operations. We do not portend, we do not argue for eliminating all branch lines, but we make a strong distinction between those branch lines which are economically viable and those which are not. In 1968 when we formulated the Iowa subterminal collection plan, all of the subterminals that we spotted on our maps were placed on viable branch lines. Those terminals have been brought home. We have over 100 of them in the State. We are beginning that type of thing here in South Dakota. Right now in Pierre we are going to be handling some 25-unit trains, and we expect that to spread. You have to make a distinction between viable and nonviable when you talk about branch lines.

Senator MCGOVERN. Mr. Ingram, you said in your testimony that the railroads that are most in need of financial assistance haven't had much help from the Federal Government. What has been the experience at Rock Island that you have had as president of that company?

Mr. INGRAM. That has been our experience, Senator. The difficulty is the catch 22 of the 4–R Act which says that one of the things the Secretary must find is that the railroad can without much doubt pay back the funds loaned to it. It is difficult to make that finding if the railroad is in bankruptcy or in financial difficulty. The net result has been that I think the first loan to a bankrupt railroad was made 1½ years—1¼ years after the act was passed, and all the regulations published. It took that long before they got over that hump. Now we have negotiated with the Federal Railroad Administration, which is a part of the Department of Transportation, and have arranged some loans which I think will be finalized in the near future. At least I hope so. They will go to rebuilding freight cars that can be used to help solve this car shortage. It is a shame we couldn't have fixed those cars over a year ago when we made the application for the money to do it. Freight cars, of course, do not go to this question of viability or corporate structure. Freight cars are freight cars, and they have wheels and they can go anywhere, and it doesn't seem to me there is too much opposition to

rebuilding them so they can do what is necessary, namely, haul traffic when the traffic is presented to the railroad industry for haul. I think we'll finalize the loans on those cars rather shortly. We are working on something with the Secretary of Transportation which will remove the prior liens that he worrys about from some of the track that we would like to rehabilitate that he has found will be in the national rail system until the cows come home, I guess. There are millions and millions of tons of freight moved on those particular rail lines involved. I think we are making progress, but it has taken a long time.

Senator McGovern. Mr. Radcliffe, earlier this morning I outlined an emergency mechanism for bad order boxcars to be returned to service to move grain out of the State. What is your reaction to that in terms of our needs here in South Dakota?

Mr. Radcliffe. Senator, any program that would deliver cars at the point of need, think it is something we ought pursue if there is any potential at all to do it, because we are in a crisis as my testimony pointed out. We have never seen a time when the car shortage was as painful as it is now. It is affecting elevators, it is affecting farmers obviously. Farmers are now busily erecting as much storage capacity as they can buy, as much as they have time to put up. Recently they have been having difficulties getting cement for the foundation of those buildings, and anything that can be done on the short run, I think we need to go full speed ahead and then deal, of course, with the long run problem at the first opportunity. I take issue with a statement that has been made here, I think a couple of times, the branch lines are not abandoned until the community abandons the branch lines. Of course this too becomes a catch-22 question. But if you interview shipper after shipper in South Dakota, they will tell you and show, I think categorically, that they begin to abandon shipping on the line because of the poor service, the undependable service, the long periods of time of no service. They simply had to go to other shippers.

Senator McGovern. What about the plan I made reference to here today on the subterminals. You have seen the operation of this whole system here in this State, and you have also had some experience looking at the central terminal operation in the Twin Cities. You have served on the board of the grain terminal association? How do you feel about the subterminal concept?

Mr. Radcliffe. Well, Senator, I think obviously there is some merit in that direction. I think we should very carefully evaluate the impact on the producer, the farmer, so that he is not disadvantaged economically in this process. I think we need to explore it. I don't think we have any choice but to look to some type of that type of program, and I certainly agree with earlier statements that have been made here that the producer himself should be counted in as far as the determination of the location and in the ownership of the facilities so that he will in fact be able to control, have control of his product farther into the market process.

Senator McGovern. Well, gentlemen, I have a great many additional questions I would like to ask, but we are under some time constraints here today. I wonder if you would be willing to answer additional questions in writing and to follow up on some of the points that haven't been fully clarified here today. Meanwhile, I do

want to thank you for your appearance here today. I think we will take about a 5-minute break to give our poor reporter a chance to rest his fingers over here.

[Whereupon a short recess was taken.]

Senator McGOVERN. The hearing will be in order again.

Our first witness in this panel will be Mr. James Newkirk, who is with the Federal Railroad Administration. Gentlemen, I guess I will have to ask you to do the same as we did with the other witnesses, to hold your oral testimony to not more than 10 minutes. I want to assure you that any prepared statement you have will be printed in their entirety in the hearing record. Mr. Newkirk, you can proceed in any way you see fit.

STATEMENT OF JAMES NEWKIRK, DIRECTOR OF SPECIAL PROJECTS STAFF, OFFICE OF THE ADMINISTRATOR, FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Mr. NEWKIRK. It is my pleasure, Senator, to appear today on behalf of the Department of Transportation to describe how we are working on the railroad problems of the Midwest. Because there are several critical issues facing the industry, several different programs comprise the total rail effort. Two of the most severe problems—the existence of too many carriers in some markets for the amount of business generated and an excess physical plant are being addressed through the section 401 restructuring process which Secretary Adams initiated last January.

The U.S. rail industry is experiencing a long-term decline in business relative to other modes of transportation despite its ability to provide efficient and energy-saving transportation for many commodities. It presently carries approximately 29 percent of all originated tonnage of intercity freight. Meanwhile, increases in more profitable cargo all too often go by truck. During economic downturns, the only costs that can generally be cut are in maintenance. In a situation such as the railroads are presently facing, deferral of maintenance becomes chronic. Short-term recoveries, cost cutting schemes, and similar devices, can only provide temporary relief. If private capital is to be responsibly invested in railroads, the underlying economics of railroading must be improved so that the industry may continue to provide its manifestly beneficial services safely and profitably. At the same time, large-scale, complex and costly adjustments to the changing environment can only be successfully achieved by recognizing institutional factors such as ICC regulation, the interests of rail labor, and public assistance to other modes of transportation.

The Midwest has seen two railroads file for bankruptcy in the past 2 years. Nowhere in the United States is the problem of excess railroad fixed plant more prevalent. The system was greatly overbuilt because of the competitive railroad building in the last century. The flat land and fertile soil of the area, and the benefits to shippers that low cost rail service has provided over the years contributed to the building process. The region is laced with a "spider web" of multiple lines of multiple carriers. A few illustrations will serve to establish

the degree to which the Midwest rail network has been overbuilt:

(A) Fourteen rail lines converge in Des Moines, Iowa, a city of 333,000 persons.

(B) Five carriers compete for traffic between Chicago and Omaha, each with its owns private railroad line.

(C) Eight carriers compete between Chicago and Kansas City, a center with 14 major railroad classification yards.

(D) Iowa has more than 7,500 miles of railroad track, while California, another fertile agricultural State with nearly three times the land area, has a slightly lesser amount of track.

(E) No point in Iowa is more than 25 miles from an active railroad line.

The railroads are also highly competitive among themselves. While competition is a healthy thing, in an overbuilt region like the Midwest, it has resulted in a situation where there is too little traffic moving by rail to support the present level of competition or to support the equipment and facility investments that could improve efficiency. Much of the "excess plant" can be trimmed with a minimal loss of service to shippers. This can be done in several ways. "Market swaps," for example, can shorten distances and eliminate the need for some secondary tracks or even certain mainlines. "Joint-use" arrangements can consolidate overhead services on fewer facilities, with old mainlines perhaps reverting to local service or being abandoned. Branch line abandonments can be speeded up, especially where alternative service is available. Purchase of some lines by stronger carriers is another important option.

There has been much talk about mergers as a solution to rail problems, but we believe that the merger solution has generally been advocated because, in the past, it has been the principal means whereby economies could be achieved through the restructuring activities I have just listed. Merger happens at the corporate level. "Market swaps", "joint-use" and abandonments are the elements that actually reduce plant, whether as part of a merger or as steps just short of a merger. This is why we are emphasizing the "restructuring" of rail service rather than mergers. There is no doubt, however, that these "restructurings" we are working on could create a much more favorable climate for mergers without reducing the rail system's capacity to serve.

In the Midwest, circumstances favor restructuring. It is in the interest of all carriers to reduce costs for the same total revenue, and most, if not all, are willing to pursue these opportunities.

The principal reason for not favoring a Government-sponsored reorganization process in the Midwest is that the industry should be given a chance to restructure itself. If the Government were required to take over the job, it would be more difficult to benefit from the cooperation and resources of solvent carriers. There would be less trimming of unnecessary plant. And in a fundamental way, Government assistance on such a large scale as this would be unfair to self-sufficient competing carriers.

Secretary Adams decided, therefore, that we would pursue the provisions of section 401 of the 4–R Act to the fullest. This section encourages solutions to basic problems such as I have discussed, by allowing us to assist the industry in self-help measures. Antitrust restrictions against carrier discussions are supended through our par-

ticipation and the Secretary is permitted to foster communications, both public and private, between railroads, shippers, public officials and other interested parties in order to achieve the objectives of the section. The process is a voluntary one; but we have been getting excellent cooperation from all parties.

Results have begun to be produced. After the Milwaukee Railroad bankruptcy in December 1977, the Secretary initiated the first 401 conference to address some of the problems which caused two Midwestern railroads to go bankrupt. For the next 6 months, extensive communication between interested parties, including railroads, State and local officials, shippers, and rail labor occurred. Both the problems besetting the railroads and the range of possible solutions were discussed. As a result, we are investigating further changes such as coordinated main line operations, new trackage rights agreements, coordinated yard and terminal operations, and coordinate abandonments. All of these will help reduce duplicate rail facilities, while still insuring essential rail service.

In June, Secretary Adams announced tentative agreements, reached under the 401 process, between the CNW and the Milwaukee. The subjects of the agreements are projects involving the withdrawal of one of the two carriers from certain markets where there is insufficient traffic to support the economic operation of both railroads, and a trackage rights agreement which will permit the Milwaukee to abandon a section of track without abandoning service to its shippers.

The North Western will withdraw from Dubuque, Iowa, and Red Wing, Minn.; the Milwaukee with operate over the CNW's line between Green Bay and Marinette, Wis., and the Milwaukee will withdraw from Rapid City, S. Dak.

The benefits from these projects will be substantial: Nearly 330 miles of track can be abandoned, saving $42 million in prospective rehabilitation costs and $2 million in excess annual maintenance and operating expenses. At the same time, shippers in the affected communities will be served by strengthened lines.

The section 401 restructuring process provides the framework wherein we can effectively work toward the physical restructuring of the rail industry. Complementing it are the title V programs for financial assistance to the railroads and the expanded branch line program proposed in S. 2981—Railroad Amendments Act of 1978. This latter expansion of the program will enable the States to deal with deteriorating branch lines by providing rehabilitation assistance on a public sector benefit basis to preserve essential local freight rail service. Although many of these lines show the promise of future viability if rehabilitated, their owners do not have the resources to perform the maintenance required to turn the lines around. The bill will provide one-time public assistance to rehabilitate the lines, but the lines will remain in the private sector where operation and maintenance will be the responsibility of the railroad owners.

CHANGES TO THE BRANCH LINES PROGRAM

The present branch line program limits Federal assistance to branch lines which have been abandoned, either under authority of the "Final System Plan" or after the ICC has found that the public convenience

and necessity no longer require their operation. These lines are generally in very poor physical condition and carry on only a minute portion of the Nation's rail freight traffic. Generally, their continued operation beyond the time needed for shippers to seek alternate transportation serves no valid purpose.

The States, particularly those here in the Midwest where the rail problem is now most acute, the Administrator, and many in Congress believe that the public interest would be better served if the program is aimed at those branch lines which continue to deteriorate because the owning railroads are not profitable enough to provide the needed one-time capital investment to make them profitable. Hearings were held in both the House and the Senate last year on earlier proposals aimed in that direction. We were not completely satisfied with them and we asked the Congress to delay action until we had a chance to develop a more comprehensive proposal after consultation with the States and the rail management and labor. The result has been S. 2981, and after hearings in both houses, we believe that the general response from the parties has been very favorable and that the effort to focus the emphasis on preservation of existing viable service, rather than waiting until the ICC acts, will be far more responsive to the real needs of the affected communities. In most cases, the shippers have gone elsewhere by the time the ICC acts, and further investment in the line is a waste of scarce resources.

Under the extended program, assistance would be available for rehabilitation, or for construction or alternate facilities, on lines which the railroads have indicated they either plan to seek permission from the ICC to abandon, or intend to study for future abandonment. The railroads would be required to maintain the rehabilitated line for the useful life of the improvement.

On the other hand, only lines which the ICC had permitted to be abandoned would be eligible for operating subsidies, and such assistance could continue for only 2 years. All presently eligible lines would remain eligible for operating subsidy assistance until September 30, 1981. This includes the former title IV lines under the 3–R Act and those which have become eligible as a result of ICC action between February 5, 1976, and the date of enactment of this amendment.

It is essential that we continue to work toward a solution of the Midwest rail problems as swiftly as possible. We do not endorse consideration of large-scale reorganization legislation, such as might create a "Conrail West." While the projects I have mentioned under the 401 process may not be of startling magnitude, they break new ground in addressing the critical issues which face the railroad industry. At the same time, the expanded branch line assistance program should provide the flexibility needed by State governments to aid the rehabilitation of valuable local freight lines before they deteriorate to the point of abandonment. Careful selection of lines to be upgraded on the one hand, coupled with abandonment of nonessential lines on the other, will be an important part of future rail restructuring efforts.

I believe that the planning process we have undertaken in the Midwest can and will succeed in dealing effectively with the restruc-

turing of the rail industry by decisions made in the private sector while providing improved, safe, efficient, and profitable railroad service to this important area of the country.

In conclusion, I would like to state that we are very much aware of the crucial role the States must play in the Midwest railroad restructuring process. Deputy Administrator Gallamore and I have visited many of the Midwestern States in recent months and have met with State and local government officials as well as groups of shippers to discuss their needs for railroad transportation. We will continue to maintain this dialog in the States while proceeding with the 401 restructuring process. It is particularly important that a clear understanding be developed between ourselves and officials and interest groups in the Granger region so that the new branch line program and the related State rail planning activities interrelate properly with the section 401 restructuring process.

This concludes my testimony, Senator. I would be pleased to answer any questions.

Senator McGovern. Thank you, Mr. Newkirk for your testimony. Our second witness on this panel is Mr. F. B. Cederholm who is the general superintendent of transportation at the Milwaukee Road. Mr. Cederholm, we are happy to welcome you as a participant in this hearing.

STATEMENT OF F. BRUCE CEDERHOLM, GENERAL SUPERINTENDENT, TRANSPORTATION, THE MILWAUKEE ROAD

Mr. Cederholm. Senator, and subcommittee members: My name is F. Bruce Cederholm. I am the general superintendent, transportation for the Milwaukee Road, with offices in Chicago, Ill. I have been employed by the Milwaukee Road for 34 years. I am presently responsible for car utilization on a systemwide basis. In addition to my duties with the railroad, I serve on the Association of American Railroads Committee on Car Service and the Committee on Car Ownership Costs.

I thank you for the opportunity to appear before this subcommittee.

I will direct a large part of my testimony to the car supply situation which I believe is the issue of greatest immediate concern.

However, in order to place this issue in proper perspective, I would like to discuss a number of other issues that bear directly on the Milwaukee Road's ability to provide responsive transportation services.

The Milwaukee Road has been in bankruptcy reorganization since December 19, 1977. Over the past 7 months the company's cash position has been stabilized and slightly improved. However, despite this improvement the physical condition of the property has continued to deteriorate. This is primarily because the railroad cannot generate sufficient funds to overcome past deferred maintenance to its plant and equipment to restore its properties to the condition necessary to provide adequate service.

In recent testimony before the U.S. District Court in Chicago, Stanley E. G. Hillman, trustee in reorganization of the Milwaukee

Road, noted that despite some increases in revenues as well as reduced operating expenses, the railroad's first quarter 1978 net loss was reported to the Interstate Commerce Commission as slightly under $24.2 million. Mr. Hillman also indicated that he expected a sizable earnings deficit for the full year 1978, probably on the order of $50 million for the railroad and its subsidiaries.

Primarily because of its financial situation, the Milwaukee Road is not in a strong position to combat the problems it faces—problems that impair its service efficiencies. But this does not mean that the Milwaukee is incapable of action.

The primary responsibility of the trustee is to develop a plan of reorganization for the Milwaukee Road. That process is well underway. While the details of the process will not be made public until the plan of reorganization is formally submitted to the court. Mr. Hillman has made several statements about reorganization that bear mention here.

Mr. Hillman has said that he is approaching this task "without predetermination of the desirable shape of an ultimate reorganization." He will consider all options, including liquidation if the facts ultimately justify such drastic action.

But regardless of the ultimate shape of the plan of reorganization, Mr. Hillman has repeatedly commented on one salient feature. That is, that many of the properties of the Milwaukee Road have a going-concern value in railroad operation and are likely to be of substantial value, either to the reorganized Milwaukee Road or to some other railroad. In other words, there are essential parts of this railroad that will in all probability remain in operation whether controlled by a reorganized Milwaukee Road or by some other entity.

And it is to the process of defining these essential parts, the "core" of the Milwaukee if you will, that I would like to focus my next remarks. As I noted earlier, the Milwaukee is not in a strong position to overcome by itself the difficulties it faces. Many of the needed solutions rest directly on the availability of substantial funds, and we are not in the position to generate such funds from the current level of operations. However, I feel that few railroads, if any, have been as aggressive as the Milwaukee in seeking assistance which is available to the carriers through Federal and State legislation as well as from individual shippers and shipper associations.

There is no question that the Railroad Revitalization and Regulatory Reform Act—4-R Act—of 1976 is one of the most important pieces of transportation legislation passed in this country. Basically the various sections of this landmark legislation provide either access to funds or the processes of change that allow the railroads to undertake programs they would not have been able to do themselves, or at least not as expeditiously as the carriers and the public they serve would prefer.

The Milwaukee was the first railroad to respond to the intent of this act by submitting an application for repayable financial assistance for the rehabilitation of both track and rolling stock. In 1977 we received and applied $9.3 million in 4–R funds for track rehabilitation on our main line between Milwaukee and the Twin Cities.

We are now in the process of finalizing negotiations for an additional approximately $47 million in 4–R funds to continue rehabilitation on the Milwaukee to Twin Cities route, to repair freight cars and locomotives, and to install pollution control facilities at our principal shops complex at Milwaukee.

These planned expenditures will improve the railroad's revenue-producing capacity and increase operating efficiency.

As to track projects, specifically we plan to spend some $25 million over 2 years to install some 26 miles of new and 10 miles of continuous welded rail, to install some 585,000 crossties, to install 685,000 cubic yards of crushed rock ballast, and to upgrade some 200 crossings at selected locations between Milwaukee and St. Paul. This work will allow us to operate freight trains at 50 miles per hour and Amtrak intercity passenger trains at 70 miles per hour over nearly all of the 400-mile route.

Track alone, however, does not make for an economically viable railroad. Revenue producing freight cars and the locomotives to move them are essential. It is no secret that in past years the Milwaukee has lost some opportunities to earn revenue or has found it difficult or impossible to retain business it had because of the inadequacy of its of its locomotives and car fleet.

Of the $47 million in financial assistance, approximately $19 million has been earmarked for badly needed work on locomotives and cars. We plan to spend some $13 million for the overhaul and rehabilitation of 111 locomotives. Work on these units would be carried out over a period of 15 months at our Milwaukee shop facilities.

Another important element in our 4–R financing program would provide some $6 million to repair and return to service 950 freight cars. While some of these cars are now in service, the greatest portion have been bad ordered and are not available for revenue operation.

Cars to be repaired under the 4–R program include insulated and uninsulated boxcars, gondolas and covered hopper cars. An anlaysis of the revenue potential were the railroad able to return these cars to service, coupled with the rentals which the Milwaukee will receive when the cars are on the lines of other railroads, indicates that at present rates the railroad's cash flow would be increased by approximately $4 million per year.

Rehabilitating essential routes and returning much needed locomotives and cars to service, however, is only part of the answer. An equally, if not more essential, process is the rationalization of the Milwaukee Road plant to a size consistent with future viability.

The Milwaukee must reduce its total mileage. It must limit its operations to those areas where economic vitality is relatively certain. To this end the Milwaukee has adopted and maintained what is clearly the most aggressive effort within the railroad industry to discontinue service on light-density lines under the provisions of title VIII of the 4–R Act.

Under the provisions of this title, the railroad has indicated to the Interstate Commerce Commission that 3,800 miles of its present 10,000-mile system are actual or potential candidates for abandonment.

As of June 30, the railroad had filed with the Commission applications to abandon 1,188 miles of light-density lines. The Commission

has granted authority to discontinue service on 344 miles. We plan to file applications for the abandonment of at least another 1,000 miles by the end of 1978.

Specifically in South Dakota we have indicated to the Commission our intent to seek abandonment for 769 miles of our approximately 1,600 miles of route in the State. Also, an additional 303 miles of light-density line in the State is presently being studied as possible candidates for abandonment.

The elimination of such light-density lines is extremely critical to the future of the Milwaukee Road. In general these lines consume more in operating expenses than they generate in revenues and therefore are a serious drain on the company's limited capital resources. Application of the provisions of title VIII of the 4–R legislation is one of the most important ways the Milwaukee can eliminate those parts of its physical plant which do not contribute to profitability.

Parallel with our efforts to eliminate nonprofitable lines, are coordination activities aimed at the sharing of railroad facilities and the reduction of duplicative and redundant plant.

Consistent with the intent of the 4–R legislation, last year the Milwaukee and the Rock Island were the first railroads to work out a coordination agreement in a principal rail transportation corridor. Under the joint facility agreement, the Milwaukee discontinued service on its roughly parallel line and began operating over the Rock Island between Muscatine, Iowa, and Polo, Mo., en route to and from Kansas City. The stated intent of this agreement was to allow the Milwaukee to seek abandonment of some 230 miles of undermaintained main line and at the same time to trigger approximately $50 million of 4–R funds for which the Rock Island had applied to rehabilitate its Kansas City main line. However, the Rock Island and the Federal Railroad Administration were not able to come to terms, and accordingly, early this May the Milwaukee's trains returned to their own track.

Although this coordination project has been terminated, the sharing of railroad facilities remains an important objective of the Milwaukee Road. We are presently engaged in negotiations with other carriers that hopefully will result in successful coordinations in our service territory.

While such coordinations are largely being worked out by the carriers themselves, we are also working closely with the Federal Railroad Administration in that agency's efforts to establish coordinations under provisions of section 401 of the 4–R Act. Basically this section authorizes the Secretary of Transportation to help the railroads plan and negotiate coordination agreements. He may initiate these activities by himself, or his services may be requested by the railroads.

Specifically under section 401, the railroads with the assistance of the Federal Railroad Administration, can approach the subject of trading markets as a way of increasing operating efficiency as well as seek to coordinate their facilities to and in markets they jointly serve.

Recently, the Federal Railroad Administration announced that the Milwaukee and the Chicago and North Western had agreed in principle to such "market swaps" in South Dakota, Iowa, Wisconsin, and Minnesota. For example, under one such agreement the Milwaukee would turn over its present markets in Rapid City, S. Dak., to the

North Western. This action would preserve rail service for the Milwaukee's Rapid City shippers and at the same time allow the Milwaukee to seek abandonment of a significant and unproductive portion of its line to Rapid City. Such trades of transportation markets are, of course, subject to approval by the Interstate Commerce Commission.

The elimination of rail facilities through outright abandonment or through coordination may appear to be a harsh measure. And there is no doubt that some people in some areas would be adversely affected by such actions. But the decision to discontinue or coordinate service is based on hard economic realities. In the case of light-density lines, there is not enough present or even potential business to provide economic justification for continued rail service. And in the case of coordinations, the situation is that a specific market does not generate a consistent enough level of business to support the operation of more than one railroad.

Abandonments and coordinations are effective ways to eliminate or reduce nonessential parts of the plant. But what of those parts that are deemed essential but at present are badly in need of maintenance and rehabilitation in order that they might achieve their full potential?

I have already noted how we are using repayable financial assistance provided under the 4–R Act to make substantial improvements on our Milwaukee to the Twin Cities main line. In a similar manner we are actively working with State officials and local shipper groups to obtain and apply track maintenance funds which are available through assistance programs passed by the legislatures of several States we serve. Basically these programs are directed at the rehabilitation of lines that not only have economic potential if properly upgraded and maintained, but that are seen as essential to the basic transportation network of the States in which they are located.

We are presently working with two States, Iowa and Minnesota, to apply appropriated funds for the upgrading of track that serves important grain shipping centers. Under these programs the State, online shippers and the railroad share in the rehabilitation costs with the railroad reimbursing the State and participating shippers through a per car-shipped or car-received formula. South Dakota has a similar branch line assistance program on its books, but at the present time it lacks funding.

With this information on the current and projected position of the Milwaukee Road and what steps we are taking to restructure and reorganize the company as background, let me now turn to the specific issue of car supply.

Effective rail service is basically dependent on three things—well maintained track, locomotives, and cars. The Milwaukee Road has serious, although not insurmountable, shortcomings in each of these critical areas.

Undermaintenance due to lack of funds coupled with the rigors of the severe winter of 1977–78, dealt our locomotive fleet a crippling blow. This February the bad order ratio—the percentage of units out of service—was as high as 51 percent. Throughout March the bad order ratio varied between 37 and 47 percent.

The return of good weather and the trustee's decision to allocate an additional $3 million a month to locomotive repairs has brought

the bad order ratio down to the present level of between 25 and 27 percent. However, if the Milwaukee is to meet all of its service requirements, the bad order ratio should not be higher than 12 percent. We are hopeful that the 4–R locomotive rehabilitation program plus the continued use of internally generated funds will bring the locomotive fleet as close as possible to the desired 12-percent out-of-service level by the end of the year.

For some time now our revenue-producing car fleet has not been adequate to meet the demand for equipment. The ratio of cars out of service has climbed steadily because we did not have the funds to repair damaged cars.

The bad order ratio for our entire system fleet is approximately 14 percent. For boxcars, which made up almost half of our slightly more than 30,000 car fleet, the present bad order ratio is about 20 percent.

Recently, Mr. Hillman authorized two programs which will result in modest improvements to the car fleet. In May we began a program to repair those system cars on which only a limited amount of work needed to be done. We are meeting this program's goal of returning to service an average of five cars each working day.

Early this month we began a repair program that uses funds provided by shippers to repair cars that will be assigned to the participating shippers. The shipper loans will be repaid over time from the revenues generated by the repaired cars.

Mr. Hillman has indicated that the goal of these programs, as well as the $6 million 4–R program, is to bring the Milwaukee's car bad order ratio to a level of no more than 10 percent.

The railroad's 1978 budget allocates some $57 million for track maintenance. This is the lowest amount spent for such work in recent years. Mr. Hillman has acknowledged that while he is unable to allocate as much money to track maintenance as was even spent in recent years, let alone the amount needed to properly maintain the railroad's potentially viable lines, he has authorized as high a level of track maintenance spending as resources will permit.

The condition of our track and locomotive car fleets has a serious negative impact on the railroad's ability to provide transportation services. However, there are other factors which must be considered when determining the causes and the solutions to the present service situation.

I think it would be helpful to go back in time and discuss the composition of the Nation's railcar fleet and how that fleet, as well as the method of marketing grain, has changed in recent years.

A railroad's car fleet used to consist of boxcars, flatcars, gondolas and open-top hopper cars. All were used for a wide variety of commodities, and as such, were subject to a two-way loaded move. For example, a boxcar might move grain from the Midwest to the East and then return with a cargo of manufactured products.

The harvest typically began in the Southwest and any surplus boxcars on the northern lines were forwarded to the harvest region to handle grain to storage points and processing plants. Generally all of the grain which could not be stored at elevators at the various producing points was moved to some other point during the peak harvest season.

As the harvest moved north, so did the railcars.

I can recall seeing several thousand 40-foot narrow door boxcars stored on sidings in the Dakotas and Montana in late July and August awaiting the peak harvest season. It is true that we had spot shortages in those days, but they were during the actual harvest and usually of short duration.

This pattern has changed. Today grain is stored on the farms and at large subterminals and withheld from the market until the price is satisfactory to the farmer. At the same time the makeup of the railcar fleet has changed. Over the years the trend has been toward the introduction of equipment specifically designed to handle individual commodities. A case in point is the widespread use of covered hopper cars for the movement of grain.

At the same time the use of specially designed equipment has increased; the demand for 40-foot narrow door box cars has dropped to a point where few railroads have built or purchased this type of car in recent years. The present fleet of these narrow door boxcars is diminishing rapidly due to the age of the cars as well as the heavy expense of maintaining this equipment which has limited demand other than grain hauling during peak seasons.

The method of marketing grain has also changed dramatically. As I have noted, the farmer now has the ability to store grain on the farm or in subterminals and await a satisfactory price. When the price is right, everyone sells at once. The result is an almost overnight peak demand for rail equipment. And with a sudden demand for cars spread throughout all the grain producing regions, the ability of the railroads to use each other's cars as in past years is very limited.

A new jumbo hopper car represents an investment of approximately $35,000. Carriers with limited resources such as the Milwaukee Road simply cannot afford to make heavy investments in this type of equipment—especially when there is no assurance that there will be a consistent demand for it.

Let me cite some examples from experience on the Milwaukee Road. From March to October of 1977, the railroad had a surplus of jumbo hopper cars. We needed additional revenue to support planned maintenance projects and therefore utilized an Interstate Commerce Commission ruling which permitted us to put in lower rates for grain on short notice. By lowering our rates we were successful in moving a substantial amount of grain from Montana to the Pacific Northwest during June and July. However, when the harvest season began in August we moved very little grain, primarily because our June and July traffic had made sufficient storage room in local elevators and on the farms so that the farmers could again withhold their grain from market until prices rose.

In October 1977, both the price of grain and shipper demand for railcars began to rise. But by November the Milwaukee and other Midwestern railroads began to encounter severe winter weather. At the same time, other transportation modes which had been hauling grain, such as trucks and barges, faced the same weather problems and were unable to handle the expanded demand for grain movement. This sudden transportation shortage had the effect of further increasing the price of grain and with higher prices came even more demands

for transportation. For the railroads, the end result of this cycle was a wide spread car shortage, especially of the type of equipment needed to transport farm products.

You may recall that there had been a previous car shortage during the massive sale of grain to the Soviet Union throughout most of 1973 and the better part of 1974. But from about October 1974 until October 1976 there were only minor spot shortages since prices were low and there was little demand for grain transportation. As a result nearly 2 years production of grain was in storage when prices began to climb dramatically in late 1977. Put simply, the demands to move this grain as well as the production of the 1977 harvest was beyond the capacity of the railroads.

Table 1 shows that grain loading on the Milwaukee Road in the second quarter of 1977 was 20 percent below the previous year, and 47 percent below the same period of 1973.

[Table 1 follows:]

TABLE 1

	1973	1974	1975	1976	1977	1978
Grain and soybean loading by quarter:						
1st quarter	24,939	23,731	15,667	18,784	13,547	11,288
Percent change from previous year		−4.8	−33.9	+16.5	−27.8	−16.6
Percent change from 1973			−37	−24.6	−45.6	−54.7
2d quarter	24,214	22,402	12,075	16,008	12,793	17,295
Percent change from previous year		−7.4	−46	+24.5	−20	+26
Percent change from 1973			−50	−33.8	−47	−28.5
3d quarter	28,834	21,657	20,342	17,463	16,372	----------
Percent change from previous year		−24.8	−6	−14.1	−6	----------
Percent change from 1973			−29.4	−39.5	−43	----------
4th quarter	24,368	20,976	18,746	12,727	14,804	----------
Percent change from previous year		−13.9	−10.6	−32	+14	----------
Percent change from 1973			−23	−47	−39	----------
Yearly	102,355	88,766	66,830	64,982	57,516	----------
Percent change from previous year		−13.2	−24.7	−2.7	−11.4	----------
Percent change from 1973			−34.7	−36.5	−43.8	----------
Ownership of jumbo hoppers and 40-ft narrow door boxcars at year end 1973 through 1977:						
Covered hoppers	2,897	2,979	2,885	2,848	2,819	----------
40-ft box	5,847	5,531	4,965	4,192	3,743	----------
Total	8,744	8,510	7,850	7,040	6,562	----------
Percent change from previous year		−2.6	−7.7	−10.3	−6.7	----------
Percent change from 1973			−10.2	−19.4	−24.9	----------

Mr. CEDERHOLM. In the third quarter of 1977 there was again a decrease from the previous year, and a 43 percent decline from the level of the third quarter 1973 grain loadings.

Total grain loading during 1977 was 11.4 percent below the level of 1976, and almost 44 percent below the peak year of 1973.

The same table shows the Milwaukee Road's ownership of grain carrying equipment. We have not increased our ownership—owned as well as leased cars—on jumbo hoppers mainly because of the heavy investment required for equipment for which the demand is not at all consistent. As the table also shows, there has been a substantial decrease in our ownership of 40-foot narrow door boxcars. This decrease is primarily attributable to the fact that many of these cars were of an age and condition that continued maintenance was not economical.

It should be noted from this table, however, that grain loading on the Milwaukee Road has declined considerably more than has our carrying capacity.

We are aware that shippers located on branch lines are especially concerned about the shortage of 40-foot narrow door boxcars. Many of these lines have rail that is too light to accommodate jumbo hoppers and thus boxcars must be used. However, as I have noted it is often uneconomical for the railroads to purchase new cars or to repair cars that have been damaged. Also because of their age many of these cars are not suitable for interchange under both Interstate Commerce Commission and Association of American Railroads regulations. But of greater significance is the fact that many branch line shippers have found it more economical and efficient to move their grain by truck to subterminals located on rail main lines. This pattern has contributed substantially to the declining rail traffic base on many branch lines.

The Milwaukee Road cannot afford to lose any traffic it has or might obtain. To that end we are utilizing every available serviceable car to handle grain at all stations on the railroad. Our marketing department has developed and implemented transportation packages that are designed both to generate revenue and to provide maximum utilization of equipment.

For example, this spring we began a joint rail-barge service under which grain moves from interior Iowa locations to a barge lading facility on the Mississippi River and then down river to export ports under a single through rate. This program allows us to keep our equipment in the grain area instead of seeing it move off line on an all-rail move to the Gulf ports. We have also instituted our mini-train concept where we handle between 25 and 30 carloads of grain from interior points to the Mississippi in dedicated service, making as many as three loaded trips per week.

During the past 6 months I have attended various Interstate Commerce Commission and Congressional subcommittee hearings in connection with the present grain car shortage. While various plans have been advanced to solve this problem, I believe that no real solution will be found unless the method of marketing grain is changed. Without the development of a more consistent and predictable marketing pattern, I belive we will be faced with recurring car shortages.

One proposal which was advanced by the Interstate Commerce Commission is an effort to improve the car supply problem called for an increase in the daily per diem "rental rates" which a railroad pays to use another carrier's equipment. The idea was to provide an "incentive" for nonowner railroads to quickly return equipment to the home road or for railroads collecting per diem payments, to invest the money in new freight cars.

In operation the incentive per diem program increased the daily rental on ordinary boxcars during six months of the year by almost 100 percent. While the program obviously resulted in financial gains to various already prosperous roads, I believe it had a corresponding adverse effect on marginal carriers, such as the Milwaukee Road. Moreover, a recent report by the General Accounting Office stated

that incentive per diem has not resulted in the faster return of equipment or in an increase in the national car fleet.

It was also suggested that incentive per diem payments should be used for the repair and return to service of damaged equipment. While the idea has merit in theory, in practice it would only work to the benefit of the more prosperous carriers who have a credit balance in the per diem fund. Debit per diem railroads such as the Milwaukee Road have no incentive funds for the repair of equipment.

In service order No. 1309 the Interstate Commerce Commission took the step of fining railroads that failed to move cars within a specific time period. While the order may have had some positive effect on car supply, several railroads have been cited for violations, and the fines amount to several million dollars.

The point is that the plans and programs I have just mentioned will have little impact on alleviating a car shortage which is brought about by a sudden demand for rail equipment. There simply are not enough locomotives and cars to handle the demand. And it is doubtful if the railroads would be willing to risk making very heavy investments in equipment to handle what long experience has shown to be temporary periods of peak demand.

But while there may be no ultimate solution to the car supply problem, certain corrective measures can and should be taken.

Presently many tariffs provide that grain can be billed to an inspection point, held and then resold. In practice, some cars are resold several times before reaching final destination and are held at inspection points for days at a time. Car utilization would be greatly improved if, instead of the present system, a sample of the grain was taken at the time of loading and all free inspection time was eliminated.

Moving to a 7-day-a-week operation for the loading, unloading, and movement of grain during peak demand periods would also help to improve the flow of equipment.

Marginal railroads which lease $35,000 hopper cars usually pay an effective interest rate of between 8 and 10 percent. These carriers cannot afford to have this equipment stand idle while making such payments. I am confident that the national car fleet would be increased if Congress were to provide a method whereby the marginal railroads could lease equipment at an interest rate comparable to that paid by the more prosperous railroads, which I understand is approximately 4 percent.

Equipment design is another area that can bring good results. The Milwaukee Road recently cooperated with the Department of Agriculture to test the merits of two experimental hopper boxcars. These cars were designed to carry either bulk grain or packaged merchandise thus making the equipment suitable for a two-way loaded move. Although we encountered some design problems with the cars, further development of this design concept could prove very productive.

An already proven idea is the freight car "clearinghouse" program in which the Milwaukee Road and seven other railroads are active participants. The experiment began a few years ago with the support of the President's Committee on Productivity. In the "clearinghouse" each participating railroad uses the cars of other members as its own and thus avoids the need to return the car empty to the owner rail-

road. Not all types of cars are included in the program, but to date, the experiment has demonstrated that empty mileage and excessive switching can be greatly reduced and the availability of cars for loading increased. Such improved car utilization programs should be encouraged and expanded.

Thank you for the opportunity to present these views to the joint congressional committee.

Senator McGovern. Thank you for your testimony Mr. Cederholm. You refer in your testimony to the more prosperous railroads being able to lease cars at 4 percent. That strikes me as odd.

Mr. Cederholm. As low as 4 percent effective interest rate over a 15-year period.

Senator McGovern. I didn't know you could borrow anything at 4 percent any more.

Mr. Cederholm. Depends on who is behind you. It is a leverage leasing.

Senator McGovern. It costs the Federal Government more to borrow money than that.

Mr. Cederholm. It is a leverage leasing proposal. I know of actual cars that were leased that cost $40,000, and the lease payments on them are $264 a month. If we at the Milwaukee went and tried to lease those cars, the lease cost would be approximately $440 per month. This makes a big difference. Big difference.

Senator McGovern. I'm going to defer any further questioning until we get through the whole panel. The third witness on this panel is Mr. Arnie Stenseth who is the director of the Division of Railroads for the South Dakota Department of Transportation. I am interested in your testimony Mr. Stenseth.

STATEMENT OF ARNIE STENSETH, DIRECTOR, DIVISION OF RAILROADS, SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION

Mr. Stenseth. Senator McGovern, members of this subcommittee, and the Joint Economic Committee, ladies and gentlemen: The problem we are discussing today involves many entities, encompasses a vast geographical area and impacts every citizen either directly or indirectly. The solutions you will consider have as much variance as the speakers you will hear.

It is impossible, and indeed foolhardy, of me to attempt to address this complex issue from any angle other than that of my position as director of the Division of Railroads for the State of South Dakota. It should be noted that institutional development and education are enabling the States to play a greater activist role in this area now and in the future.

To put the role of the States into perspective, I would like to briefly quote from a study presently being done for a group of Midwestern States, including South Dakota:

> From the early days of the State Assistance Program, State objectives have differed significantly in emphasis from the Federal objectives. Congress and FRA have envisioned the program primarily as a means of mitigating temporary economic dislocation arising from the abandonment of local rail service. The underlying motion has been to ease the transition to a situation in which all of

the rail services provided are again self-sustaining, either through increased efficiency or through abandonment of the unprofitable services. Many States, however, have tended to view the program more broadly as a means of preserving and improving services regarded as essential, with subsidies into the indefinite future where necessary. States naturally have tended to regard more services as essential than has FRA. They have also placed greater emphasis on improving all rail service and on encouraging local employment and economic development. The pressure and the need for economic development in the less rapidly expanding areas of the Northeast and Midwest has persuaded state rail officials in those areas to look upon federal rail assistance as an opportunity rather than as a bridge to a reduced transportation and economic infrastructure.

It appears to be a common policy statement from most sources that South Dakota has more miles of railroad track than is necessary for existing traffic. There is some potential rail traffic to be won back from the highway transportation mode with proper marketing procedures, selling and some minor upgrading of facilities. However, we are still faced with the need to work with the existing carriers to slim down our rail network to some unknown level which must be determined as being the minimum South Dakota rail network.

One common theme advocated by the railroad companies and echoed by others is the need to modernize track to be able to handle the heavy 100-ton jumbo hopper cars. Unfortunately, much of the track in South Dakota cannot handle these heavy loads today. Therefore, many miles of very expensive rehabilitation must take place or these light rail lines will be next for the abandonment cycle. It is very doubtful that South Dakota and the Federal Government combined will be able or willing to engage in this massive rehabilitation project. Therefore, if this present thinking continues, we will see our statewide rail network severely reduced to a system totaling approximately 2,000 miles. It is very conceivable that the resulting amputated system may be too small to adequately serve existing and potential users during the upcoming 20-year period.

There is a logical and workable alternative to the mass abandonment of rail lines incapable of supporting the heavy loads. There has been much talk about truck feeder systems to haul grain to rail collection points for mass rail loadings for unit train hauls. This same theory could also work with the rail transportation mode, utilizing existing branch lines. With this plan, a select few branch lines would be singled out as collector branches, and I should add here, Senator, as a State agency we are not totally opposed to the abandonment of rail lines in South Dakota. We are in a compromise situation with the railroad companies, I would hope. Their existing lightweight rail would be used to transport grain in boxcars to terminal markets located at Mitchell, Huron, and Aberdeen. A boxcar fleet of approximately 50 to 85 cars would be purchased, rehabilitated and used solely by South Dakota grain shippers throughout the State. The terminal markets would collect the grain and store or transfer it to covered hoppers for further transportation to other destinations. Lightweight branch lines initially identified for this project are:

(1) Mitchell to Kennebec; (2) Huron to Rapid City; (3) Blunt to Gettysburg; (4) Roscoe to Eureka; (5) Andover to Brampton; (6) Milbank to Sisseton; (7) Watertown to Clark; (8) Sioux Falls to Madison, and (9) Napa to Platte.

The above proposal would also lend itself to piggyback operations of grain transportation in semitruck trailers if boxcars were unavailable or unacceptable. Back hauls of other commodities would be encouraged. For example, fertilizer could be transported into these areas by piggyback semitruck operations.

This plan would strengthen a heavy core rail network and would utilize light weight branch lines as collectors and feeders. This would be a way to retain some lines for a number of years, which would otherwise be lost through the abandonment process, in order to see what will happen in the transportation arena in the next 20- to 30-year period.

This solution admittedly solves only a small portion of the nationwide rail problem, but I think it addresses two issues in my State; movement of bulk commodities and the retention of a necessary, vital, core rail system, for present use and future development.

The problem of boxcar shortage facing us today will be solved in the longrun by putting new cars on line, by spreading out the movement of agricultural products throughout the year, speeding up the turnaround period of cars in terminals, and by other methods presently being formulated by others in the industry. As an immediate solution to the problem of moving a harvest just now reaching the elevators, we would advocate a request to the Interstate Commerce Commission for the issuance of an emergency service car order. This order would apply only to boxcars used in grain movement and would be in effect for a period not to exceed 4 months. Federal funding would necessarily be made available to the carriers for the minor renovations needed on the cars and a waiver of liabilities to the operating carriers would be included. Again, this is a temporary solution to an annual problem, but it would put many marginal and much needed bad order cars back into operation.

Correspondingly, we would also urge the expeditious release of 4–R moneys to the operating carriers for the purchase of locomotives and other rolling stock.

The South Dakota Department of Transportation is dedicated to defining and refining a healthy, multimodal transportation system for our citizens. There are enough agricultural products moving in and out of our State to provide a healthy financial condition for all modes of transportation working within the private sector.

However, because of seasonal grain movements, deferred maintenance, increasing fuel costs and other reasons, we are witnessing the quickening deterioration of both of our major modes of transportation—railroads and highways.

Three things are immediately obvious at this time; The Nation and world need our agricultural products; the citizens of our State must be provided with an efficient method of moving the products and rail transportation still remains the most cost-efficient and the most pollution-free form of transportation for those same products.

Unless the aforementioned solution and others you have heard are acted upon quickly, it bothers me to imagine that sometime in the near future, when the deteriorating highways can no longer take the loads, when low grain prices have driven more South Dakota farmers from the land, and when the subsidized trucking industry can no

longer transport our products because of high fuel costs, someone will finally ask, "Whatever happened to the railroads."

Thank you.

Senator McGovern. Thank you, Mr. Stenseth, for your testimony. The chairman of the South Dakota Rail Commisison is Mr. Don Ensz who is with us today, and Mr. Ensz we will be happy to hear from you.

STATEMENT OF DON ENSZ, CHAIRMAN, SOUTH DAKOTA RAIL COMMISSION

Mr. Ensz. Senator, the following brief remarks represent my opinions and views relative to the subject.

I believe the following to be mandatory, general considerations in determining an optimum transportation system for the State of South Dakota.

One, in developing an optimum multimodal transportation system, economic loss or deterioration to existing businesses, towns, and cities must be avoided.

Two, we must avoid creating a transportation system that would result in stratifying the State's agribusiness and other business economy.

Three, we must preserve the approximate mix of small and large businesses dealing in goods, materials and services affected by transportation system modes selected.

Four, we must utilize the combination of transportation modes which will provide maximum conservation of energy.

Five, we cannot afford to use public—Federal or State—funds and waste energy to provide for competing modes to satisfy the State's transportation needs.

Six, any multimodal transportation system developed must be a practical, attainable system and within the financial capability of private, Federal, and State funds available for implementation.

Seven, the selected multimodal transportation system must minimize costs of transporting goods produced to the most suitable market and of transporting goods necessary for production or consumption to the consumer from the most suitable suppliers.

Eight, convenient and adequate access must be provided for producers and consumers to transportation terminals.

More specific considerations in mode and system segment selection are as follows:

First, what goods and materials are transported to, from, and within the State?

Second, what is the present and future (potential) gross quantities of these goods and materials being and to be transported by the State transportation system?

Third, what mode of transportation (or combination of modes) is the most suitable, convenient, and cost effective in transporting these goods and materials within the system?

Fourth, the present system of highways and highway conditions.

Fifth, present system of railways and the capabilities and condition of each.

Sixth, upgrading or renovation costs of each.

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Seventh, terminal and business locations.

Eighth, market and supplier locations.

Ninth, funds, sources of funds, and restrictions relative to their use.

Once all of the above general and more specific considerations are taken into account, it is my opinion that the following conclusions must be drawn.

A bimodal—highway and railway—nonduplicating transportation system will best serve this State. Railway which will exist in the system must be upgraded to carry 100-ton hopper and equivalent weights and must provide for train speeds of at least 30 miles per hour. Crossings must be upgraded. Highway upgrading and repair programs must give priority to designated product to market highways. Bimodal union-type terminals located a major highway and railway intersection points must be provided at such intervals to provide a maximum product to market distance of 50 miles.

These multimodal terminals must have the capability to handle all types of freight determined as most viably shipped by rail, such as grain, fertilizers, herbicides, coal, bentonite, lumber, farm machinery, and so forth. These terminals must be operated for the benefit of all shippers with operation costs being equitably shared by all. Supplemental railcars must be owned by these terminals to assure the ability to ship grain to maximize price and supply markets.

Businesses located off rail lines continuing in the system will be able to remain in their present location, insuring continued economic existence of cities and towns and to buy and sell produce as they do now with receipt or delivery to their present location or to the nearest bimodal terminal.

These bimodal terminals must average costs so that each receiver or shipper of goods or materials does not have a cost advantage or disadvantage because of distance from a bimodal terminal. Shippers such as grain terminal companies must be protected by price advantage over producers who direct ship from such terminals.

It is my opinion that an action and priority first to establish an optimum multimodal transportation system with railways as a viable mode of such system must include the following:

One, upgrading all rail lines which are to remain as a part of the system to the appropriate weight and speed.

Two, creation of the necessary multimodal terminals to insure continued economic viability of existing businesses, towns, and cities.

Three, provision of appropriate supplemental cars to the multimodal terminals and private businesses with payback of principal and interest out of operating revenues received from their use.

Four, reallocating highway funds to assure appropriate all weather access to the multimodal terminals.

Five, reallocation of crossing funds to satisfy requirements of the optimized bimodal transportation system.

To accomplish the above, necessary changes to Federal legislation must be made. Most of such changes have been generated by the FRA and have been or are to be introduced into the Congress. The State must create a total transportation planning program reporting to the Secretary of the DOT. The Secretary of Agriculture must appoint an assistant to assure that the transportation needs of agriculture are met.

Senator McGovern. Thank you, Mr. Ensz. Our final witness today is Mr. Bruce Hagen who is a North Dakota public service commissioner. Mr. Hagen, welcome to the hearing.

STATEMENT OF BRUCE HAGEN, COMMISSIONER, NORTH DAKOTA PUBLIC SERVICE COMMISSION

The Way Up for Railroad Rate Structures and Service

Mr. Hagen. My name is Bruce Hagen, Senator, and I live in Mandan, N. Dak. I am a public service commissioner for the State of North Dakota. I have served in that office since 1961.

The public service commission is a constitutional body charged with the regulation of contract and common carriers; telegraph and telephone companies; pipeline companies for the transportation of gas, oil, coal, and water; electric light companies; gas companies; water companies; heating companies; warehouse, packing, and cold-storage companies; stockyard companies; all other public utilities engaged in business in this State; licensing and bonding of auctioneers; grain elevators; weights and measures; surface mining reclamation; and energy conversion and transmission facility siting.

Our interest and concern with the current operation of North Dakota railroads, that is the grain rate structure and very serious railroad car shortages, has prompted me to appear before your committee today to speak on these matters.

I want to compliment Senator McGovern and your subcommittee for holding hearings to try to help find solutions to the U.S. railroads' problems. I know these hearings will help to bring about needed changes in policies and legislation which will help find the "way up" for our railroads.

North Dakota people are very appreciative of your efforts to help solve this vital transportation problem which is before us.

Grain movement by railroads in the United States is not a small item. The Department of Transportation reports that in 1976, the movement of grain and grain products by the Nation's railroads accounted for over 10 percent of their total freight revenue. For the western railroads, the movement of grain and grain products accounted for almost 37 percent of their total freight revenue.

In North Dakota alone, we shipped last year some 306 million bushels of grain products, the equivalent of almost 152,000 loaded railroad cars. Conservatively in highway mile distances, this would constitute a train stretching from Bismarck, N. Dak., to Pittsburgh, Pa.

We believe we know something about this commodity; its rate structure; and its rail service requirements.

Many of you are aware that the North Dakota Public Service Commission is one of the few public bodies which plays such an active role before the Interstate Commerce Commission and U.S. Department of Transportation on rail-related matters. While we often take an adversary position in terms of Federal railroad rate regulations, additionally, we often are most supportive of proposed rules and legislation designed to strengthen our railroads. No State realizes more

than North Dakota that we as a nation—farmers, industry, and consumers alike—need financially healthy and efficient Granger railroads.

I want to share some of our experience and expertise with you as this honorable subcommittee seeks to find equitable solutions to the many problems plaguing our Granger railroads today. I cannot cover every problem area, and I am sure other witnesses will cover those areas.

RAILROAD GRAIN RATE STRUCTURE

Let me first briefly outline how grain is marketed, since there is a strong interrelationship between grain marketing and railroad grain pricing. Unfortunately, but understandably, since grain marketing and transportation are so complex and specialized few people truly understand the economics of grain farming.

Grain farmers number in the thousands in North Dakota, and each operates as an individual unit of economic production within the grain industry, turning out a specific product—Durum wheat, Hard Red Spring wheat, and so forth—barley, which, though it has a grading variance, is largely homogenous.

The grain farmer depends upon his local country elevator for sale of his product. Depending upon the market prices of grain, and his immediate cash needs, the farmer offers varying amounts of grain to that country elevator.

The farmer receives from the elevator the price of grain as quoted on the Minneapolis Grain Exchange at the time of the sale, less the cost of transportation to the primary market, less further a handling charge and profit for the elevator.

The farmer is charged the flat rate from the elevator to the primary market. This is an important concept, because when the grain is further shipped for milling and finally to the ultimate domestic consumer or market, the transportation charges, called proportionals, are based upon a lower through rate from country to elevator to ultimate domestic market, under tariff provisions called transit privileges.

When the through rate is finally computed, the charge applicable from country elevator to the first transit point—primary market—is normally somewhat less due to refunds made by the railroads to the corporation which transited, milled and sold the finished product.

This is a very complex concept. The point we are trying to establish is that the farmer is burdened with a transportation charge which is eventually reduced, but the refund accrues not to the farmer, but the corporation milling and marketing the final products.

Now that we have established the fact that the initial leg of the transportation journey for grain is somewhat biased upward in terms of transportation cost to the independent farmer, it should follow that the independent farmer should be subjected not to a rate that will eventually be adjusted downward with the savings accruing to the miller and marketing corporation, but rather the independent farmer should pay a rate which reflects the cost of this railroad service, plus a reasonable profit, from the country elevator to the primary market.

We refer to this cost of railroad service as variable costs; and, when we include provisions for fixed costs and a reasonable profit, we use the term fully allocated costs. These are the accepted terms of the Interstate Commerce Commission.

A short time ago, a State agency in North Dakota, the Upper Great Plains Transportation Institute, using ICC devised methodology—called rail form "A" costs—literally studied wheat movements, as well as other movements, from North Dakota country elevators to primary markets. Wheat shipments constitute almost two-thirds of North Dakota's total grain shipments. This study was submitted as part of the ICC initiated investigation of grain rates, nationwide, titled, ex parte No. 270, sub. 9, where the Public Service Commission was North Dakota's lead agency in the investigation. That case began in 1974, and is before the ICC waiting a decision.

The results of the study of North Dakota wheat shipments—and this has since been updated to include rates and costs at the ex parte 349 level [1]—were that the ratio of revenue to variable costs to the primary markets of Minneapolis, Duluth, and Portland, ranged as high as 2.81, and the great majority were over 2.0.

In almost all cases, the ratio of revenue to fully allocated costs exceeded 1.5.

This means, quite simply, that the railroads are collecting about $2.50 in freight charges for every dollar of variable costs, and about $1.50 or more for every dollar of fully allocated costs on wheat shipments originating in North Dakota and moving to primary markets. In the case of the excess revenue over fully allocated costs, this is referred to as economic rent, since the railroads collect 50 percent more than variable and fixed costs plus a reasonable profit—approximating their costs of capital. Only a monopolist could set prices in this fashion—see appendix A attached to my statement for further illustration.

Farmers, through excessive grain rates, are subsidizing someone else who is shipping another product by rail. Railroads charge what they can based upon the "value of the service." We believe railroad rates should be cost based plus a reasonable profit to the railroad. The present grain rate structure is unfair to North Dakota farmers.

Earlier, I briefly reviewed the aspects of marketing grain. I did this because the railroads defend these exorbitant grain gathering rates on the basis of lower proportionals from the primary markets to eastern consumption centers. When the lower proportionals are added to the initial gathering rates, the resulting through rate exhibits a much lower ratio of revenue to both variable and fully allocated costs.

But, recall: the farmer alone pays the flat gathering rate, and this is deducted from the price per bushel he receives. The large corporation milling the grain enjoys the lower proportional and neither the farmer nor country elevator operator benefits from these lower rate structures from transit point to consumption point. So, while the total rate, after milling, does not reap so-called economic rents, the farmer indeed pays an economic rent to the railroad monopolist, who then uses that economic rent to subsidize the shipping cost of large milling corporations from transit points eastward. Those lower rates exist because there is competition between railroads from transit points east. There is less competition between railroads in the granger States serving country elevators.

[1] Ex parte 349 allowed, effective June 17, 1978, an increase of 4 percent on grain and grain products from, to, and within Western territory.

And there is really no substitute mode of service, since the buying corporations—the miller—pay a lower price per bushel of grain when it is trucked to milling point simply because the large buying corporation cannot take advantage of the lower rail proportionals eastward if the grain is trucked to its primary market. Farmers are forced to use railroads and are further forced to subsidize these large grain buyers. This situation, as you can now understand, exists because among the grain buyers only a few large corporations exist—oligopolists—and among the providers of service, railroads, only one railroad normally serves a country elevator—monopolists.

Farmers and country elevators, two groups which exhibit textbook characteristics of pure or perfect competitors, are at the mercy, quite literally, of monopolist railroads and oligopolist grain buyers. Railroad regulation by the Interstate Commerce Commission provides some measure of protection, but it has not as yet—and we are talking about a span of 100 years—removed the inequities from the railroad rate structure. That structure, in order to subsidize further rail transportation in rail competitive markets, has the farmer paying the railroad economic rents for a service which are then transferred to the economically more powerful grain buyer.

We see only one solution here. That is a congressional mandate that the Interstate Commerce Commission require cost-based rather than value of service—what the traffic will bear—rates on bulk grains moving from country elevator to primary markets.

Not only are these economic rent producing gathering rates discriminatory against the farmer, they are not encouraging better service.

CAR SHORTAGE PROBLEMS

As mentioned earlier, motor carriage is not a viable substitute for rail service in the movement of grain. This is so since grain buyers pay less per bushel for truck delivered grain. And, very often, especially in rural North Dakota, many of the country elevators are many miles from an Interstate Highway and it is just not convenient for the unregulated agricultural commodity carriers to reach them.

Yet, since 1974, the percentage of all grains moving by truck has increased from 19 percent to 33 percent in 1977.

This is due to the most acute rail car shortage in our State's history which has forced elevator operators to pay exorbitant rates to unregulated motor carriers—plus absorb a discount for truck delivery—just to move grain to market.

But higher grain gathering rates—and we are seeing, on the average, two general freight rate increases per year being approved by the Interstate Commerce Commission—instead of stimulating more efficiency and additional carrying capacity, are, instead, resulting in a national emergency in which the actual grain carrying capacity of the railroads is plummeting as these roads disinvest in necessary rail rolling stock. Efficiency, as well, is falling drastically, as is documented, in part, by the recent massive ICC imposed fines on ConRail and Southern Pacific—$2.3 million and $4 million respectively—for failure to expeditiously handle freight cars. We can't say for sure why this is; but it is apparent that higher freight rates are not the solution and we must look elsewhere for answers.

It is interesting to observe the phenomenal increase in passenger traffic now being experienced by air carriers through reduced rates. I

believe if the railroads furnished equipment and reduced rates they would make more money. One-hundred six million bushels of wheat moved out of North Dakota by truck in 1977. Those bushels, if moved by rail, would have dramatically improved rail revenues.

While the jumbo covered hopper car—which is in excess of 4,000 cubic feet and capable of hauling about 180,000 pounds of grain, or 3,000 bushels—is the ideal rail vehicle to move grain from country elevators to primary markets, the fact is that there aren't nearly enough of these cars to begin serving grain shippers. The large grain buying corporations, who can provide the railroads with 100 or more loaded cars at a time, have a disproportionate number of those jumbo hoppers assigned to them.

In North Dakota, the country elevator must depend, to some extent, on smaller covered hoppers, when available, but mostly on 40-foot, narrow door box cars, most of which are 20 years or more old, and which now are being retired at the rate of 2,000 per month.

We have attached some data which should be informative to this honorable committee:

Appendix B is a listing, by the Interstate Commerce Commission, of the average daily nationwide surplus and shortage of 40-foot narrow door box cars and all covered hoppers for weeks from September 1976, to June 1978.

Appendix B tells us:

First, the covered hopper supply has been less than demanded for 77 of 95 consecutive surveyed weeks and reached a critical shortage of in excess of 37,000 cars short per day in April 1978.

Second, the 40-foot narrow door boxcar supply hasn't been nearly so critical, but has been short 47 and the 95 weeks surveyed, and the shortage reached an average of almost 6,400 cars per day short in May.

Third, as covered hoppers have been short 81 percent of the surveyed weeks over the past 2 years, and narrow door boxcars short 50 percent of the surveyed weeks, it is apparent that the railroads are incapable of meeting even average daily demands for grain cars. The situation has been worse in North Dakota.

Appendix C shows the decrease in 40-foot narrow door boxcars, nationwide, and on the three principal railroads serving North Dakota. Also shown is the bad order ratio of these cars.

The exhibit tells us:

First, since January 1, 1972, 6½ years ago, the Nation's railroads have experienced a net loss of 59 percent of their total 40-foot narrow door boxcar fleet. Of the cars remaining and in service, in excess of 13 percent are continually bad order—the ICC believes bad order ratios should be below 4.5 percent.

Second, the granger railroads serving North Dakota follow the national average. Appendix D shows the carrying capacity, in bushels, lost as a result of railroad disinvestment in rolling stock.

Appendix D tells us:

First, from the retirement of 40-foot narrow door boxcars alone, there has been a cumulative decrease of 222.8 million bushels in carrying capacity over the last 6 years.

Second, the average daily bad order ratio of the remaining 40-foot narrow door boxcars reduced the carrying capacity of the Nation's railroads by almost another 22 million bushels.

Third, in the past 12 months, the railroads have been disinvested in covered hoppers, with a reduction of 1.8 million more bushels of carrying capacity lost.

Fourth, this monumental loss in carrying capacity—totaling in excess of 246 million bushels—is almost equal to the total carrying capacity of the railroads' total fleet of jumbo covered hoppers. Or, another way, the railroads have disinvested in carrying capacity roughly equal to 81 percent of North Dakota's 1976–77 crop reporting year shipments of all grains.

In addition to meeting all this Nation's grain needs, granger States satisfy almost 50 percent of the entire world's grain needs. As the United States continues to lose certain worldwide technical and merchandising markets to other nations, the United States retains a comparative advantage in the production of grain, and that comparative advantage must be exploited if the United States is to improve its balance-of-payments deficit. Without suitable rail transportation, which includes sufficient carrying capacity, the United States cannot hope to compete for world grain markets.

PROPOSED SOLUTIONS

As to the inequities in the grain rate structure, whereby the farmer subsidizes the large grain buying corporations who receive lower rates from milling points to Eastern consumption centers, due to railroad competition in the East, I recommend immediate action by Congress requiring the Interstate Commerce Commission to order the Nation's railroads to revise all grain tariffs to reflect actual costs of service rather than reflect value of service pricing. This is simply referred to as cost-based ratemaking.

As to the service difficulties, we remind this honorable committee that section 1(11) of the Interstate Commerce Act requires the railroads to provide adequate car service. We need not further expand on the railcar shortages plaguing this Nation. Certainly this hearing would not be in session if the subcommittee were not already painfully aware of the crisis and its effect upon the economies of so many farm States, such as North Dakota.

We will then just highlight our suggestions for improving railcar service to insure adequate car service to all users, without discrimination or prejudice:

First, congressional investigation into rail management labor negotiations is needed. A part of most railroad rate increase requests before the Interstate Commerce Commission over the past 5 years has been to cover increased labor costs. Rail management and rail labor have a joint interest in healthy railroads. North Dakota labor has always been forward looking. But, they are tied down by factors they cannot control. Inflation hits them, too. They want living wages. The ICC must help rail labor and management to change, to innovate, to help bring a healthy rail industry. I believe the railroads best days are ahead of them and rail labor and rail management can help bring it about.

Second, railroads must be given greater incentive to invest in sufficient carrying capacity to handle the needs of their patrons. If rail earnings are too low to attract equity capital—or allow equipment trust certificates to be obtained to finance the purchase or lease of new equip-

ment—Congress must be prepared to step in and finance a national standby rail car fleet. Some of the cost of this fleet could be recaptured by setting extremely high rental charges on the use of this equipment by railroads. The ICC should have the authority to require railroads to utilize the standby fleet, at high daily rental charges, whenever those railroads cannot meet the equipment needs of their patrons. In addition, by increasing the hourly incentive per diem charges to punish railroads for not expeditiously returning cars of foreign ownership to the owning lines, railroads would be encouraged to purchase their own fleets, rather than borrow cars from other railroads. Recall that many of the Eastern railroads have had upward of 225 percent of their car-ownership on line, indicating that for every car an Eastern railroad owns, it has 2½ cars owned by other railroads. The rental on the national standby fleet might be set at $1,000 per day per car; and incentive per diem rates increased to $500 per day or more per car after a "reasonable" number of days interchange to the foreign line.

Third, shippers and consignees must be encouraged to load and release and unload and release cars promptly. By imposing "excessive" demurrage charges of $500 per day or more upon shippers or consignees who use rail cars as temporary warehouses, cars would be turned more frequently.

Fourth, by imposing a reverse demurrage charge on railroads, that is having the railroad pay the shipper liquidated damages plus a fine for failure to move and forward a released car within a prescribed period, railroads would be encouraged to be more efficient in their switching and branch line operations.

Fifth, the average turnaround time for boxcars—the time it takes to load, forward, unload, and place the car again for reloading—increased from 24 days to 28 days between 1978 and 1977, according to the ICC. If the railroads could cut turnaround time from 28 to 14 days, they would effectively double the size of their car fleet without an additional dollar in capital investment being required.

Sixth, under the Railroad Revitalization and Regulatory Reform Act—4–R Act—railroads may more easily abandon branch lines. A key part of this act is to allow railroads to more easily abandon branch lines. In order to qualify for Federal assistance to try to retain branch lines, States must draw State rail plans and comprehensive transportation plans.

States must take a realistic look at railroad abandonment applications. Where rail trackage is superfluous, and/or it is clear that the costs of operation are greater than the revenue that can be realized, and alternate forms of transportation are readily available, abandonment must be supported. The public must cooperate to cut costs and make railroads more efficient. Federal money, under title VIII of the 4–R Act, might also be made available to States before abandonment applications are filed by the railroads. This would allow for advance efforts to find suitable substitutes for rail service and ease the impact on localities and shippers from such abandonment.

In North Dakota, Governor Arthur Link, last year, formed a State Intermodal Tranportation Team—SITT. Our team has directed the Upper Great Plains Transportation Institute—UGPTI—to draw a State rail plan. I am chairman of SITT appointed by Governor Link and we expect to have our State rail plan finished in the next few weeks.

We have over 5,000 miles of track in North Dakota and over 3,000 of those miles are branch line. Although we have paid and do pay excessive freight rates, we realize we will be facing many railroad abandonment proposals in the next few years. We will do our best to try to upgrade and improve our rail transportation system to avoid abandonments where possible to try to retain a viable rail network.

We are also drawing a comprehensive State transportation plan covering all modes of transportation. We fully understand the need to keep and retain healthy, good transportation systems.

Seventh, where possible, States must cooperate with railroads in allowing centralizing of freight agencies and other services to allow the railroads the benefits of lower costs and, in many cases, greater efficiency. We have made progress in this area in North Dakota.

Eighth, finally, a continuing dialog must be maintained between the railroads, shippers and regulators. Too often problems are only discussed and solutions proposed by regulatory agencies following adversary proceedings. Perhaps many of these proceedings could be avoided by regular meetings and discussion involving the railroads and the users of those services.

CONCLUSION

We have tried to highlight two of the most serious problems facing the granger States today—the railroad rate structure, which has a definite upward bias against the farmer; and the level of service being provided by the railroads, which continues to deteriorate.

None of us can long survive in the granger States without fit, willing, and able railroads. Conventional solutions, such as twice yearly price increases, have not solved the railroads' revenue problems, or the shippers' service problems.

New solutions must be sought. Experimentation is called for. Better regulation, with input from Congress and the public, is necessary. The Interstate Commerce Commission has become more flexible in its approach to regulation in recent years, but more flexibility is going to be required.

Our railroad system must be consider as part of the total transportation system. Railroads, trucks, water and air carriers must be coordinated and a nationwide total and comprehensive transportation system is needed. Our transportation system must be recapitalized every 20 to 50 years. This enormous cost means we need a total systems approach. Failure to examine or rail network without looking at our highway system, our grade crossing problems, our waterways and airways will make any solution inadequate. Amtrak is a classic example.

A part of the total transportation picture is rail passenger service.

I have two prepared statements, presented by Governor Arthur Link, and myself, at a hearing held by the Interstate Commerce Commission's Office of Rail Service Planning in Bismarck, N. Dak., on July 6, 1978. I request that these two prepared statements be included in the hearing record at the end of the appendixes attached to my statement.

Senator McGovern. Without objection, so ordered.

Mr. Hagen. The thrust of these prepared statements is that the United States does need a public rail passenger system. Any examination of the Nation's railroads should at least include rail passenger

service. Passenger trains are much more effective than automobiles and yet they presently handle only 1 percent of this Nation's intercity travel. One estimate is that even a 1-percent shift from automobile travel to Amtrak would yield substantial oil savings of at least 600,000 barrels per year. The Department of Transportation is presently considering cutting Amtrak down about one-third or 8,000 miles. The dollars saved would only build a very few miles of urban freeway a year. Amtrak is supposed to be a nationwide rail passenger system which is operated by the profit. Considering the facts, that is an enormous proposition not easy to achieve. Very few dollars have been provided by the Government for rail service since 1920, although hundreds of billions of dollars have been provided for other modes of transportation. Amtrak has problems in the way it is structured, too. Its authority is divided.

I would like to reemphasize for purposes of this hearing that Amtrak must have a master plan schedule and an extensive and comprehensive marketing program to cover its defects, better schedules, and new equipment. Amtrak should and could be a very important part of our transportation system. But, Amtrak must be considered together with air, bus, and car travel. A total view of all transportation is needed.

We have briefly touched on solutions we think would make our railroad system more viable. We stand ready to assist this honorable subcommittee in further researching and fleshing out these proposed solutions and to cooperate on other proposed solutions.

An illustration of grain rate bias against the farmer will next be given. Thank you very much, Senator.

[The appendixes attached to Mr. Hagen's statement, together with the prepared statements referred to by Mr. Hagen, follow:]

Appendix A

ILLUSTRATION OF GRAIN RATE BIAS AGAINST FARMER

The built-in bias in the grain rate structure is best illustrated by the following example.

The farmer sells a carload of grain to his local elevator and he is paid the going rate per bushel as reported on the Minneapolis Grain Exchange, less the cost of transportation and a handling fee and profit for the elevator.

The transportation cost deducted is $800 and that is the flat rail rate for the covered hopper from the country elevator to buyers elevators in, say Minneapolis.

For that $800, the railroad, performs a spot of an empty car; a pull of the loaded car; line haul service: a spot of the loaded car at destination; and a pull of the empty car from destination. Total: 4 spots and one line haul. Approximate line haul mileage: 450 miles.

The buyer stores this grain for several months in Minneapolis, and then forwards the grain to, say, Hastings, Minnesota, for milling into flour, and the transportation cost is $600, and that is the rate for a similar covered hopper requireing the same services—4 spots and a line haul—though the line haul is considerably shorter, about 200 miles.

The miller then ships an end product of flour to an eastern market, and is charged a through rate on flour, from the country origin to final eastern destination. of $1.700. This is a result of published transit privileges.

But, since $1,400 has already been paid the railroad(s), the $800 plus $600, the miller is charged but the $300 between what was already paid and what is due. This $300 covers 4 spots and a line haul in excess of 1,000 miles.

Since the grain buyer normally mills and markets the grain, it pays for the second two segments of the trip, or $900 of the $1.700 total—$600.00 plus $300.00.

But, consider the results. The farmer pays $800 of the total $1,700 freight bill, or 47 percent of the total charges.

The farmer accounted for but 33 percent of the car spots; and about 33 percent of the total mileage. He was not responsible for any of the required office administration, which requires the railroad to keep track of the transit weights, times and billing differences.

Thus, the farmer accounts for less than 33 percent of total railroad costs; but pays 47 percent of the total revenue.

The farmer subsidizes the transportation of the manufactured product, flour, from milling point to eastern destination. This occurs to a large extent because the railroad serving the country elevators is a monopoly, there being no competing railroads from the country origin. The railroad serving the miller most likely competes with three to five other railroads, and this competition has forced those transit rates way down.

Unfortunately, this is an example of value of service rate-making, a time-honored practice fully allowed by the Interstate Commerce Commission.

We believe that all rates should be based on costs alone; and that the farmer should pay the fully allocated costs of the service he demands—no more, and no less. But this would require all parties to the transportation contract to be similarly charged.

Appendix B

SURPLUS AND STORAGE

Week	40-ft narrow door box cars only	Covered hoppers	Week	40-ft narrow door box cars only	Covered hoppers
Sept. 4, 1976	9,311	(3,621)	Aug. 6, 1977	2,656	(1,050)
Sept. 11, 1976	9,220	(2,623)	Aug. 13, 1977	2,251	(543)
Sept. 18, 1976	9,733	(3,178)	Aug. 20, 1977	3,121	41
Sept. 25, 1976	9,185	(3,980)	Aug. 27, 1977	3,129	1,098
Oct. 2, 1976	8,242	(4,017)	Sept. 3, 1977	3,706	1,935
Oct. 9, 1976	7,346	(3,919)	Sept. 10, 1977	3,542	949
Oct. 16, 1976	3,673	(8,130)	Sept. 17, 1977	3,030	(897)
Oct. 23, 1976	3,072	(9,142)	Sept. 24, 1977	2,022	(2,052)
Oct. 30, 1976	3,209	(8,056)	Oct. 1, 1977	1,246	(4,111)
Nov. 6, 1976	2,740	(7,261)	Oct. 8, 1977	462	(4,647)
Nov. 13, 1976	6,329	(5,671)	Oct. 15, 1977	175	(3,753)
Nov. 20, 1976	7,509	(3,848)	Oct. 22, 1977	(269)	(6,836)
Nov. 27, 1976	9,500	(1,104)	Oct. 29, 1977	(837)	(8,145)
Dec. 4, 1976	10,923	1,463	Nov. 5, 1977	(1,157)	(9,796)
Dec. 11, 1976	11,129	2,800	Nov. 12, 1977	(1,226)	(9,100)
Dec. 18, 1976	11,805	4,844	Nov. 19, 1977	(1,255)	(9,215)
Dec. 25, 1976	12,996	5,216	Nov. 26, 1977	(1,202)	(7,464)
Jan. 1, 1977	12,734	5,279	Dec. 3, 1977	(1,851)	(7,186)
Jan. 8, 1977	11,695	2,641	Dec. 10, 1977	(1,655)	(6,947)
Jan. 15, 1977	10,700	(835)	Dec. 17, 1977	(1,512)	(7,068)
Jan. 22, 1977	7,980	(3,624)	Dec. 24, 1977	(1,353)	(7,182)
Jan. 29, 1977	3,714	(7,291)	Dec. 31, 1977	(1,273)	(6,865)
Feb. 5, 1977	1,433	(9,666)	Jan. 7, 1978	(1,179)	(7,697)
Feb. 12, 1977	(1,053)	(12,140)	Jan. 14, 1978	(1,524)	(7,274)
Feb. 19, 1977	(1,722)	(11,957)	Jan. 21, 1978	(1,556)	(9,181)
Feb. 26, 1977	(2,213)	(10,050)	Jan. 28, 1978	(2,029)	(11,229)
Mar. 5, 1977	(2,924)	(11,433)	Feb. 4, 1978	(2,655)	(14,246)
Mar. 12, 1977	(2,479)	(11,381)	Feb. 11, 1978	(3,203)	(15,752)
Mar. 19, 1977	(1,550)	(10,839)	Feb. 18, 1978	(4,448)	(20,244)
Mar. 26, 1977	(1,042)	(9,246)	Feb. 25, 1978	(4,401)	(20,980)
Apr. 2, 1977	(1,028)	(8,321)	Mar. 4, 1978	(4,971)	(26,679)
Apr. 9, 1977	(817)	(7,396)	Mar. 11, 1978	(5,298)	(27,577)
Apr. 16, 1977	(301)	(6,994)	Mar. 18, 1978	(5,596)	(29,171)
Apr. 23, 1977	(1,018)	(5,921)	Mar. 25, 1978	(5,610)	(30,125)
Apr. 30, 1977	1,445	(4,378)	Apr. 1, 1978	(5,813)	(33,646)
May 7, 1977	3,946	(996)	Apr. 8, 1978	(5,927)	(35,419)
May 14, 1977	5,284	627	Apr. 15, 1978	(5,959)	(37,182)
May 21, 1977	5,940	1,955	Apr. 22, 1978	(5,328)	(37,080)
May 28, 1977	7,811	2,577	Apr. 29, 1978	(5,978)	(32,545)
June 4, 1977	8,448	4,002	May 6, 1978	(6,384)	(31,991)
June 11, 1977	8,238	2,020	May 13, 1978	(6,397)	(31,283)
June 18, 1977	8,595	386	May 20, 1978	(5,513)	(28,343)
June 25, 1977	8,302	705	May 27, 1978	(5,549)	(28,322)
July 2, 1977	7,912	1,486	June 3, 1978	(5,097)	(25,906)
July 9, 1977	6,318	(32)	June 10, 1978	(5,078)	(27,260)
July 16, 1977	5,140	(62)	June 17, 1978	(5,256)	(26,609)
July 23, 1977	3,773	(1,415)	June 24, 1978	(4,636)	(23,840)
July 30, 1977	3,024	(1,035)			

Note: Figures in parentheses indicates shortage. Total number of weeks surveyed: 95. Total number weeks 40-ft narrow door boxcars short: 47; percent: 49.5. Total number of weeks covered hopper cars short: 77; percent: 81.

Source: Interstate Commerce Commission.

Appendix C

Total nationwide ownership, class I railroads, of 40-foot narrow door box cars on Jan. 1, 1972	189,506
Total nationwide ownership, class I railroads, of 40-foot narrow door box cars on Apr. 15, 1978	78,087
Net loss	(111,419)
Bad order ratio, Apr. 15, 1978 (percent)	14.3
Bad order ratio, May 1, 1978 (percent)	13.5
BN ownership, 40-foot narrow door box cars on Jan. 1, 1972	25,460
BN ownership, 40-foot narrow door box cars on Apr. 15, 1978	11,790
Net loss	(13,670)
Bad order ratio, Apr. 15, 1978 (percent)	11.8
Bad order ratio, May 1, 1978 (percent)	10.7
Soo ownership, 40-foot narrow door box cars on Jan. 1, 1972	3,949
Soo ownership, 40-foot narrow door box cars on Apr. 15, 1978	2,068
Net loss	(1,881)
Bad order ratio, May 1, 1978 (percent)	7.5
Milwaukee ownership, 40-foot narrow door box cars on Jan. 1, 1972	7,034
Milwaukee ownership, 40-foot narrow door box cars on Apr. 15, 1978	3,871
Net loss	(3,163)
Bad order ratio, Apr. 15, 1978 (percent)	12.4
Bad order ratio, May 1, 1978 (percent)	12.6

Source: Association of American Railroads.

Appendix D

Evidence of decline in grain carrying capacity

	Million bushels
Nationwide total bushel capacity of 94,910 jumbo covered hopper cars owned by all railroads, April 1, 1978, less 4.3 percent bad ordered (4,081) reported that date, or total of 90,829 cars at an average capacity of 3,000 bushels each	272.5
Nationwide total bushel capacity lost as a result of retirement (and no replacement) of 111,419 40-foot narrow door box cars since January 1, 1972, at an average capacity of 2,000 bushels each	(222.8)
Nationwide total bushel capacity lost as a result of average of 14 percent bad order ratio of remaining fleet of 78,087 on April 15, 1978 (10,932) at an average capacity of 2,000 bushels each	(21.9)
Nationwide total bushel capacity lost as a result of net loss of 703 covered hoppers between May 1, 1973 and May 1, 1978, at an average capacity of 2,500 bushels each	(1.8)
Total bushel capacity lost	(246.5)

Notes: Additional loss occurring at a rate of approximately 4 million bushels capacity per month.
All car totals and bad order ratios supplied by Association of American Railroads.

PREPARED STATEMENT OF HON. ARTHUR LINK, GOVERNOR, STATE OF NORTH DAKOTA, BEFORE THE INTERSTATE COMMERCE COMMISSION[1]

The Department of Transportation's recommendations reducing the overall Amtrak System from 27,000 miles to under 19,000 miles is especially important to western growth states like North Dakota.

North Dakotans believe potential traffic and need justifies maintenance of service on both the northern and southern routes, at least between Fargo and

[1] Hearing held on Amtrak service, July 6, 1978, at Bismarck, N. Dak.

Spokane, Washington. Today, on behalf of all North Dakotans, I will discuss the reasons justifying continued service, outline present service problems, and present an alternate plan.

The Department of Transportation Plan recommends the elimination of Amtrak passenger service on the northern route which comes through Fargo and services cities from Grand Forks to Williston. Historically, this route has had highest patronage, serves areas with greater population, isn't paralleled by an interstate highway, and lacks commercial transportation alternatives.

The case for continued Amtrak service on both the northern and southern routes rests upon special circumstances and needs within our state.

First, many of our smaller towns and cities are dependent upon rail services. For example, Rugby, Stanley, Valley City, and Dickinson have no scheduled air service and Jamestown has only one departure in each direction daily. Severe winters and storms underscore the needs of these cities and of all North Dakota for reliable passenger train service. Trains become the only method of access to population centers for many of our citizens. This is especially true for many of our elderly citizens who sometimes travel great distances for special medical care.

Secondly, cities with existing air service can't always provide direct service to points west. Grand Forks has such a problem. Air service is available from Grand Forks to Devils Lake and Minot, but as Commissioner Hagen pointed out, one must fly east to Minneapolis and change planes for other points west.

The northern route also presently provides the only late night departure from Grand Forks and Fargo, with an arrival in Minneapolis in time for a full day of business. Bus service west from Grand Forks also presents problems. To go from Grand Forks to Williston requires an overnight stay in Minot. The Amtrak train is the only alternative avoiding diversions or interruptions.

Thirdly, trains are energy efficient. Much of our trade deficit and present inflation is a consequence of oil imports. Energy-wise rail transportation provides consumers with a practical alternative to the automobile. As the cost of gasoline rises, automobile travel will become less attractive and trains more practical. Passenger trains will be the beneficiary in rural areas where there is a significant distance between population centers. Therefore, it is all the more important to keep our passenger services systems intact.

A fourth consideration is tourism. This affects North Dakota and points west. Presently, Glacier and Yellowstone Parks enjoy the benefit of tourists traveling by train. With proper scheduling and promotion, the scenic Badlands provide a similar opportunity.

These needs, coupled with good existing facilities, make continued passenger service a sound idea. Comparatively speaking, the passenger track conditions in North Dakota are good and passenger stations used by Amtrak are generally clean, comfortable and sufficient for traffic needs.

Finally, there is an optimistic note regarding ridership. It appears that the downward trend and operation has halted. This is welcome news and offers encouragement for constructive changes and the rebuilding of a good passenger system.

These circumstances in North Dakota illustrate why passenger service on both routes is the only real transportation alternative for many smaller towns and cities; why, in the absence of air service it is the only real alternative permitting easy east-west travel in North Dakota, and at the same time providing a real alternative to energy waste. The availability of good facilities should only reinforce one's commitment to a rail passenger system benefitting the public.

Even though a clear need exists for passenger service, scheduling and equipment problems have caused consumer disappointment and frustration.

The greatest inconvenience is the scheduling. Presently, in North Dakota there are 92 getting off or getting on stops each week. 46 are east bound stops and 46 are west bound stops. 69 of these stops or 75 percent take place between midnight and 6:00 a.m. Middle of the night arrivals and departures, as well as trains running late detract rather than attract passengers.

A related scheduling problem is the lack of daily service. The four times weekly service on the northern route and thrice weekly service on the southern route has been subject to arbitrary changes during the past and actually discourages and confuses would be travelers. People don't remember when the train runs unless it is regular and on time.

The scheduling problems are compounded by equipment problems. Since the inception of Amtrak, we have been told of continuing commitment to new equipment. So far, it hasn't materialized. As a result, incompatible equipment is used resulting in inefficiency, cold cars in winter and hot cars in the summer.

Instead of decreasing service, we believe need and traffic justifies expansion and quality service. For your consideration we offer the following alternatives:

(*a*) The reinstatement of daily service on both routes through the state with favorable timely boarding hours and quality service.

(*b*) Institute a station stop at Medora. Medora is the gateway to North Dakota's only national park and biggest tourist attraction.

(*c*) Establish service to Winnipeg. This would expand patronage by linking the two countries and restoring a historic travel market.

(*d*) Finally, upon implementation, operate for a year and re-evaluate.

We applaud the Department of Transportation's efforts to save the public money, but at the same time, believe that Amtrak in North Dakota has had to operate under conditions which were a negative inducement to prospective travelers. This is especially noteworthy in view of the fact that in 1973, a previous Amtrak Administration had cited the Empire Builder, which travels our northern route as the second most patronized train in the country, also citing that it was covering its expenses and a bit more.

Historically, passenger trains have been vital to North Dakota by promoting settlement and if given the opportunity under favorable conditions will continue to promote North Dakota's growth.

PREPARED STATEMENT OF BRUCE HAGEN, COMMISSIONER, NORTH DAKOTA PUBLIC SERVICE COMMISSION, BEFORE THE INTERSTATE COMMERCE COMMISSION [1]

I want to thank the Rail Services Planning Office for scheduling a hearing in Bismarck to consider the public response to recommendations by the United States Department of Transportation (DOT) for major cutbacks and revisions in Amtrak's system of passenger routes and services.

My testimony generally covers the same information which I submitted to the Passnger Committee of the Council of State Railway Officials' Meeting in Denver on March 9, 1978. However, I have expanded upon that statement which was given to the State Railway Officials for discussion and use before Congressional Committees considering Amtrak service.

As I understand it, should the DOT's proposals be adopted, the major impact could be the elimination of one of Amtrak's routes through North Dakota.

The State of North Dakota is vitally interested in continuation of Amtrak service on both lines through North Dakota, between Chicago, Minneapolis, and Seattle. We are concerned with the current attempts to redraw the Amtrak map because of past reductions in service and broken promises by Amtrak.

Rail passenger service has traditionally been important to North Dakota because of the lack of development of other competing modes. Even at this late date, a trip from Grand Forks to Seattle by plane involves a 600-mile detour through Minneapolis, or out of line through Denver. The Northwest Airline strike which began April 29th, continues and points out the need for Amtrak service. Although North Central has provided valuable public service, we still need Northwest Airlines. Amtrak is particularly valuable when our airlines strike.

Inter-city bus service is mostly provided by independent companies, with the result that there is no through-motor-coach service along this route, as well. The route of the "Empire Builder" through Grand Forks, Minot, Williston and Havre is the only Amtrak route not paralleled by an interstate highway. In the past two winters, there have been severe weather conditions, when the passenger trains were the only means of conveyance connecting North Dakota cities.

At the time of Amtrak's formation, service was being provided on a daily basis between Minneapolis and Seattle via Bismarck and via Minot, Amtrak reduced this to a daily train via Grand Forks and Minot. Service was added later in 1971 for an experimental tri-weekly operation between Minneapolis and Seattle via Bismarck which later became part of the basic Amtrak system. Unlike most Amtrak trains, this "Northcoast Hiawatha" was reduced every fall to tri-weekly and then made daily during the summer. It passed through North Dakota towns in the middle of the night, thus not attracting much patronage.

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[1] Hearing held on Amtrak service, July 6, 1978, at Bismarck, N. Dak.

In mid 1977, Amtrak announced budget cuts and corresponding reductions in service. Although the service cuts were scheduled for all areas of the country, a supplementary appropriation went into effect in September, 1977, and the cutbacks did not take place—except for the Empire Builder and North Coast Hiawatha, which have been reduced to four times and three times per week each way, respectively. For the first time since the 19th Century, we have less than daily service to all cities except Fargo. Essentially, there is but one Chicago-Seattle train, which takes different routes on alternate days.

Besides the reduction in service, we have received little but empty promises from Amtrak. Service to Winnipeg, which would connect with the new via Rail Canada system, has been proposed but has yet to come. The Chicago-Seattle trains were promised to receive the new electrically-heated superliners, but the trains are not yet out-shopped and the future of the trains themselves seem in doubt.

Finally, in late 1977, Amtrak announced a study precedent to the possible elimination or reduction in service. The public was invited to comment on various plans for service restructuring; none of which would include the continuation of the Empire Builder. Only a Congressionally-imposed moratorium on discontinuance of service pending a national study prevented Amtrak from putting these plans into effect.

This is why North Dakotans are unwilling to go along with plans for further reduction or rerouting of Chicago–Seattle service. Although there has been much talk of service reductions, in fact, our area is the only part of the country which has actually made any sacrifices. Our elected officials, Congressional delegation, and citizenry are reluctant to support a system which will not benefit our state and its people. Amtrak's five-year plan proposed Grand Forks–Winnipeg service, which would not be possible if the Empire Builder is discontinued. Rerouting of the trains away from the Minneapolis–Spokane route would leave the entire northern tier states west of the Great Lakes bereft of railway passenger service.

We feel that the long-haul trains should not be made the scapegoat for Amtrak's financial embarrassment. A recent Interstate Commerce Commission study shows that only a third of Amtrak's expenses are directly related to train operation. Administration, taxes, infrastructure, executive salaries, cost-plus arrangements with the railroads, and counter-productive labor agreements take a much greater share of the taxpayer's dollars. Significant savings will not occur until these basic problems are dealt with.

Congress and the public have perceived the need for the railroad passenger network. There may or may not be a need for the present Amtrak corporation—a privately-owned company, which is a recipient of federal funds and enjoys a monopoly status. It may be that some other system, whether a nationalized operation, competitive bidding, or a regional approach, may be a better way to operate passenger service than the present monolith. We agree that the entire Amtrak system and concept need to be re-examined. We support giving time to the DOT study of Amtrak, and public hearings by the Office of Rail Public Council which is what is taking place here today as well as the directive of the post office to ship mail by Amtrak whenever possible and the exemption to the Animal Welfare Act which would allow the trains to carry cats and dogs as baggage under humane conditions. We believe that routes should not be cut until after a thorough examination of the facts and reasons for Amtrak existence.

North Dakotans have used Amtrak service. We are a state that is often hit with very severe winter weather. Amtrak service is extremely valuable for our elderly people and students when severe weather comes.

A basic question is whether you may have a nationwide rail passenger system which has been mandated by conditions and demand of people and still have a profitable system. These are two requirements which run counter to each other. It may be profitable, yet the need for a sensible, efficient, effective, good system remains. The energy savings for inter-city passenger trains over other forms of public transportation are immense. For example, the American Public Transport Association 74–75 Transit Fact Book shows that with 540 to 720 passengers, vehicle miles per gallon or equivalent are 0.50 and the passenger miles per gallon of fuel are 270 to 360 passengers for the same distance. Contrast this figure with average commuter automobile which carries 1.4 passengers which averages 13½ miles per gallon of fuel and passenger miles are 19 miles per gallon. This emphasizes the tremendous energy advantage of rail passenger systems. The United States presently imports one-half of the oil we use. Inflation

is fired by U.S. dollars flowing out to buy foreign oil. Our national energy policy has emphasized conservation. Rail passenger systems are becoming more and more important in this respect.

It is extremely important to take a long-range look at Amtrak. The population of the United States is increasing. We must increase energy saving transportation systems wherever possible. Amtrak is a vital service we must improve and continue.

I want to again thank the Rail Service Planning Office for holding the hearing in Bismarck today. Thank you for the opportunity to appear.

Senator McGovern. Thank you for your testimony, Mr. Hagen. Members of the panel, just a few questions. The hour is getting late. I do want to reserve the right to send you some questions if we may, over the next few days. Mr. Newkirk, you indicated in your testimony that excess capacity is a serious problem in the Midwest. I think the ICC has said recently that that is the most serious problem as they see it. Do you agree with that?

Mr. Newkirk. I think that is correct, Senator. It is a pervasive problem, and the downstream effects are the needs to rehabilitate those essential portions of the system. Given the cost and availability of capital to the industry, and the cost of rehabilitating the rail lines, particularly when you need to go in and replace light steel with heavy steel, we cannot afford to rehabilitate all existing track. As you know, the capital needs study which Congress, mandated under section 504 of the 4–R Act instructed us to address those issues, and we expect that report to become available by the end of next month.

Senator McGovern. Some of the other problems that have come out, not so much today, but in some of the other hearings we have conducted, include the question of car utilization, the turnaround time, and outmoded work rules, things of that kind. How would rail-line abandonment improve those problems, if it would?

Mr. Newkirk. Well, Senator, it is important to view the concept of rail-line abandonment together with other transportation changes such as the subterminal concept you have espoused here today, and one which I think we would agree with. You can improve the manner in which cars are used by incorporating something like a subterminal concept, and high transfer loading stations, which I think Mr. Ensz also addressed in his testimony, because we no longer have to run over a dilapidated branch line for 100 miles at 10 miles an hour, but rather pull up on a rehabilitated branch line perhaps 40 miles at 30 miles an hour or higher speeds, get those cars loaded in a hurry through the new high-throughput terminal and get them back out into the system where they belong.

Senator McGovern. I introduced a comprehensive transportation bill earlier this year which we called the National Service Transportation Act. One of the provisions we had in that bill was a preabandonment procedure to assure that local interests that wanted to take over a line marked for abandonment would have an opportunity to do so and rehabilitate it. Has the provision been included in the Senate bill 2981, or something comparable to it?

Mr. Newkirk. Senator, the provisions in the new bill permit through the State rail planning process, Federal funds to go in and rehabilitate the line before it becomes a finite candidate for abandonment. This would preclude the need for other interests to acquire the line and

operate it as a short line. Certainly the local shipper groups who are affected by the abandonment of a line which the State does not include for rehabilitation subsidy under the new branch line bill, would be very welcome to negotiate with that carrier and acquire that line and operate it as a short line. I also believe that they would be eligible to apply for title V financial assistance to help them rehabilitate that line once they had acquired it.

Senator McGovern. Mr. Cederholm, in your statement—I think I am summarizing it correctly—you state that the Milwaukee proposes to abandon more than half of all of its trackage in South Dakota. I assume that much, if not all of that, is branch-line trackage. Mr. Ingram in his statement earlier today called this approach suicidal to the branch lines. He says that branch lines can be cost effective if they are rehabilitated to accommodate new and larger cars, and that Iowa is actually proving that. If Iowa is proving that, in fact, why can't the Milwaukee prove it in South Dakota?

Mr. Cederholm. Well, during the discussion, I think that it was brought out that Iowa approved it only as to those branch lines which were viable branch lines. There were many miles of branch lines in Iowa that the State Rail Planning Commission decided were not viable branch lines, and the branch lines that we have up for abandonment in the State of South Dakota are lines which in our opinion are not viable branch lines, and perhaps the grain can be trucked to a subterminal such as you have suggested, on a main line where you get daily service instead of weekly service which improves your turnaround time.

Senator McGovern. Do you think that generally that concept of the subterminals is a good one?

Mr. Cederholm. Very definitely. We have done that. I was just trying to recall where it was we did it here in South Dakota. Some branch line, it has been about 3 years now, that we put in substituted service with our own motor carrier to haul the grain to a main line elevator in order to avoid running on the branch line.

Senator McGovern. Several grain elevators have indicated they would be willing to purchase and rehabilitate boxcars if the railroads could assure them adequate utilization and reasonable turnaround time at the major terminals. Do you think this is a feasible idea to reduce the car shortage?

Mr. Cederholm. The problem arises that due to the age of the cars and the cost of rehabilitating them. Our older 40-foot narrow door boxcars, we can run them through an upgrading program and in about three trips they have to be run through another upgrading program. If you went in and spent $4,000 or $5,000 on some of these cars, you could continue to operate them probably for 2 or 3 years. The turnaround time is one thing that is hard to really pin down. We have branch lines in North Dakota, South Dakota, and Montana where you can load the grain car, in an old boxcar, in 4 or 5 hours, come back by with the train, but you can't pick it up because they have got to send the sample into some agency to get the grade and so forth. As a result, you don't get the car off the line for a week. So that is a 7-day delay to the car cycle. Then the car is sold several times, and further delayed. That is where the unit train concept gets the utilization so much

higher, is because when that train starts to move, it has a final destination. The cars are made empty, and they come right back.

Senator McGOVERN. Thank you. Mr. Stenseth, I was interested in your testimony today. You talked about the possibility of South Dakota grain shippers developing a boxcar fleet of approximately 50 to 85 cars that would be purchased and rehabilitated and used solely by South Dakota grain shippers. What is the status of that? Is it just an idea? Is it a proposal, or what is the current status?

Mr. STENSETH. It is a proposal, Senator. Last year we got things started at the State level. Keep in mind our office is only 3 years old. We are the latest to enter the field of where these people have been for years in planning. We got four pieces of legislation passed last year which will get us started in this, and this, I hope will be proposed in the next legislative session. It is time the State gets either into this thing and starts solving its problems or we are going to see the loss of all of these lines.

Senator McGOVERN. You mentioned also in your statement the possibility of modernizing track in our State to handle the larger hopper cars. Do you have any idea what the cost factors are in that kind of an undertaking?

Mr. STENSETH. It depends on what level of rehabilitation you want to bring the track up to. We have heard everything from $30,000 a mile to $190,000 a mile. That is a gold-plated rail, but you would have to ask the railroad companies that type of question. Very expensive.

Senator McGOVERN. I notice you say as far as your office is concerned, you are in a mood to compromise on the abandonment question. What is your judgment about the impact on our State, on our economy, our shippers, our farmers, if substantial abandonment was carried out over the next few years?

Mr. STENSETH. Two things, Senator. First, when we are faced with an abandonment or proposed abandonment, we ask ourselves two questions. No. 1, is the line viable, does it have potential viability, and, 2, is there shipper interest on that line. If we see there is no interest on the line among shipper groups, it won't do us any good to work with the Public Utilities Commission to fight for its retention. For instance on the Winner/Norfolk line, we saw very little interest and it was lost as a result. I would say that in this part of the country at least we are still a part of a developing Nation. We drove out from Pierre yesterday, and you can see the results of irrigation and what is happening along the Missouri River. Mineral development——

Senator McGOVERN. I wish we could see more of it.

Mr. STENSETH. Mineral development in the western part of our State. What bothers us is that once the right-of-way has gone and mineral development does occur in Lemmon and that area of the State, for example, we will never get the right-of-way back.

Senator McGOVERN. What do you think about the subterminal idea that Professor Baumel and others have talked about here today?

Mr. STENSETH. We basically support the idea.

Senator McGOVERN. How do you feel about that Mr. Hagen, and Mr. Ensz?

Mr. HAGEN. I think it has merit. We had a study in North Dakota about 11 years ago, and I think the circumstances are changed some-

what since that time. We thought we would lose a lot of country elevators. Well, we have lost a lot anyway. I think a subterminal, well-planned and coordinated, and particularly where farmers are participating has lots of merit.

Mr. ENSZ. From my point of view, I believe, in South Dakota's particular situation, a subterminal or what I refer to as a bimodal terminal, is the only means by which the present businesses can exist and the towns remain economically viable. We can't afford to replace all the stores that exist on those country elevators. We also know that in 1978, transportation economics does not permit one to drive, to take a train to 15 different towns to pick up a 40-foot boxcar at each one. We believe that with the proper rate averaging, which the railroads have indicated a willingness to cooperate in, the businesses can be maintained in their present locations, be viable; and we can have the advantage of that continued storage that those elevators provide. So for that reason, and for considering our major objectives of maintaining the businesses that exist in the State as viable, I think that the subterminal idea is probably one means of our future salvation.

Senator MCGOVERN. Well, thank you very much, gentlemen. Mr. Milton Evans, who is the secretary and traffic manager of the Western South Traffic Bureau, is in the audience and he asked just to make a very brief statement. Is there anyone else who would like to make any comment in the audience? I do want to thank all of you who have sat through these hearings for your patience in giving us a good, thoughtful audience this morning. If you want copies of the testimony after the committee hearings have been printed, let our office know and we will see that you get any materials you want with reference to these hearings. Meanwhile, Mr. Evans, if you would like to make a brief statement, we would be glad to hear from you. Maybe you can just take a seat right over here and then as soon as we have heard Mr. Evans, we will adjourn the hearing. I want to thank everyone who has participated as a witness or as a participant in the audience for your patience this morning. Mr. Evans.

STATEMENT OF A. MILTON EVANS, SECRETARY AND TRAFFIC MANAGER, WESTERN SOUTH DAKOTA TRAFFIC BUREAU, RAPID CITY, S. DAK.

Mr. EVANS. I am Milton Evans, the traffic manager of the Western South Dakota Traffic Bureau. I have been in the transportation business for over 30 years, 20 years with the railroad, but the last 10 years I have been representing shippers and receivers of freight in the Black Hills and Rapid City area. We are very much concerned about the potential abandonment of the railroad between Rapid City and Mitchell, S. Dak. This seems to be instigated by Mr. Brock Adams in his office, the Department of Transportation of the United States. From his office came a remark which was issued in the Traffic World, dated June 19, and he made a remark that while Dubuque, Red Wing, and Rapid City each will suffer reduction in railroad competition, there will be no significant reduction in rail service, and the remainder carriers will be stronger. Indeed, each market will become more attractive. I don't know how the 14 shippers between Rapid City and

Mitchell can receive the same service when they are being isolated from the railroad industry. Now we fully realize that certain railroads should be abandoned, and we do not protest every railroad abandonment. We did not protest the one out of Belle Fourche. We did not protest the one between Minnekahta and Hot Springs, S. Dak., but we are definitely going to protest this one. To give you an idea of what service is on the line, I have here a list of the elevators along the line and the amounts they shipped. This is just a few of them.

I am not acquainted with the elevators east of the Missouri River, but in averages of 5-year periods, the last 5-year period for instance, Kadoka had two elevators, one of them shipped 225,000 bushels and the other one shipped an average of 600,000 bushels. Belvidere shipped 143,000 bushels. Murdo, 293,000 bushels. Draper, 550,00 bushels. Presho, 422,000 bushels. At the present time they have gone all of the way from 150,000 bushels to 200,000 bushels at various elevators.

I believe that concludes my statement. Senator, I would be glad to answer any questions you might have.

I think you, Senator.

[The prepared statement of Mr. Evans follows:]

PREPARED STATEMENT OF A. MILTON EVANS

I am A. Milton Evans, Secretary & Traffic Manager of the Western South Dakota Traffic Bureau, Rapid City, S.D. I have been in the transportation field for over 30 years. I was employed by the railroad industry for over 20 years. For the past ten years, I have represented shippers and receivers of freight.

We are very much concerned with the potential abandonment of the railroad line between Rapid City and Mitchell, South Dakota. We do not protest every abandonment. We did not protest the abandonment between Belle Fourche and Jolly Dump, South Dakota. We did not protest the abandonment between Minnekhota and Hot Springs, South Dakota. But we will protest this abandonment between Rapid City and Mitchell South Dakota. This move appears to be instigated by the office of Brock Adams, Secretary of the U.S. Dept. of Transportation. According to an article on page 18 of the June 19, 1978, Traffic World, he made a statement that the abandonment of the Milwaukee Road between Rapid City and Mitchell, South Dakota, may reduce competition, but there would be no significant reduction in rail service. Eliminating rail service to 14 grain stations and not reducing the service is something that we are unable to understand.

According to the Railplan of South Dakota, submitted by the S.D. Dept. of Transportation, the Milwaukee Railroad branch ilne between Rapid City and Mitchell, S.D. is one of the best branch lines of the Milwaukee Railroad in South Dakota. It is the largest branch line, being 286 miles, it shows a profit, it shows one of the best carloads per mile, it has one of the best speed limits of the branch lines. What profit it could have shown if the shippers had received the cars they ordered is unknown.

There are approximately 14 grain elevator shippers on the line between Rapid City and Mitchell. We do not have the volume of grain shipped by all of them, especially those east of the Missouri River. According to the statistics recently received, the five years volume average of eight of the fourteen elevators is 2,667 thousand bushels.

One shipper at Kadoka has told us that he would guarantee to ship five cars every working day for the balance of the year and pay the freight charges in advance if the Milwaukee Railroad would promise him the cars.

Abandoning the Milwaukee line and leaving the movement of grain to the Chicago & Northwestern Railroad will not solve the shortage of grain car problem, as shippers at Phillip and Wall, S.D. on the Chicago & Northwestern line are short 45 cars. One shipper told us that he has made a study of locating a loading station on the Chicago & Northwestern line, but it would cost him 10 cents a bushel to transport wheat by truck and reload onto a rail car, and that is the difference in rate from Kadoka, S.D. to Minneapolis, MN, between the rail and truck rates.

We feel that abandoning the branch line similar to the line between Rapid City and Mitchell, S.D. is like cutting off the legs of an octopus. Cutting off one leg won't make much difference, but before you know it, you will cut off enough legs to make him completely helpless.

Senator McGOVERN. Mr. Evans, are those rail shipments you were talking about?

Mr. EVANS. Senator, 95 percent of them were by rail. According to the rail plan of South Dakota put out in January 1978, that Rapid City to Mitchell line is one of the best-paying lines that the Milwaukee has in South Dakota. It has a better than average track, 30 miles an hour. It showed a profit. What it would have shown had the railcars been available is unknown. We feel that if we allow the Milwaukee to abandon this 200 miles of track, which is the longest branch line in South Dakota, we might as well kiss the rest of the branch lines of the Milwaukee goodbye, because that is what is going to come next.

Senator McGOVERN. Mr. Newkirk, while we have you here, could you give us kind of a preliminary response on that? He is talking about two very important cities when he is talking about Mitchell and Rapid City.

Mr. NEWKIRK. First, I would like to state that the present abandonment is part of the 401 package that we negotiated, and abandonment is envisioned to Kennebec and not to Mitchell. I think that is a principal candidate for the kind of subterminal that you brought up this morning and that many others of us here have addressed. If we can locate a high-speed throughput terminal at Kennebec, we would use the existing elevator capacity along what might become the abandoned line for storage.

Senator McGOVERN. What sector do you propose to abandon?

Mr. NEWKIRK. The proposal to abandon is between Kennebec and Rapid City. While locating a high-speed throughput central terminal at Kennebec, you can utilize the existing storage capability in towns like Kadoka and Presho to store the grains, and when you are ready to ship it, you move it by truck to the central terminal where it is loaded into more efficient multiple car units which carry a lower freight rate, and we think the economies here probably will benefit the farmer in the long run, as other people have stated this morning.

Senator McGOVERN. Mr. Evans, would you give us any additional information you have on this? You don't have to do it today, but if you would send that to me, I would like to look at any documentation you have on the points you were making here.

Mr. EVANS. I might add here that it is going to cost at least 10 cents a bushel to transport that by truck and reload it at another point.

Senator McGOVERN. You mean above and beyond what rail service could cost?

Mr. EVANS. That's right. I might also add that the Rapid City station itself produced $3 million worth of revenues last year. It also produced $1.2 million worth of revenue this year. If that line between Rapid City and Kennebec is abandoned, you are going to lose that revenue, too, and I cannot feel that the Chicago & Northwestern can supply cars for the shippers in Rapid City, because they can't furnish them now. One of my shippers on the Northewestern who ships wood chips had such a shortage of cars he made a remark that he would like

to spread it out and use it for a summer ski slide. That is how big a pile he had. To me, abandonment like this is like an octopus, you cut off one leg and it is not too bad; you cut off another leg, it is not too bad; pretty quick you are going to cut off so many legs that the octopus is going to be helpless. That is the way I feel about this abandonment.

Mr. NEWKIRK. Senator, I would like to add that part of the 401 project that we are discussing here is a commitment on the part of the Chicago & Northwestern to service those Milwaukee customers in Rapid City, and they will take whatever steps are necessary to acquire the necessary trackage and to serve those customers.

Senator MCGOVERN. OK. I extend my thanks to you gentlemen for your very fine testimony today, and with that our hearing stands adjourned.

[Whereupon, at 4:40 p.m., the subcommittee adjourned, subject to the call of the Chair.]

APPENDIX

STATEMENT OF HON. JAMES ABOUREZK, A U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA, ON "RAIL PROBLEMS FACING THE MIDWEST"

Mr. Chairman, I appreciate this opportunity to submit a statement concerning the extreme grain car shortage in South Dakota.

I commend you, Senator McGovern, for your effort to bring an official Joint Economic Committee hearing to South Dakota.

I am convinced that hearings like this one, held in the heart of America's grain producing belt, provide a more real look at the very serious boxcar shortage that is facing farmers daily in our region of the country.

My concern is that a solution be found to solve not only this grain car shortage but to help head off shortages in the future. While I am certainly for any kind of emergency measure that will relieve the present crisis, I find it frustrating that neither the railroad companies nor the federal government has come up with a way to move this nation's bountiful grain harvest efficiently.

I should retreat slightly from that statement. We know we can move grain efficiently by rail but we have allowed the railroads to decline to the point where snails and turtles can crawl faster than our freight trains.

Right now, the debate seems to be over which lines to abandon forever, which lines to allow to slowly deteriorate and which railroads to allow to be merged so that more trackage can be abandoned in the name of efficiency. If "efficiency" were a person, it would have sued for slander years ago.

There was a time, believe it or not, when South Dakota had about 5,000 miles of track with 34 railroad companies. Today, we have only five companies, and we are down to about 1,600 miles of track. However, over half of the remaining trackage is today threatened by abandonment.

Some people say the railroads were overbuilt. Perhaps they were, but who can say with a straight face that we should tolerate the loss of one more mile of rail service in South Dakota? Haven't enough miles of track been ripped up? Haven't enough communities, farmers and businesses suffered?

Yet, we are still told that more abandonments are necessary for efficiency. I will go so far as to say that the railroads are extremely efficient in abandoning track and they may well have set land speed records as they industriously tear up that track. However, I will also say that it is pure folly to desecrate what's left of our rail lines for the sake of balancing the budgets of railroad companies that would, like the bumper stickers, really rather be sailing, or banking, or publishing or running hotels or whatever else they have their fingers in at the moment.

We really don't need any more stopgap bandaids, what we need is a modern rail system complete with modern equipment. We can ship all kinds of paraphernalia first class to the moon and beyond but we can no longer ship a bushel of grain by freight class to St. Paul and expect it to get there without leaking out for the sparrows or being thrown into a ditch by a derailment.

I was shocked to read statistics brought out in earlier hearings that show that nearly 16 per cent of all boxcars are no good compared with about 7 per cent 10 years ago. Even the number of useable hopper cars is dropping; the number of wornout hoppers has doubled from 3 per cent in 1968 to 6.5 per cent today.

A few years ago when the rotten ties and warped rails bucked off a freight train, you could at least expect to see a good locomotive lying in the ditch. Now, even the locomotives are in disrepair, and that's aggravated by the fact that in the last three years the railroads have drastically reduced their purchases of new locomotives. All of this leads me to believe that the people plotting the future of the railroads are direct descendants of the doctors who used to draw a few pints of blood from their patients to cure fevers.

The sad condition of the railroads and the quackery that is worsening that condition is particularly unfortunate when we as a nation are supposed to be trying to conserve energy. Trains are 4.2 times more energy efficient and 5.4 times more economical than trucks, according to the National Science Foundation, and they don't wear out highways or cause as much pollution.

Mr. Chairman, I would like to make the following recommendations for action to deal with the transportation crisis:

1. S. 1835, a bill which has already passed the Senate, should be passed as soon as possible by the House and signed into law by the President. This bill directs the Secretary of Agriculture to develop and identify a rail network essential to agriculture and rural development and to report annually to Congress on the capability of the nation's transportation systems to meet the needs of agriculture. Any impediments, such as a national box car shortage, would be identified in addition to remedies and recommendations for dealing with the problem. Finally, under the bill, the Secretary would become the spokesman for agriculture and rural development interests before all other government agencies—such as the Interstate Commerce Commission and the Civil Aeronautics Board—with transportation responsibilities.

S. 1835 would insure that farmers and other agricultural interests would be represented when the federal government makes decisions affecting the availability and cost of transportation services.

2. I strongly support S. 1836, the bill that would stop all railroad abandonments that are currently opposed before the ICC. At the present rate of abandonments, we're apt to see the track torn up before the loaded grain cars are moved off the sidings.

3. A federal grain car pool, which has been discussed for a number of years, would help guarantee an adequate supply. With federal involvement, incentives could be provided so that a large grain car supply would be available during the peak times.

4. The ICC should immediately recognize that it should more carefully consider the interests of grassroots farmers when it makes decisions affecting rural rail service. S. 1835 would help in this regard and also mandate more concern in the Department of Agriculture.

5. The federal government should make it a priority to revitalize the nation's railroads and take special note of the problems of moving our country's food supply.

In making grain movement a higher priority than it is now, the federal government should realize that moving our food supply should not just be a matter of profit and loss for the railroads. It is in our national interest to have a rail system that can efficiently handle our grain production.

6. I also support S. 1419, the Emergency Rail Improvement and Employment Act. It would provide grants to railroads as well as state and local transportation authorities to improve the trackbeds.

This bill is especially important, I think, because it creates some badly needed jobs. Instead of letting hundreds of thousands of able workers go without jobs, why not put America back to work by building a rail system every American can feel good about. We would have something to show for our spending, for a change.

Mr. Chairman, we need grain cars, we need railroads with creative management that want to run railroads and not other investments, we need drastically improved service in rural areas, and we need to stop rail line abandonments.

I hope that, after all these years, we can find some permanent solutions to transportation problems that are hurting South Dakota and other grain-producing states.

Thank you again for the opportunity to submit this statement and for bringing this Senate hearing to South Dakota.

STATEMENT OF RICK APPLEGATE, CENTER FOR BALANCED TRANSPORTATION, INC., BOZEMAN, MONT., JULY 1978

THE RAILROAD POLICY MESS

I appreciate very much this opportunity to submit testimony to the hearings on national railroad policy. They could not be more timely, for we will not have a chance of easing the nation's energy crisis unless we look long and hard at the

way we move goods and people. And there is ultimately no solution to our national transportation quagmire unless we solve the problem of our persistently slumping railroads.

The numbers are by now familiar. The rail industry is clearly declining.

Last year, for example, railroads experienced their least profitable year since the great depression. More railroads joined the growing march to bankruptcy. Although it is difficult to obtain accurate figures, there is burgeoning deferred maintenance on the order of $7 billion for the class I railroads. There is an inordinate amount of unused rail capacity—not all of its excess. And there is an increasing train accident rate, mounting to nearly 8,000 costly derailments last year, many traceable to low investment in rail maintenance. (See Tables 1 & 2.) [1]

During World War II, the railroads carried 75 percent of the passengers and 70 percent of the freight. Now, however, railroads carry only 6 percent of passengers and a dwindling 36 percent of freight. (See Table 3). The rate of return on rail investment remains one of the lowest of any American industry—around the 3 percent to 4 percent level in even the more profitable railroads. (See Table 4.) And there is little likelihood that the railroads will be able to generate the capital they will desperately need for maintenance, improvements, and innovation.

This sad story contrasts sharply with the known benefits of increased rail transportation. On energy, safety, employment, efficiency, and equity grounds the railroads could be a solid transportation bet in America.[2] It is clear as well that the public wants better railroads—including rail passenger service. A recent U.S. Department of Transportation survey—conducted by Peter Hart Associates—reveals some interesting attitudes supportive of rail transportation.[3] Public support for increasingly costly highway construction is waning. We are as a society becoming more aware of declining petroleum supplies for auto and jet transportation. People increasingly believe that the energy crisis will force changes in their way of life, including shifts away from unbridled auto transport. A majority desire continuation of rail passenger service; and a substantial number believe that the disadvantages of rail passenger service—such as lack of flexible mobility—can be overcome. Interestingly, a clear majority has no basis for stating whether the nation's rail system is in good shape.[4] Apparently, we're all on an equal footing in that respect.

It is likewise clear that the Carter administration knows railroads will have to play a more prominent role in American transportation. Secretary of Transportation Brock Adams recently released a transportation policy statment. A few random quotes:

"Nothing has so vividly highlighted the need to rethink our national transportation policies as the change in the world's energy economy. We have, in a relatively short period of time, witnessed a drastic shift from an era of relatively abundant energy to one of relative energy scarcity, a situation that must be accepted as a reality now and in the future. As transportation adapts to this change, conservation through efficient use of transportation resources becomes essential.

"Although we have lived with energy 'crisis' for some years now, we have yet to come to terms with it. Transportation, as the greatest consumer of energy and the key to much of its future supply, must take the lead in changing wasteful habits and transporting alternative sources of energy.

"We have come to recognize personal mobility as vital to the quality of life for people at all income levels and to the transportation disadvantaged—the handicapped, the elderly and the young. Equity has become an important principle of transportation policy.

"Federal aid (to railroads) will be most effective if it is provided in connection with and in support of restructuring and rationalization of the system, especially in the Midwest.

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[1] See Office of Technology Assessment, "An Evaluation of Railroad Safety," Congress of the United States, Office of Technology Assessment, May 1978. Tables 1–4 are taken from the study.

[2] See Eric Hirst, "Energy Intensiveness of Passenger and Freight Transport Modes: 1950–1970," Oak Ridge National Laboratory, ORNL–NSF–EP–44, April 1973.

[3] U.S. Department of Transportation, "A Survey of American Attitudes Toward Transportation," Report No. DOT–I–78–1, January 1978.

[4] Ibid., p. T–73.

"Acceptance and implementation of these new directions in transportation policy would mean (among others):

"A streamlined private sector rail system providing increasingly safe, efficient and energy saving transportation of freight.

"A rail passenger system providing effective service on a nationwide selected set of routes at a reasonable subsidy level." [5]

Unfortunately, notwithstanding the good reasons and public support for doing so, the job of revitalizing the railroads is not getting done.

At the risk of noting a commonplace, I must say that the rail problem cannot be solved in isolation. We must develop a comprehensive, integrated national *transportation* policy—including a strong pro-rail component. A national *railroad* policy, by itself, will likely only perpetuate the fragmentation, chaos, and decline.

Part of the problem, of course, is that railroads are regulated more stringently than other modes of transportation and they receive a miniscule share of present-day federal transportation subsidies. I am hopeful that vigorous implementation of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act) will lead to a bit more balanced approach.[6] However, I do not believe that the statute, by itself, is a panacea.

State efforts

States have a vital role to play in the development of transportation policy. Our office is now surveying the primary state activity—rail planning. Tentatively, it appears that state rail planning is not being integrated with other state-level transportation planning programs as provided by Section 5(j) of the Railroad Revitalization and Regulatory Reform Act.

A State is eligible to receive rail service assistance under the Act if:

". . . such State has established an adequate plan for rail service in such State as part of an overall planning process for all transportation services in such State, including a suitable process for up-dating, revising, and amending such plan. . . ."

In addition, rail planning is now almost completely concerned with the evaluation of proposed rail line abandonments. Many large and ultimately more important rail issues do not appear to be receiving sustained attention in state rail planning efforts. Abandonments are an important problem; but confining state rail planning to this one feature of the declining rail industry will insure that the other issues are put off for a couple of years by most states. The states should somehow be reminded by the Federal Railroad Administration to look at the bigger picture: including state taxes which inequitably impede rail operations, new opportunities for state participation in rail financing, and more. Further, states are often found leading the charge for increased federal highway expenditures which, in some cases, only further imbalance the system. Finally, most states have done very little in the area of user charges. The typical situation is that the trucking industry does not pay its fair share for the construction and maintenance of highway facilities. (Of course, the trucking industry is generally correct in pointing out that many states drivers license fees do not cover the costs of administering the licensing programs.)

In short, the federal government must not simply prod the states into evaluating the lesser features of the national railroad/transportation problem. I'm afraid that will be the effect of state rail planning funding unless further steps are taken.

Federal efforts

It is by now well understood that highway transport, air carriers, and domestic waterway operations have been subsidized in a consistent fashion far in excess of comparable rail subsidies. Recent figures indicate that highways have received some $89 billion in direct federal aid. The figures for air carriers ($26 billion) and domestic waterway operations ($15 billion) easily overshadow the $1.8 billion in direct aid to the railroads. It is an exercise in semantic juggling to argue that a highway system supported by domestic taxation and not operated at a profit is somehow "paying its own way", thus attempting to explain the subsidy imbalance.

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[5] Brock Adams. "Transportation Policy for a Changing America," U.S. Department of Transportation. Feb. 6, 1978. pp. 1, 2, 7, 9, 22–23, respectively.

[6] Public Law No. 94–210, 90 Stat. 31.

At the same time, it must be admitted—as asserted by rail competitors and state public service commissions—that the remnants of the 19th century railroad land grants appear as something of a bonanza, especally for certain Western railroads. The federal government has been seriously remiss in its failure to evaluate more carefully the effects of these grants on the provision of rail transportation. Certainly, a number of the legal issues surrounding the rail land grants have been tried over the years; however, the deeper question has not been addressed: Do the railroad land grants—and the continuing tendency of railroads to involve themselves in non-rail activities—enhance or impede effective rail operation? It seems clear that the non-rail activities distract cash and capital; divert management attention from the difficult business of running a railroad; and provide an easy target for rail competitors and rate regulators to demonstrate that the railroads are doing well enough without additional support.

Some argue that all federal subsidies to transportation should be reduced or eliminated. The theory—and it's a bad one—is that the all-knowing marketplace will take care of our transportation needs. Others suggest that rail subsidies should simply be increased to enhance competitiveness with other modes of transportation. I would agree in principle that fairness in the distribution of federal subsidies is important; however, if the goal is to establish a strong, viable national rail network, then the subsidy balance is mostly a matter of expedient—not a final solution.

Ultimately, we need to rationalize rail freight transportation by consolidating the railroads. The savings of consolidation could quickly run to *billions* in operating efficiencies, more effective capital and maintenance priorities, the elimination of circuitous routings, and the use of a nationwide rail computer system. Unlike the present "voluntary" merger movement, the benefits of encouraged or, if necessary, compelled mergers would not be falsely bloated with the false benefits of traffic diverted from other parts of the rail freight system.[7]

On the rail passenger side, citizens around the country have consistently demonstrated an active interest in increased Amtrak quality of service and frequency. Unfortunately, the Department of Transportation apparently does not agree. Recently, the Secretary recommended dropping ⅓ of the Amtrak rail passenger system. The idea is to cut the Amtrak deficit from $529.2 million to $437.1 million.[8] I'm all for reducing the federal budget deficit, but prematurely terminating the Amtrak experiment before it has had a chance to prove itself is ill-advised. In fact, we could reduce the Amtrak deficit/mile by expanding the system.[9] That's the way to conduct a fair test of Amtrak.

If Amtrak is to be effective, it will require better integration with rail freight operations. I am amazed, for example, that some of the worst on-time performance in the country is found on the rights of way of Burlington Northern—a railroad which is reportedly one of he nation's strongest railroads.[10] It may very well be that private rail management's negative attitude toward rail passenger service is the principal cause of the tardiness. If it is, the private railroads need additional strictures to insure that they are not unduly Amtrak operations, thereby increasing its deficit and discouraging ridership. In addition, the Amtrak board of directors still is excessively dominated by the same private railroads which hollered their way out of providing rail passenger service. They should be removed from the board. Their expertise could be provided through participation in a broadly based advisory council, leaving room for directors committed to rail passenger service.

There are other steps that could be taken to improve rail passenger service. For example, as Paul Reistrup suggested, we should establish a centralized travel planning system so travelers can call one number and receive information on all

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[7] According to the Milwaukee Road, the proposed merger of Burlington Northern with the St. Louis and San Francisco would divert some $13 million in revenue traffic from the beleaguered Milwaukee. Burlington Northern counters that only some $3 million would be diverted. Interstate Commerce Commission Finance Docket 28583 and 28583 sub–1.

[8] U.S. Department of Transportation, "A Re-examination of the Amtrak Route Structure: A Preliminary Report to Congress and the Public," May 1978, pp. 5–13.

[9] See Ibid., scenario "E", pp. 4–11 and 5–11. The Secretary's study is exceedingly weak in evaluating alternatives to the proposed, skeletal route. The expanded alternative (E) in particular should be studied thoroughly before final recommendations are developed.

[10] Ibid., p. 3–21, shows on-time performance of the Chicago/Seattle via Havre and Chicago/Seattle via Billings to be 41.2 and 50.0 respectively. See "For Burlington Northern, Its Coal—and a Whole Lot More," Railway Age, Dec. 26, 1977.

available travel options—rail, jet, bus, and so on.[11] Centralized and modern intermodal terminal facilities would likewise help. And what about expanding the auto-train concept, whereby rail passengers can easily obtain auto or alternative transport at their destinations?

Federal rail policy

At the federal level, development of an effective rail policy has languished. Some of the hiatus must be credited to efforts to implement the Railroad Revitalization and Regulatory Reform Act of 1976. Any new statute scatters the troops for awhile. Nonetheless, there are several possibilities for renewed and effective action.

In 1967, for example, Congress created the Federal Railroad Administration and basically charged it with the task of developing a unified national rail policy and consolidating government support for the railroads. Although some progress can be noted, the unified policy has not appeared. The Federal Railroad Administration should be reminded of this important obligation and should be funded appropriately to conduct a national rail policy study in a manner that will permit *full consultation* with the affected public interest groups.

The Rail Service Planning Office—created by the 4R Act—studied rail industry structures and mergers, but did not go far enough.[12] The studies noted that mergers offer little hope for curing the most diseased railroads; but they offered little guidance about rail industry structures that *would* help.

In the absence of firm federal leadership, it is likely that the strong railroads will continue with the rash of end-to-end merger proposals advanced in recent months. However, these voluntary mergers—even if consummated—do little to guarantee achievement of a national rail network.[13] They consolidate the strong to the detriment of the weak. (If this pattern is to continue, I hope the ICC will at least take seriously the recommendation of the Rail Service Planning Office in its final Rail Merger Study report to the effect that "the commission should establish procedures to perform post merger analyses."[14] In the past, only the Penn Central has received systematic *ex post* evaluation—for obvious reasons.) We have been informed that Burlington Northern, for example, was not required to submit merger benefit figures to prove their contentions about BN merger benefits.

I believe we must look this rail industry structure issue squarely in the eye. Ultimately, the railroads of America will succeed or fail *together*. Major weaknesses in the Northeast and Midwest will gradually undermine even the strongest carriers, for they're all in this mess together. Although the stronger carriers haven't seemed to notice, no one is exempt from the common fate.

E. Spencer Miller of the Maine Central and Norton Simon have advocated for some time what I believe to be one promising solution to the structure of the railroad industry. We must investigate closely their suggestion of a single national rail corporation owned by shareholders and the alternative of consolidation into a few major systems. The opportunity for savings under such systems are enormous. Both ideas have been reasonably well-received in professional circles and I believe it is time the federal government lent some of its resources to analyzing the notions *in detail*. Careful study of these proposals and other rail structure alternatives—perhaps by the Federal Railroad Administration in conjunction with the Rail Services Planning Office—is my most important recommendation.

There are other matters that must be considered in formulating rail policy.

First, as you are aware, many have been disturbed about the quality of railroad accounting and disclosures. In response to allegations Norton Simon made when he resigned the Burlington Northern board in 1974, both the Interstate Commerce Commission and the Securities and Exchange Commission undertook investigations of Burlington Northern. ICC botched the job, but the SEC took the matter quite seriously. This office and its predecessor have followed up on those

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[11] Paul H. Reistrup, "Transportation 1985: What Happens When the Well Runs Dry?", Remarks delivered to the Comstock Club, Sacramento, Calif., May 2, 1977, pp. 10–11.

[12] Rail Services Planning Office, "Rail Merger Study: Final Report," Interstate Commerce Commission, February 1, 1978.

[13] Value Line recently stated that the Burlington Northern merger with the St. Louis and San Francisco is not included in its estimates because "We doubt the deal will reach fruition." Value Line, May 26, 1978, 1180; and the proposed merger of the Southern Pacific with the Seaboard Coast Lines was dropped with minimal comment by the parties. Southern Pacific is continuing its purchases of Seaboard stock.

[14] RSPO, op. cit., note 14, pp. 5, 55–57.

investigations as part of a larger study of Burlington Northern and the railroad industry.[15] I have attached the consent order entered by the Securities and Exchange Commission in its investigation of Burlington Northern and the special SEC 8–K report required by that order. (See Attachments A & B respectively.)

I have some difficulty with SEC's consent order practices (used in 90 percent of the approximately 160 civil lawsuits brought by SEC each year). And I agree with the attached Wall Street Journal editorial which notes that a comprehensive review of SEC remedies is in order. (See Atachment C.) The public needs more from these investigations than carefully worded orders which often conceal as much as they reveal. The typical procedure is that Securities and Exchange Commission staff and well-paid rail attorneys negotiate in intense, secret sessions concerning the nouns, adjectives, verbs, and punctuation of a consent order. The final document thus does not necessarily tell the whole story that should be known. The public—including the investing public—is denied the important chance to see what the differences of opinion are.

In any case, the SEC order makes it clear that Burlington Northern reports, probably not alone in the railroad industry, "have not provided adequate information with respect to (1) policies and practices concerning maintenance and capital expenditures for physical plant and equipment and (2) the profitability of its railroad operations." (See Attachment A.) The order warns that BN's "reports have not clearly reflected the decline that has occurred in the profitability of BNI's freight service since the merger. . . ." and that BN's reports for the years 1970 to date filed with the Commission have failed to comply with the disclosure requirements . . . of the Exchange Act and the applicable rules thereunder." (See Attachment A.)

Burlington Northern was directed by the consent order to prepare an independent study involving:

"Its outside special counsel, who will work in conjunction with BNI's personnel, other outside counsel and independent auditors, to conduct a special study and to prepare a report of their conclusions and recommendations which shall be submitted to BNI's board of directors concerning:

"(a) Internal information system and internal reporting procedures with respect to the condition of BNI's physical plant and equipment fleet, and with respect to the impact of maintenance and capital spending on plant, equipment, earnings and other financial results;

"(b) Accounting policies with respect to physical plant and equipment;

"(c) Proposals for improvements in the disclosures made in BNI's filings with the Commission." (See Attachment A.)

This office has just received a copy of the first third of the Burlington Northern study and will submit additional comments when we have the opportunity to review the entire study with the care it deserves.[16]

In the meantime, the new "line of business" reporting required for corporate annual reports will help discerning investors and policy makers to make better decisions. (See Attachment D for an example from the 1977 Burlington Northern Annual Report where it is noted that Burlington Northern experienced a $10.7 million net loss in its railroad in 1977.) But it would also help to have more direct figures on the ability of railroads to meet their fixed costs.

It should be added that the Securities and Exchange Commission has now initiated a comprehensive proceeding on rail disclosures.[17] The outcome of that proceeding could well decide whether the true financial situation of the nation's railroads will ever be known.

Railroads have an understandable conflict of desires in their accounting and disclosure policies. On the one hand, the railroads are facing staggering capital requirements over the next several decades. It is estimated, for example, that the railroads will need $60 billion for upgrading and maintenance in the next

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[15] That study, "No Way to Run the Railroads," should be available in published form soon.

[16] Study Report to the Board of Directors of Burlington Northern Inc., submitted in compliance with Securities and Exchange Commission opinion and order dated Apr. 28, 1977. Securities and Exchange Act of 1934 (Release No. 13480, Admin. Proc. File No. 3–5211), Haskins & Sells; Sidley & Austin; and Wilmer Cutler & Pickering, Nov. 10, 1977. The remainder of the study is being sought under the federal Freedom of Information Act by this office.

[17] Securities and Exchange Commission release No. 33–5824, 42 Federal Register, No. 92, May 12, 1977.

ten years—leaving aside significant innovations. Optimistically the railroads can only generate about half of that amount internally. They must seek most of the remainder from private capital sources. And, of course, you don't raise capital by marching under a banner of impending fiscal collapse or stagnation. The pressure is to arrange financial data and the accompanying text so as to leave an up-beat impression.

At the same time, however, the railroads must convince the Congress and federal agencies that their plight is such that Congress should reorder national transportation priorities to favor the railroads.

A more rail-receptive federal posture may be the only way to get the whole railroad financial story told. From what I've seen, it is a grim tale that must be heard soon. Until we hear it, we are in a poor position to solve the railroad problem.

As noted previously, there is good reason to be concerned about the increasing involvement of rail companies in non-rail development activities. There is a natural tendency for a stockholder-conscious corporate manager to invest the incremental dollar where it appears to produce the greatest return. As indicated, rail returns are significantly lower than almost any other available investment.

Railroad companies are now selling everything from pantyhose to timber and hotel accommodations. The industry often argues that these activities are beneficial to the railroad.[18] However, even the ICC is not sure; and for good reason.

These non-rail developments do not always pan out. For example, Burlington Northern's land development subsidity has experienced losses as follows:[19]

Year:	*Loss*
1975	$597,000
1976	547,000
1977	312,000

Southern Pacific operates a common carrier telecommunications system linking some 40 metropolitan areas. However, competition with A.T. & T. has caused problems. Losses—until just recently—appear to be deepening:[20]

Year:	*Loss*
1973	$951,000
1974	7,206,000
1975	15,401,000
1976	23,191,000
1977	26,279,000

In 1977, the losses represented over ¼ the amount of pre-tax net income produced by the railroad.[21]

There are numerous other examples of a potential problem which no one has adequately surveyed. The upshot is that non-rail development activities can hurt the railroads—whether the non-rail activities are profitable or not. If profitable, they encourage diversion of scarce capital and cash from the rail side of the operation; and they lend weight to the argument of competing modes that rail conglomerates are doing quite well and don't need rate increases or subsidy balance. If the non-rail activities are not successful, their losses only burden the railroad further. It seems clear that the dollar flows engendered by non-rail activities deserve special scrutiny; for it is not at all clear that the railroads are advantageously situated to press forward with non-rail developments—without creating

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[18] "What Rail Conglomerates Do for Their Railroads," Railway Age, Sept. 27, 1976, p. 27f.

[19] Burlington Northern, 1977 annual report, p. 20. The losses are declining and management hopes the subsidiary will begin contributing to net income in 1978.

[20] Southern Pacific, 1977 annual report, pp. 21, 24.

[21] Rail net before taxes totaled $119,195,000. Ibid., p. 24.

difficulties for themselves.[22] To answer this question, we need *solid* analyses of the railroad industry's structure and dollar flow.

Although the Interstate Commerce Commission and the Rail Service Planning Office have recently concluded their studies,[23] they are not as helpful as they might be.

As Commissioner O'Neal noted in his dissent to the Interstate Commerce Commission report on Railroad Conglomerates & Other Corporate Structures:[24]

"I am in substantial agreement with the reported majority. However, because I disagreed with the limitations placed upon the scope of this investigation by the majority, I have entered this separate expression. . . .

"Almost all of the railroads and some of the holding companies cooperated fully. However, eight respondents refused to permit the agents and auditors of the Commission to copy and inspect certain records. The eight respondents were Chessie System Inc.; Chicago Milwaukee Corp.; Rio Grande Industries Inc.; Santa Fe Industries Inc.; Southern Pacific Co.; Southern Pacific Transportation Co.; Union Pacific Corp.; and Western Pacific Industries. The Commission staff held a series of informal meetings . . . with those respondents, and when those efforts did not produce the requested materials, the Commission . . . held another informal conference with the eight respondents. . . . After the conference the Commission voted to approve further letters to the eight respondents. Those letters . . . constituted a significant modification of the original request made. . . . The chief difference concerned the issue of access to the holding companies' books and records. Unlike the earlier request, the . . . letters did not require that our auditors be granted access to holding company records. Rather, they specified certain items of information deemed relevant to the study, and asked that the respondents provide certificates that the requested information was 'complete, true and correct in all respects.' Reliance upon certificates in lieu of audit means that the completeness and accuracy of the investigation is under the control of the subjects of the investigation. It means that the respondents, not the Commission, are the judges of whether or not any particular transaction between the railroad and the holding company parent is relevant to the investigation. . . . The use of certification in this proceeding may set a precedent which may inhibit the Commission's regular audit function in the future.

"In addition to accepting certification in lieu of access, the . . . letters modified the earlier Commission request in another significant way. They asked that the holding company respondents provide information as to transactions involving the railroads or the non-carrier subsidiaries of the railroads. The May letter, for

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[22] Of course, pursuit of the perceived higher return within the rail sector of a corporation can also produce problems—for the railroads, and for the shipping public. A classic example can be seen in the western railroads. They have invested millions in anticipation of a coal hauling feast. Burlington Northern, for instance, has socked away some $190 million in coal-related roadway expenditures (projected to total three quarters of a billion dollars by 1981) and expects coal tonnage to increase to 125 billion tons in 1981 (Burlington Northern Inc., form S–7, registration statement, Securities and Exchange Commission, registration No. 2–58997, May 13, 1977, pp. 19–26). Currently, coal is BN's tonnage and revenue leader. However, there is considerable inexperience with the weights and equipment used in long coal unit trains. Their useful lives are not predictable with certainty—which fuzzes investment decisions. These and other uncertainties make it difficult to predict what the Western rails like Burlington Northern will net from these colossal investments—if anything much. And how will it affect their service to other commodity shippers—e.g., grain farmers who are a financial bulwark for the railroads and who are experiencing the worst grain car shortage in history.

Equally, if not ultimately more important is the indication that coal slurry pipelines will eventually receive condemnation authority in some form from the Congress. This would cut substantially into rail coal hauling projections—with much of the rail investment already in place and demanding a return. Burlington Northern itself argues that a single Wyoming-Arkansas slurry line would deprive the railroads of $150 million in gross revenues per year.

[23] RSPO, op. cit. note 14; and Interstate Commerce Commission, "Railroad Conglomerates and Other Corporate Structures: A Report to Congress as Directed by Section 903 of the Railroad Revitalization and Regulatory Reform Act of 1976," Feb. 5, 1977.

[24] Ibid., pp. 76–78.

example, requested access to the minutes of all board meetings in order to provide information not only on transactions involving railroads but also 'transactions and dealings with others having a significant effect on the railroads.' Limiting disclosure to transactions involving the carrier or the carrier's subsidiaries could omit significant holding company decisions affecting the railroad, such as changes in the amount budgeted for railroad maintenance."

It must be noted that the dollar flows in non-holding company railroads—most of which have sizeable non-rail subsidiaries—were discussed in five scant pages in the ICC study utilizing only "readily available date in order to obviate the need for special visitation procedures." [25] Thus, it can fairly be said that the rail industry has not adequately been examined. And, as noted, the Rail Services Planning Office merger study does not really face the key rail merger issue: What is the appropriate structure of America's rail industry and how do we achieve it?

Beyond the above, there apparently still exist some discriminatory rate and routing practices in the railroad industry. One of the most common is affectionately called "See America First" routing. It involves shipping a commodity sometimes thousands of miles out of the way in order to avoid the tracks of uncooperative rail colleagues. (Perhaps they're withholding support on a rate increase request or some such.)

The same may be true of new financing arrangements between railroads and coal shippers. The ICC is presently considering enforcement action concerning some Burlington Northern track construction agreements with energy concerns. Under the post-1972 agreements, BN constructs the lines, but the shipper makes progressive payments as the line is completed. These costs plus interest are reimbursed to the shipper based on shipper tonnage hauled by the railroad.[26] Further analysis of these and other potentially discriminatory and in some cases inefficient practices would help.

Finally, I don't see much progress in expanding the horizons of rail boards and management. New blood would help. And there is no reason why railroads can't achieve better minority representation on their boards.

One of the best ways for the railroads to demonstrate their good faith in carrying out their important public function is to expand their boards, consider innovative ideas, and listen more carefully to the public they serve. Image advertising may impress the industry, but it is no substitute for greater rail/public cooperation and the frank interchange of opinions and suggestions. The rails—still facing the legacy of their robber baron image—will need more public goodwill in order to survive.

CONCLUSION

In sum, we need a viable *national rail network.* To achieve it we must play fairer with the railroads; at the same time, we must ask a good deal more of them for they are in essence public utilities. And we must certainly evaluate the alternative railroad industry structure more carefully and more honestly than we have in the past. Again, thank you for the opportunity to submit comments. We wish you well in your important deliberations and we will follow them with interest.

If we can supply further detail or clarifications, please don't hesitate to contact us.

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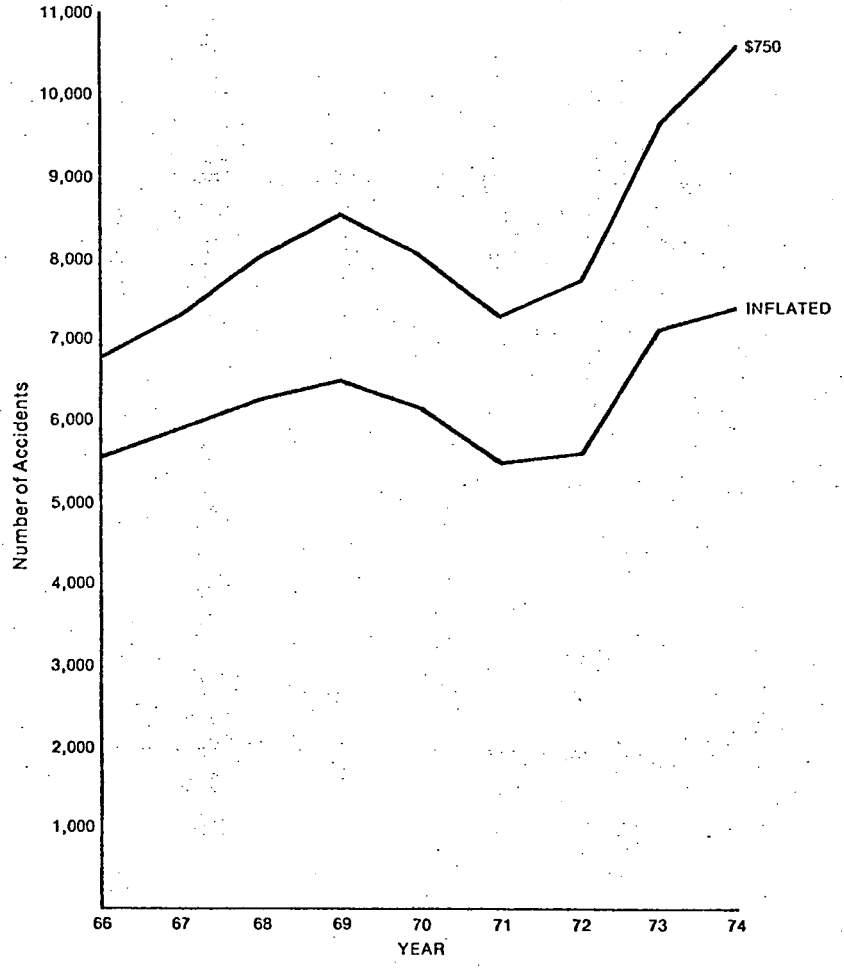
[25] Ibid., pp. 51–55.

[26] Memorandum, To: Earl Clevenger, Regional Auditor; From: L. Neilson, Auditor; Subject: Branch line agreements with certain shippers, Burlington Northern Inc.; Interstate Commerce Commission, Bureau of Accounts, Aug. 1, 1977. Access to the entirety of the memorandum and related materials was denied because the matter has been referred to the Enforcement Division of the Interstate Commerce Commission.

TABLE 1

Figure 3.—Number of Train Accidents at Thresholds of $750, Inflated, 1966-74



Source: A. E. Shulman, C. E. Taylor, *Analysis of Nine Years of Railroad Accident Data 1966-1974*, Association of American Railroads, April 1976.

TABLE 2.—TRAIN ACCIDENTS AND ASSOCIATED COSTS

Year	Train accidents	Loss and damage [1]
1966	6,793	$117.6
1967	7,294	118.0
1968	8,028	140.3
1969	8,543	161.7
1970	8,095	158.4
1971	7,304	144.8
1972	7,532	140.3
1973	9,698	188.4
1974	10,694	243.2

[1] Loss and damage to track roadbed, equipment, and lading (in millions of current dollars).

Source: Compiled by OTA from Federal Railroad Administration and Association of American Railroads data.

TABLE 3.—INTERCITY FREIGHT TRANSPORTATION CHARACTERISTICS

[In millions of revenue freight ton-miles and percentage of total (including mail and express)]

Year	Railroads [1]	Percent	Trucks	Percent	Great Lakes	Percent	Rivers and canals	Percent	Oil pipelines	Percent	Air	Percent	Total
1929	454, 800	74. 9	19, 689	3. 3	97, 322	16. 0	8, 661	1. 4	26, 900	4. 4	3	----------	607, 375
1939	338, 850	62. 4	52, 821	9. 7	76, 312	14. 0	19, 937	3. 7	55, 602	10. 2	12	----------	543, 534
1944	746, 912	68. 6	58, 264	5. 4	118, 769	10. 9	31, 386	2. 9	132, 864	12. 2	71	----------	1, 068, 266
1950	596, 940	56. 2	172. 860	16. 3	11, 687	10. 5	51, 657	4. 9	129, 175	12. 1	318	----------	1, 062, 637
1960	579, 130	44. 1	285, 483	21. 7	99, 468	7. 6	120, 785	9. 2	228, 626	17. 4	778	----------	1, 314, 270
1970	771, 168	39. 8	412, 000	21. 3	114, 475	5. 9	204, 085	10. 5	431, 000	22. 3	3, 295	.2	1, 936, 023
1974	855, 582	38. 6	495, 000	22. 3	107, 451	4. 9	247, 431	11. 2	506, 000	22. 8	2, 580	.2	2, 215, 044
1975 [2]	759, 000	37. 3	443, 000	21. 7	99, 171	4. 9	243, 039	11. 9	488, 000	24. 0	3, 430	.2	2, 035, 640
1976 [2]	796, 000	36. 7	490, 000	22. 6	102, 000	4. 7	250, 000	11. 6	525, 000	24. 2	4, 000	.2	2, 167, 000

[1] Railroads of all classes including electric railways, Amtrak, and Auto-Train.
[2] These are preliminary estimates and are subject to frequent adjustments.

Source: Association of American Railroads, 1977 Factbook, p. 36.

TABLE 4.—RAILROAD RATE OF RETURN

Year	Net investment (millions)	Net railway operating income (millions)	Rate of return (total; percent)	Net income [1] (millions)	Rate of return eastern district (percent)	Rate of return western district (percent)	Rate of return southern district (percent)
1951	$25, 055. 2	$942. 5	3. 76	$693. 2	3. 47	3. 76	4. 74
1955	26, 760. 9	1, 128. 0	4. 22	927. 1	4. 19	3. 86	5. 45
1960	27, 452. 5	584. 0	2. 13	444. 6	1. 80	3. 15	4. 17
1965	26, 040. 6	961. 5	3. 69	814. 6	3. 32	3. 87	4. 16
1970	28, 049. 7	485. 9	1. 73	226. 6	(2)	3. 02	4. 50
1975	29, 297. 3	[3] 465. 2–[4] 350. 7	[3] 1. 59–[4] 1. 20	[3] 186. 9–[4] 144. 4	(2)	2. 65	3. 98

[1] Ordinary income (before extraordinary and prior period items).
[2] Deffered.
[3] Old ICC basis.
[4] New ICC (GAAP) basis, after provision for deferred taxes and (after 1973) including equity in undistributed earnings of affiliates.

Source: Railroads—1977 and Beyond, a congressional symposium (background material), Houses Interstate and Foreign Commerce Committee, December 1977. Taken from Interstate Commerce Commission Transport Statistics.

ATTACHMENT A—UNITED STATES OF AMERICA BEFORE THE SECURITIES AND EXCHANGE COMMISSION

Securities and Exchange Act of 1934, Release No. 13480/April 28, 1977

Admin. Proc. File No. 3–5211

In the Matter of Burlington Northern Inc., 176 East Fifth Street, St. Paul, Minnesota

ORDER INSTITUTING PROCEEDINGS AND FINDINGS, OPINION AND ORDER OF THE COMMISSION

The Commission deems it appropriate that proceedings be instituted with respect to Burlington Northern Inc. ("BNI") pursuant to Section 15(c)(4) of the Securities Exchange Act of 1934 (the "Exchange Act") to determine whether BNI's filings with the Commission pursuant to Sections 12 and 13 of the Exchange Act and the rules and regulations promulgated thereunder were deficient as set forth below.

Simultaneously with the institution of these proceedings, BNI has submitted an offer of settlement for the purpose of disposing of the issues raised in these proceedings. Under the terms of its offer of settlement, BNI, solely for the purpose of these proceedings, without admitting or denying the facts, findings or other statements set forth herein, and on the understanding that nothing contained herein will constitute an admission or denial or adjudication with respect to any matter referred to herein, consents to the Findings and Order of the Commission.

The Commission has determined that it is appropriate and in the public interest to accept the offer of settlement of BNI and, accordingly, is issuing this order.

I. FACTS

Introduction

Burlington Northern Inc. ("BNI") is a Delaware corporation with executive offices located in St. Paul, Minnesota. BNI was formed on March 2, 1970 by the consilidation of its three major constituent railroad companies: Great Northern Railway Company, Northern Pacific Railway Company, and Chicago, Burlington & Quincy Railway Company. As a result, BNI became the Nation's largest railroad system in terms of total miles of road operated.

Most of BNI's over 3 billion in reported assets as of its 1975 fiscal year are related to its railroad operations which account for about 90% of its revenues reported as of the same fiscal year. BNI is also engaged in non-railroad transportation and natural resource related businesses (timber, lumber products, minerals, oil and gas, and real estate).

BNI's past securities offerings were not subject to registration under the Securities Act of 1933 since it is a carrier regulated by the Interstate Commerce Commission ("ICC") under the Interstate Commerce Act.[1] However, securities of BNI are listed and traded on the New York Stock Exchange and are registered pursuant to Section 12(b) of the Securities Exchange Act of 1934 (File No. 1–6324).[2] Also, BNI has filed annual reports with the Commission on Form 12–K, quarterly reports on Form 10–Q, and proxy statements and annual and quarterly reports to shareholders. As part of its Form 12–K and Form 10–Q reports, BNI has filed copies of its annual and quarterly reports to security holders as well as copies of its annual and quarterly reports to the ICC.[3]

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[1] See section 3(a)(6) of the Securities Act. This provision was amended by the "Railroad Revitalization and Regulatory Reform Act of 1976," February 5, 1976 ("P.I. 94–210") which deleted the exemption for public offerings of railroad securities, except equipment trust certificates. Thus, future BEI public offerings of securities (except equipment trust certificates exempted by section 3(a)(6)) will have to be registered with the Commission under the Securities Act.

[2] BNI's registration statements under section 12(b) contain financial and other information and, in certain instances, copies of offering circulars used in post-merger securities offerings are included as exhibits.

[3] The Commission issued for public comment proposed rule changes which could require carriers' reports to fully comply with the provisions of forms 10–K and 10–Q (Securities Exchange Act of 1934, Rel. No. 12892). Present rules permit carriers to file copies of their ICC reports in lieu of the requirements of forms 10–K and 10–Q.

BNI has about 58,000 stockholders and 12.4 million shares of common stock outstanding. In addition, at the end of 1975 BNI had outstanding over three million shares of preferred stock, $65 million face amount of 5¼% convertible debentures and over $800 million in mortgage bonds, equipment and other debt obligations.

In its filings with the Commission and other public disclosures since the merger, BNI has reported a generally upward trend in earnings (except for 1975) [4] and increasing capital and operating expenditures for physical plant, equipment and operations. BNI has also forecast substantial increases in revenues over the next several years from the transportation of Western coal. However, in the view of the Commission, BNI's reports filed with the Commission and other public disclosures have not provided adequate information with respect to (1) policies and practices concerning maintenance and capital expenditures for physical plant and equipment and (2) the profitability of its railroad operations. The Commission believes that such information is necessary for a reasonable appraisal of BNI's operating efficiency, financial results and future prospects.

The Commission acknowledges that determinations concerning the levels of maintenance and capital spending for railroad plant and equipment involve discretionary management decisions. The Commission further recognizes that such spending levels are determined after consideration of a number of factors. These factors may include not only current and anticipated needs and what is desirable from the point of view of physical factors and operational and financial objectives, but also constraints imposed by limitations on financial resources and the practical need of a business to attempt to achieve a reasonable return on capital.

The Commission is not questioning BNI management's decisions as to the appropriate levels of expenditures under the circumstances. What the Commission does question is the adequacy of BNI's disclosure concerning its policies and practices and other factors affecting the levels of such expenditures. In this regard, management spending decisions, as well as the facts and circumstances upon which they are based, can and do have a significant impact on financial results, operating efficiency, and future prospects. Thus, the Commission believes that it is important that investors receive sufficient information to evaluate management decisions with respect to these matters.

Practices concerning track maintenance and other expenditures

Among the factors considered in determining the levels of BNI's track renewals are the historical track renewal patterns and traffic volume, the weight of rail, average can load weight and anticipated future needs. Since about 1958, the average annual levels of BNI's (including its predecessor's) rail and tie replacements have been at approximately one half the levels prevailing in the 1940's and 1950's. Ballast installations have followed the same general pattern. This cyclical pattern of track work appears to be common to the industry generally, although the peaks and valleys may vary considerably from railroad to railroad. Since 1958, BNI in particular and the industry in general have experienced a substantial increase in train weights and a generally upward trend in traffic volume. Large amounts of basic track materials installed by BNI in the 1940's and 1950's have been reaching and will continue to reach the ends of their useful lives.

Derailments, and other accidents and speed restrictions are related, among other things, to track conditions and maintenance levels. BNI states that its maintenance of way related derailments and accidents have been below the national average for Class I railroads.[5] However, the incidence of such accidents on BNI per million train miles increased substantially since the 1950's continuing through post-merger years. According to BNI's 1975 annual report to stockholders, as of December 31, 1975, about 8.8 percent of its track was subject to speed restrictions.

The foregoing factors are relevant to BNI's evaluation of plant conditions and current and future track renewable needs. The increases in traffic volume which BNI has experienced and expects, especially in coal shipments, will increase the need for BNI to consider these factors.

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[4] BNI's consolidated net income 1970 to 1976 is as follows (in millions): 1970, $26.4; 1971, $35.4; 1972, $48.7; 1973, $51.5; 1974, $84.3; 1975, $52.9; 1976, $73.0.

[5] Class I railroads include Conrail and its predecessors, including Penn Central, which tend to increase average.

BNI's track maintenance and other expenditures have also been limited below levels deemed otherwise desirable by BNI management due to considerations relating to earnings and other financial circumstances. This factor has been referred to in statements by BNI's top officers to the Interstate Commerce Commission and in internal BNI communications. In this connection, for example, in September 1973, the Board of Directors was informed by management that BNI had reduced its rail replacement programs in 1973 due to the decline of earnings in the second quarter.[6] The Board was also advised that BNI was holding down new rail replacement levels for 1974 "in order to achieve a satisfactory level of earnings." However, management raised questions as to whether there was any true economy in reducing the relaying program. Costly derailment problems and major increases in traffic density, especially in coal traffic were cited. A need to step-up the level of new rail replacements in the next five years was indicated.[7] In connection with efforts to obtain rate increases in 1973 and 1974, BNI informed the ICC that its "problem is just plain lack of sufficient earnings to provide the cars and facilities we need to move growing freight traffic . . ." and that "[f]ar too long . . . [BNI] has suffered from earnings which have been substandard and inadequate, the pernicious effect of which has been to erode the company's capital structure and physical plant to a critical degree."

Management decisions to increase or decrease (or not to increase) track replacement programs have a different and more immediate impact on current reported earnings than do similar decisions with respect to other capital programs. Under ICC accounting rules applicable to railroads requiring the use of "retirement-replacement-betterment accounting" a railroad's track structure is not ratably depreciated, but rather is written off only when retired. When track structure is replaced, the cost of the replacement is treated as a charge against income in the year incurred. Only the cost allocable to the addition or betterment of the track structure, namely, that portion of the new rail which exceeds the weight of the rail replaced, is capitalized and added to the historical cost. Tie and ballast replacements and all of the cost of labor for such work and rail replacements are treated as current expenses. In this connection, one of the assumptions underlying betterment accounting is that the track structure will be maintained at a relatively constant level and will not be permitted to deteriorate.

In contract, capital expenditures for assets subject to ratable depreciation are capitalized and not treated as a current expense. Therefore, while decisions to increase or decrease any capital expenditure program have identical impacts on cash, such decisions with regard to track programs have a greater immediate impact on reported earnings than decisions with respect to other capital programs.

In light of BNI's past and current practice with respect to track renewals and maintenance, it may face disproportionately large renewal requirements in the future. The increase in traffic volume which BNI has experienced and expects, especially in coal shipments, will also increase the need for track renewals and maintenance. Increased expenditures for maintenance and renewals will necessarily increase charges against revenues which, unless offset by increased revenues and/or productivity, will result in lower railroad earnings. On the other hand, failure to make such expenditures for maintenance and track renewals will adversely affect BNI's operating efficiency and earnings, and future prospects. The Commission believes that BNI has not provided to investors adequate information to evaluate these possibilities.

With respect to equipment maintenance, such expenditures are treated as current expenses and, thus, directly affect income. Equipment maintenance levels affect bad order ratios[8] and utilization. In this connection, BRI told the ICC in April 1974 that it was "vital" for BNI to spend $33 million to reduce its bad order ratios on its locomotives and freight cars from the 1973 levels of about 5.8

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[6] The decline in second quarter earnings also led to limitations on other capital outlays and equipment maintenance expenses. BNI states that, as financial conditions changed during 1973, the rai lreplacement program was stepped up after the first quarter, reduced after the second quarter and stepped up in the final quarter with the result that more miles of track were relayed during the entire year than had been budgeted as of December 1972.

[7] BNI's management also had written to directors in June 1973 informing them of major problems facing BNI in the area of track maintenance: First, the need to remove as quickly as possible the substantial mileage of certain older rail with design defects which lead to broken rails; and second, deficient historical rail and tie renewals on a portion of BMI's rail system.

[8] A bad order ratio is the percentage of locomotives or freight cars out of service and in need of repair.

percent and 4.5 percent, respectively, to 4 percent and 3 percent, respectively. While BNI states that its bad order ratios since the merger have been below the Class I railroad average, its bad order ratios have been substantially in excess of the 4 percent and 3 percent levels and in 1974 and 1975 increased over the 1973 levels.

With respect to capital spending for plant and equipment [9] such expenditures directly affect reported cash and working capital position. The levels of such expenditures affect the extent to which BNI replaces worn out and obsolete plant and equipment and expands its capacity and improves operating efficiency. Capital expenditures by BNI have been limited by the level of earnings attained and the availability of other funds, thus accelerating the need for replacements of significant portions of its plant and equipment.

Nature of BNI's disclosure

BNI's filings with the Commission and other disclosures to the investing public have not adequately dealt with the foregoing factors. To some extent BNI's reports have discussed the aforementioned subject matter. In this connection, for example, BNI has represented in its January 15, 1974 mortgage bond circular and in reports to security holders for the years 1973, 1974 and 1975 that BNI believed its track structure had been adequately maintained for then present traffic levels and safe operation but indicated that increased expenditures would be required in the future due to recent and expected traffic increases, especially in the transportation of coal. In its 1974 and 1975 annual reports, BNI also represented that its track was in the best overall condition since the merger. The aforementioned documents also contained statistics concerning the amounts of rail, ties and ballast installed by BNI. In addition, BNI has included information concerning equipment maintence and capital expenditures programs. However, in light of the preceding discussion, the Commission does not believe that such disclosures by BNI have been adequate.

Profitability of railroad and freight operations

BNI's reports filed with the Commission reflect the contributions of its transportation (mostly railroad) and its nontransportation activities to revenues and to "net operating income." Such reports state that BNI does not allocate its substantial interest and other fixed charges ("fixed charges") among its lines of business. As a consequence, such reports fail to fully and accurately reflect the contribution of the railroad relative to net operating income.[10] For example, BNI's line of business reporting for the years 1970 through 1975 shows that its transportation operations accounted for 92 percent of revenues and 59 percent of net operating income (or $371 million). If an allocation of fixed charges related to the transportation business were made, the contribution of transportation to net operating income would be materially reduced.

In addition, BNI's line of business reports have omitted other material information necessary to make a reasonable comparison and appraisal of the results from continuing operations, which has consisted almost entirely of freight operations since the Amtrak take-over of BNI's intercity passenger train operations in May 1971. In this connection, BNI's line of business reports do not break out the contribution of freight versus passenger operations or disclose the passenger deficit for each year. Thus, such reports have not clearly reflected the decline that has occurred in the profitability of BNI's freight services since the merger.

II. FINDINGS

For the reasons set forth in Part I hereinabove, the Commission finds that BNI's reports for the years 1970 to date filed with the Commission have failed to comply in material respects with the disclosure requirements of Sections 12 and 13 of the Exchange Act and the applicable rules thereunder.

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[9] These are items which are capitalized for accounting purposes. Plant items include new lines and extensions and communications and signalling systems. Equipment items include new locomotives and freight cars.

[10] While the Commission's approach to the allocation of fixed charges contemplates that management of a company will exercise some degree of discretion in devising a reporting pattern appropriate to the company's operation, management should structure its presentation in a manner which presents information necessary to a reasonable appraisal of the results shown.

III. OTHER CIRCUMSTANCES

BNI contends that it is one of the better maintained railroads in the nation, and the Commission acknowledges that it is making large dollar expenditures for plant and equipment. BNI also states that lower track renewal levels since the 1950's are the consequence in part of its practice of replacing older rail with heavier weight rail and improvements in the quality of ties and ballast and of altered traffic patterns as a result of the merger. BNI also states that future track renewals may not closely follow historical patterns due to technological developments, mergers, general economic conditions, demographic and traffic shifts, and numerous other factors which have altered since the merger or may alter in the future. BNI points out that it has installed more rail, ties and ballast each year since merger than it did the previous year; that its maintenance of way ratio (i.e., the percentage of its revenue spent for maintenance of track and structure) has consistently exceeded the average for the Class I railroads of the country; that the size and power of BNI's locomotive fleet and the carrying capacity of its cars have increased; that BNI has a lower percentage of its cars out of service than the average for the Class I railroads of the country; and that BNI's train accident ratio is below the national average. Further BNI points out that its accounting records are in order and fully comply with the accounting regulations prescribed for Class I railroads by the ICC. The Commission has taken the foregoing representations by BNI into account in determining whether to accept BNI's offer of settlement and, to the extent they are relevant to the issues raised in this proceeding, the Commission has carefully considered them and nevertheless reached its conclusions concerning BNI's disclosures for the reaons stated in its opinion.

BNI alo requests that the Commission consider the following undertakings which it has made as part of its offer of settlement:

1. BNI will include in its next annual or quarterly report to security holders (whichever is earlier) a summary of the contents of this Order and a notice that BNI will furnish a copy of the Order to security holders on request.

2. BNI will include a summary of this Order in any prospectus (in addition to other disclosures required in a prospectus) used in connection with any public sale by BNI of its securities until at least the report contemplated in paragraph 5 below has been submitted to the Commission.

3. BNI will (a) review its disclosures to the Commission and the investing public, including disclosures with respect to its maintenance and capital spending practices and needs and the impact thereof on its financial results, operating efficiency future prosnects, and (b) include in future reports and registration statements filed with the Commission such modified or additional information as is necessary or appropriate for a reasonable appraisal of the disclosures made and otherwise necessary to comply with the requirements of the federal securities laws.

4. BNI will include in annual reports and Securities Act registration statements filed with the Commission appropriate line of business reports that contain (i) an appropriate allocation, to the extent material and practicable, of interest and other fixed charges, including interest on mortgage bonds, between BNI's transportation and non-transportation business: and (ii) a breakdown of the contribution of freight and passenger segments of BNI's transportation business.

5. In furtherance of its undertakings described in paragraphs 3 and 4 above, BNI has employed its outside special counsel, who will work in conjunction with BNI's personnel, other outside counsel and independent auditors, to conduct a special study and to prepare a report of their conclusions and recommendations which shall be submitted to BNI's board of directors concerning:

(a) Internal information systems and internal reporting procedures with respect to the condition of BNI's physical plant and equipment fleet. and with respect to the impact of maintenance and capital spending on plant, equipment, earnings and other financial results;

(b) Accounting policies with respect to physical plant and equipment;

(c) Proposals for improvements in the disclosures made in BNI's filings with the Commission, including those made pursuant to the undertaking described in paragraphs 3 and 4.

BNI will provide such personnel and resources as is necessary to carry out such study and prepare such report.

The aforesaid study and report of the conclusions and recommendations will be completed within six months of the date of this Order, or such later date as the staff of the Commission and BNI may agree. A copy of the report ("study report") will be promptly transmitted to BNI's board of directors which, within 60 days, shall determine what action to take with respect to such conclusions and recommendations. Promptly after the board determines what action to take, BNI will transmit to the Commision a copy of the study report and a report of the action taken by the board. Said study report and report of board action may be submitted to the Commission under cover of an appropriate application for confidential treatment pursuant to Section 24 of the Exchange Act, the Freedom of Information Act and relevant rules of the Commission; provided, however, that favorable action by the Commission on such application is not a condition to its receipt of such reports. Promptly after the board determines what action to take with respect to the study report, BNI will also file with the Commission on Form 8–K a summary of the board's action with respect to such study report.

IV. RAILROAD INDUSTRY PROBLEMS

BNI has suggested that problems related to maintenance and capital improvements are industry-wide in character as reflected in the recently enacted P.L. 94–210 and has noted that pursuant to this Act the Secretary of Transportation is now conducting an industry-wide study to be reported to Congress with recommendations as to the nature, kind and amount of financial assistance required. The Commission has not made and cannot make an industry-wide investigation. The Commission recognizes, however, that deficiencies with respect to disclosures concerning maintenance and capital expenditures, may not be unique to BNI, and the Commission stresses the importance of investors receiving complete, timely and accurate information concerning plant and equipment conditions and maintenance and capital spending practices of railroad issuers.

In this connection, the Commission is concerned that adjustments in accounting treatment may be necessary if the conditions supporting the use of betterment accounting have changed. While the Commission is not prepared to resolve this issue in this proceeding, it is affirming the obligation of railroad issuers to make disclosures of the factors affecting charges against income in light of maintenance practices and the impact of the betterment method. In connection with its new responsibilities for railroad accounting conferred by P.L. 94-210, the Commission is currently studying this accounting problem.

V. ORDER

In view of the foregoing, the Commission deems it appropriate in the public interest to accept the offer of settlement of BNI and, accordingly,

It is hereby ordered that proceedings be and they are hereby instituted and that BNI comply with its undertakings set forth in Part III hereinabove.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

ATTACHMENT B—SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D.C.

Special Report Pursuant to Section 13 of the Securities Exchange Act of 1934, December 22, 1977

Filed in Compliance with Securities and Exchange Commission Opinion and Order Dated April 28, 1977, Securities Exchange Act of 1934 (Release No. 13480, Admin. Proc. File No. 3–5211).

Burlington Northern Inc., St. Paul, Minnesota 55101

ITEMS OF INFORMATION

Item 5. Other materially important events

In April, 1974 the Securities and Exchange Commission (SEC) instituted a private investigation to determine whether the Company had complied with the Securities Act of 1933, the Securities Exchange Act of 1934 and certain

rules promulgated thereunder in connection with certain security offerings by the Company, reports sent by the Company to its security holders and other persons and certain reports which it filed with the SEC. The investigation was terminated by an administrative order of the SEC pursuant to an offer of settlement submitted by the Company.

In its offer of settlement the Company undertook, among other things, to conduct a special study, employing special outside counsel, its regular counsel, its independent public accountants and Company personnel, and to submit a report to its Board of Directors concerning (a) the Company's internal information systems and reporting procedures with respect to the condition of its physical plant and its equipment fleet, and the impact of maintenance and capital spending on plant, equipment, earnings and other financial results, (b) its accounting policies with respect to physical plant and equipment and (c) proposals for improvements in the disclosures made in the Comany's filings with the SEC. The order required that the study and report be completed within six months from the date of the SEC's order and furnished promptly thereafter to the Company's Board of Directors, and that within sixty days from completion of the report the Company's Board determine what action to take with respect to the conclusions and recommendations contained in the report. The order further required that a copy of the report and a report of the action taken by the Company's Board of Directors in respect thereto be transmitted to the SEC and a summary of the action taken by the Board be included in the Company's next report to the SEC on Form 8–K. The material contained in this item of this report is furnished in response to said order.

The special study was completed and the results thereof and the conclusions and recommendations of the study group were presented to the Board of Directors by the study group in a document dated November 10, 1977 entitled, "Study Report to the Board of Directors of Burlington Northern Inc. . . . Submitted in Compliance with Securities and Exchange Commission Opinion and Order dated April 28, 1977, Securities Exchange Act of 1934 (Release No. 13480, Admin. Proc. File No. 3–5211)."

With respect to improvements in disclosures to be made by the Company to the investing public and in the Company's filings with the SEC, the study group made a series of specific recommendations as well as a general recommendation that the Company continue the disclosure practices embodied in the July 7, 1977 prospectus for 2,000,000 shares of $2.85 convertible preferred stock. These recommendations may be summarized as follows:

That the Company disclose for each of the most recent five years, separately from disclosure of revenues and expense items for all transportation activities combined, the following items for rail transportation alone: revenues, transportation expenses, maintenance of way and structures, maintenance of equipment, taxes other than income, equipment rents and joint facilities costs—net and other transportation expenses;

That the Company disclose for each of the most recent five years, separately for rail transportation, air freight forwarding and motor transport transportation, the items operating revenues, net operating income, and income before income taxes and minority interest;

That the Company disclose rate of return on investment on a five-year comparative basis;

That the Company disclose dollar amounts for coal-related roadway capital expenditures, annually on a five-year comparative basis, to the extent that these historical expenditures can be reliably related to coal roadway projects;

That the Company disclose maintenance-of-way ratio, total maintenance expense ratio, transportation ratio, other expense ratio and total operating ratio for rail operations on a five-year comparative basis;

That the Company disclose a series of track performance indicators (e.g., slow orders, accidents and track inspection data) track maintenance and capital expenditures per mile of road, miles of road and accumulated gross tons per mile of track by annual traffic volume categories;

That the Company expand its disclosures of equipment condition indicators to include road locomotive and freight car acquisitions for the last 25 years by five-year increments;

That the Company disclose forward-looking information only to the extent required by law and sound business practice;

That when the Company discloses forward-looking information it should take steps to insure that information was developed by a reasonable process and supported by verifiable facts and reasonable assumptions that are clearly identified;

That the Company monitor actual achievement compared with projections, and consider disclosing variations shown by such comparisons;

That the Company disclose, on a year-by-year basis to the extent practicable, the capital cost for planned coal-related facilities:

That the Company continue its current disclosure practices with respect to "deferred maintenance", if any, and in addition continue its efforts to develop reliable quantitative estimates of rail life:

That the Company continue its current disclosure practices with respect to the allocation of interest and other fixed charges between its transportation and nontransportation business;

That in view of the insignificance of the contribution of passenger traffic to net transportation operating income, the Company discontinue separately disclosing such contribution.

The study report also contains a series of recommendations concerning the Company's internal information systems and internal reporting procedures relating to the condition of the Company's physical plant and equipment fleet. The recommendations provide for an expanded and more formalized flow of information to senior management and the Board of Directors on track structure condition (e.g., slow orders, track testing, accidents caused by track structure defects, tie replacements, new rail relay programs, etc.) and equipment fleet condition (e.g., bad order, on-line failures, accidents, age, etc.).

The study report also reviews and evaluates the Company's internal financial information systems and reporting procedures with respect to the impact of programmed maintenance and capital spending on plant, equipment, earnings and other financial results and makes a series of recommendations for improving such systems and procedures. These include presentation of a separate program maintenance budget and the five-year plan to the Board of Directors for its information.

The study report further recommends that the Company continue its use of betterment accounting for track structure, and, in addition, that the Company disclose in reports to stockholders and filings with regulatory agencies on an "as if" basis certain effects of accounting for track structures on a ratable depreciation basis. The disclosure would include the "as if" effects on depreciation expense, expense of repairs and renewals to track structure, working capital and net properties.

At its regular meeting held on December 5, 1977, the Board of Directors accepted and approved the study report and directed that the recommendations with respect to disclosure contained therein be implemented forthwith, to the extent that, and as soon as, the information required thereby is or can be made available. The Board of Directors also directed the implementation of all of the other recommendations contained in the study report and authorized the Audit Committee of the Board of Directors to monitor the progress made in the implementation of the recommendations.

Items 1 through 4 and Item 6 are inapplicable to this special report and have been omitted.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, Registrant has duly caused the foregoing report to be signed on its behalf by the undersigned thereunto duly authorized.

_____ _____,

Vice President and Controller.

December 22, 1977.

ATTACHMENT C

[From the Wall Street Journal, May 18, 1978]

THOSE TROUBLING CONSENT ORDERS

(By Stan Crock)

WASHINGTON.—"I didn't do it but I won't do it again."

That's how some people interpret what companies and executives say when they settle Securities and Exchange Commission charges that they violated the federal securities laws. They generally consent to a court order barring them from future violations without admitting or denying that they had done anything wrong in the first place.

The most notable recent example of this was the unusual, if not unprecedented, spectacle of Bert Lance agreeing to two SEC settlements in little more than a month. But the former Budget Director, because he is a close friend of President Carter, is merely the most visible of a steady stream of people who enter into such accords with the SEC and other government agencies.

The SEC uses consent orders to close about 90 percent of the 160 or so civil lawsuits it brings annually, just as local prosecutors wrap up the majority of their cases with plea bargaining. But the same troubling questions that are raised about the district attorneys' practice are applicable to the SEC. Should the commission go to trial more often? Are the consent agreements mere slaps on the wrist?

Many SEC critics think the answer to both questions is a resounding "yes." Mark Green, director of Ralph Nader's Congress Watch, calls the consent-order system "a joke," saying it "minimizes deterrence because it guarantees one free illegality. . . . Street pickpockets would love to be punished merely by an injunction not to pickpocket again and (executive) suite pickpockets want and have that system."

Corporation lawyers respond that such critics unfairly imply that anybody who agrees to consent orders is guilty of the charges. Many companies and individuals, they contend, settle simply to avoid the costs of going to trial.

A COMPELLING ARGUMENT

And SEC officials, like local prosecutors and enforcement colleagues at other government agencies, reply that they couldn't possibly go to trial in even half the number of cases they currently are bringing—they don't have the money or personnel. But the commission officials offer an even more compelling argument for consent orders at their agency: The securities laws currently provide the SEC with such limited remedial powers that the public actually is better served when the commission stays out of court.

As a general matter, all the SEC can win when it goes into court is a civil injunction to stop the violations "That being the case," contends Andrew Rothman, the SEC's chief spokesman, "there is usually very little extra to be gained from the point of view of the commission or the public interest from litigating a case when we can achieve the same relief through a consent agreement."

Moreover, when the SEC does go to trial, there always is the chance it will lose. This is because it is the hard cases that makes it that far, says Theodore Sonde, associate director of the enforcement division's trial section. "You're throwing the dice when you go into court," he says. "You have a fair chance of something going wrong."

In addition, lawyers and judges, fearing reversal on appeal, are cautious in the courtroom. In consent negotiations, the SEC is freer to fashion imaginative consent decrees.

The SEC enforcement division has used its "limited remedial powers creatively," says Harvey Goldschmid, a professor of corporate law at Columbia University Law School. He cites as examples consent agreements the SEC obtained in cases involving questionable payments by corporations; the agreements required the appointment of audit committees, independent directors and special counsels who conducted investigations and made public reports. (The recently enacted Foreign Corrupt Practices Act might now make it easier for the SEC to win similar sanctions in court.)

The Lance cases are additional examples. In one case, Mr. Lance, some wealthy Arabs and others were accused of violating the law by failing to report that they had acquired more than 5 percent of Financial General Bankshares Inc. stock.

As part of the settlement, the Arab interests agreed, among other things, to make a tender offer at a premium for all shares they didn't buy a sanction usually applied to violations of the tender offer laws.

But in a parallel private lawsuit by Financial General's management, the same judge who accepted the consent agreement ruled there there hadn't been a violation of the tender offer laws; he concluded that there had only been a violation of the reporting requirements. So, it's unlikely the SEC would have done as well if it had gone to court.

In the other Lance case, in which the SEC and the Comptroller of the Currency accused him and two banks he once headed of violating various securities laws, Mr. Lance agreed to detailed controls over his now famous personal banking habits and to refrain from banking activities for six months. This, too, probably wouldn't have been matched in court.

But some people contend the commission is usurping power by obtaining through consent orders something it can't get after a trial. The SEC is "too free-wheeling, too independent of control," says Monroe Freedman, a professor at Hofstra University Law School. He also accuses the commission's enforcement staff of putting "unconscionable pressure" to settle on companies and lawyers. Adds Donald Schwartz, a professor at Georgetown University Law Center, in reference to the questionable payments cases: "Reshaping the boards of directors is a good thing, but I'm not sure that the SEC has the power to do it."

Prof. Schwartz says that while consent agreements are useful for stopping practices that injure investors, there is a risk of abuses by SEC enforcers. "They can raise an eyebrow and cause people to knuckle under," he says, "and that's a bit dangerous."

One reason the SEC can compel stiff consent terms is that companies fear that a private party could swoop in on an SEC court victory, saying the violation has been proved and arguing that the only question left is damages. But Congress watches Mr. Green criticize SEC consent orders precisely because they can't be used in court by private parties the same way that SEC court victories can be used. (The Supreme Court recently agreed to resolve a conflict between lower courts on the issue of whether the private party has to prove the violation all over again when the SEC wins in court.)

IT CAN HAVE SUBSTANTIAL IMPACT

Consumer advocates also criticize consent orders for generally failing to include findings that the accused violated the law, an omission that often leads to the wrist-slapping charge. But the filing of the lawsuit and settlement can have substantial impact.

"When combined with significant publicity and a respectable defendant who cares about business reputation, the injunctive provisions of a consent decree can be of real significance," Prof. Goldschmid says. "Unfortunately the traditional injunctive prohibition—'don't do it again'—is least effective against the serious wrongdoer who doesn't care much about his or her reputation," he adds.

It is this "go and sin no more" approach to white-collar law violators compared with much stiffer penalties imposed on someone who, say, holds up a bank, that irks critics. But there isn't much more that the SEC can do. The agency has administrative authority to discipline securities firms and their employes, as well as lawyers and accountants who deal with it. But the securities law gives the agency a rather meager arsenal when it takes legal action against corporations and executives.

The SEC can't bring criminal charges against suspected wrongdoers, but can only refer cases for prosecution to the Justice Department. The agency can't even impose a fine, a power that Stanley Sporkin, director of the enforcement division, says he would like to have.

Whether the SEC needs additional powers or already has too much clearly is a subject of considerable debate. "What is needed," says Prof. Goldschmid, "is a comprehensive review of the whole remedies area.'

ATTACHMENT D—BURLINGTON NORTHERN 1977 ANNUAL REPORT

The following table sets forth the contribution of each major business group to the Company's Operating Revenues and Sales, Operating Expenses and Cost of Sales, Net Operating Income and Income Before Income Taxes and Minority Interest for the years 1973 through 1977.

[In thousands of dollars]

	Year ended—				
	Dec. 31, 1977	Dec. 31, 1976	Dec. 31, 1975	Dec. 31, 1974	Dec. 31, 1973
Operating revenues and sales:					
Railroad	1,801,702	1,642,207	1,408,234	1,375,392	1,175,859
Trucking	30,524	24,668	20,872	26,317	28,448
Air freight forwarder	103,410	72,214	45,219	30,206	18,237
Forest products	103,814	85,471	61,240	68,267	69,290
Oil and gas	26,925	30,445	20,839	18,981	10,773
Coal and minerals	7,148	7,358	8,112	4,275	5,650
Land and real estate	30,987	24,992	20,859	19,072	15,181
Other operations	4,932	8,777	9,843	9,005	8,086
Total	2,109,442	1,896,132	1,595,218	1,551,515	1,331,524
Operating expenses and cost of sales:					
Railroad	1,741,471	1,565,759	1,334,238	1,280,155	1,116,846
Trucking	28,298	23,384	20,691	27,383	29,402
Air freight forwarder	98,860	68,779	43,748	29,336	18,662
Forest products	69,937	57,824	47,428	44,643	39,536
Oil and gas	15,038	16,215	9,365	4,947	4,268
Coal and minerals	1,367	1,568	1,106	883	772
Land and real estate	5,402	4,826	4,965	3,935	3,476
Other operations	4,276	8,226	9,295	8,344	7,884
Total	1,964,649	1,746,581	1,470,836	1,399,626	1,220,846
Net operating income (loss):					
Railroad	60,231	76,448	73,996	95,237	59,013
Trucking	2,226	1,284	181	(1,066)	(954)
Air freight forwarder	4,550	3,435	1,471	870	(425)
Forest products	33,877	27,647	13,812	23,624	29,754
Oil and gas	11,887	14,230	11,474	14,034	6,505
Coal and minerals	5,781	5,790	7,006	3,392	4,878
Land and real estate	25,585	20,166	15,894	15,137	11,705
Other operations	656	551	548	661	202
Total	144,793	149,551	124,382	151,889	110,678
Other income—Net	4,542	3,475	7,395	12,120	2,290
Interest and other fixed charges	68,103	65,267	64,387	58,314	53,633
Income (loss) before income taxes and minority interest:					
Railroad	(10,745)	11,940	7,934	36,867	3,660
Trucking	2,610	1,237	70	(590)	(972)
Air freight forwarder	4,626	3,545	1,499	891	(489)
Forest products	33,885	27,703	13,907	24,303	30,700
Oil and gas	12,680	14,637	11,835	14,619	6,505
Coal and minerals	5,727	5,838	7,035	3,393	4,895
Land and real estate	26,013	20,262	18,845	15,057	12,300
Other operations	496	341	379	467	191
Corporate, primarily unallocated interest and dividends	5,940	2,256	5,886	10,688	2,545
Total	81,232	87,759	67,390	105,695	59,335

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., June 9, 1978.

HON. BROCK ADAMS,
Secretary, Department of Transportation,
Washington, D.C.

DEAR MR. SECRETARY: As Chairman and members of the Oversight and Investigations Subcommittee of the House Committee on Interstate and Foreign Commerce we request that you provide the Subcommittee with the following information:

1. All internal memoranda discussing or mentioning the problem of undeliverable W-2 forms by the Consolidated Rail Corporation (Conrail);

2. All internal correspondence discussing or mentioning the problem of undeliverable W-2 forms by Conrail;

3. All correspondence with outside agencies or others discussing or mentioning the problem of undeliverable W-2 forms by Conrail or the underlying problem evidenced by undeliverable W-2 forms;

4. A description of your accounting methods or statistical analyses designed to oversee Conrail's payments for labor costs;

5. All internal memoranda discussing excessive labor costs in the Conrail system;

6. A description of any attempts made by DOT to analyze the problem of undeliverable W–2 forms or excessive labor costs by Conrail;

7. A description of any action taken by DOT in response to information that Conrail had a problem with undeliverable W–2 forms.

We also require a description or documents indicating when you or members of your staff became aware of the problem of undeliverable W–2 forms by Conrail, and how; your understanding of dollar amounts involved; descriptions of conversations within DOT or with those outside discussing what action was being taken or should be taken; and any statements relating to the effect of this information about undeliverable W–2 forms on Conrail's Five Year Plan and Conrail's request for additional federal funding.

As we are sure you are aware, the problem represented by undeliverable W–2 forms and resultant waste of taxpayers dollars may be extremely serious. We believe the potential waste indicated by information on this subject could run into the hundreds of millions of dollars.

We are making this request in our official capacities as Chairman and members of the Subcommittee on Oversight and Investigations of the House Committee on Interstate and Foreign Commerce and therefore pursuant to Rules X and XI of the House of Representatives. These rules provide that the Subcommittee may authorize the issuance of subpoenas, if needed, for the purpose of obtaining testimony or documents.

If you have any questions about this request, please contact Lester Brown of the Subcommittee staff at 225–5365.

In view of the seriousness of this problem, we ask about you respond to this request by June 23, 1978. We look forward to your prompt reply. Thank you for your cooperation.

Sincerely,

JOHN E. MOSS,
Chairman, Subcommittee on Oversight and Investigations.
ANTHONY TOBY MOFFETT,
Member, Subcommittee on Oversight and Investigations.

RESPONSE OF THE DEPARTMENT OF TRANSPORTATION TO A REQUEST FOR ADDITIONAL INFORMATION FROM THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

1. All internal memoranda discussing or mentioning the problem of undeliverable W–2 forms by the Consolidated Rail Corporation (ConRail).

In mid-January, 1978 the Associate Administrator for Policy and Program Development of the Federal Railroad Administration (FRA) directed his staff to prepare a memorandum to be sent by the Administrator of FRA to the Secretary of Transportation. The memorandum was prepared and, consistent with FRA administrative practice, all copies of the memorandum were delivered to the Administrator for his review on or about January 21. The memorandum stated in its entirety what FRA staff had learned through discussions with staff of the Interstate Commerce Commission (ICC), namely, that ConRail had recently mailed W–2 forms to its employees; ConRail had received back approximately 15,000 such forms as undeliverable, of which approximately 10,000 were returned due to addressee or address errors and approximately 5,000 were unmailable due to insufficient record information; ConRail was examining the matter; and the ICC had referred the matter to the Criminal Division of the Department of Justice. The Administrator met with the Secretary some time between January 21 and January 27, 1978, and transmitted the memorandum's content verbally. Consequently, we have not been able to locate any copies of the memorandum in Department of Transportation (DOT) files.

On June 19, 1978 the Chief Counsel of FRA sent two memoranda to offices in DOT. The memoranda requested copies of documents and descriptions requested by the Subcommittee or Senator McGovern in his June 12, 1978 letter to Secretary Adams. (Attachments A and B.)

2. All internal correspondence discussing or mentioning the problem of undeliverable W–2 forms by ConRail.

See response provided to request No. 1 above.

3. All correspondence with outside agencies or others discussing or mentioning the problem of undeliverable W–2 forms by ConRail or the underlying problem evidenced by undeliverable W–2 forms.

Woodruff M. Price, Special Assistant to Secretary Adams, received a memorandum from Mr. John L. Sweeney, Vice President-Government Affairs for ConRail, some time between June 12 and June 16, 1978. (Attachment C.)

4. A description of your accounting methods or statistical analysis designed to oversee ConRail's payments for labor costs.

None. Accounting methods and statistical analyses designed to oversee ConRail's payments for labor costs are developed and maintained by the United States Railway Association (USRA).

5. All internal memoranda discussing excessive labor costs in the ConRail system.

(The scope of this request was discussed in a telephone conversation on June 20, 1978 between J. Thomas Greene of the Subcommittee staff and Robert Vermut of the Office of Chief Counsel of FRA, in which it was clarified that the Subcommittee's request with respect to excessive labor costs in this request and Request No. 6 extends only to all internal memoranda discussing excessive labor costs in relationship to aggregate numbers of ConRail employees and employee productivity.)

The Office of the Associate Administrator for Policy and Development of FRA prepared a compilation of statistical information comparing, for the years 1970–75, Penn Central labor costs to labor costs of the Chessie System and the Norfolk & Western. (Attachments D and E.)

6. A description of any attempt made by DOT to analyze the problem of undeliverable W–2 forms or excessive labor costs by ConRail.

No attempt was made by DOT to independently analyze the problem of undeliverable W–2 forms. However, upon learning of the problem, DOT considered it to be one facet of the data analysis discussed in response to Request No. 5 above.

7. A description of any action taken by DOT in response to information that ConRail had a problem with undeliverable W–2 forms.

DOT staff discussed the problem with DOT and with the staffs of the ICC, USRA and ConRail to the extent indicated in responses above and the one immediately below.

A description or documents indicating when you or members of your staff became aware of the problem of undeliverable W–2 forms by ConRail, and how.

In January, 1977 FRA staff compared labor cost/revenue ratios for the Penn Central, the Chessie System, and the Norfolk & Western. This examination revealed that the annual labor cost/revenue ratio of the Penn Central was approximately forty percent (40%) greater than for the other two railroads in the six (6) year period 1970–1975 and was unaffected by a declining traffic base. (Attachments D and E.)

In a March, 1977 meeting with USRA staff, FRA staff inquired whether USRA had examined the components of ConRail's labor costs.

In August and September, 1977 FRA staff discussed internally the relationship between its examination of the annual labor cost/revenue ratios of the Penn Central and the labor costs of ConRail.

In December, 1977 staff of the Rail Services Planning Office (RSPO) of the ICC informed FRA staff that ConRail's excessive labor costs raised a question whether ConRail was paying nonexistent employees or paying employees for work that was never performed. In January, 1978 RSPO staff informed FRA staff that ConRail had mailed W–2 forms to its 94,000 employees, of which approximately 10,000 forms were returned due to addressee or address errors and 5,000 forms were unmailable due to insufficient information. FRA staff thereupon informed FRA's Associate Administrator for Policy and Program Development (Steven R. Ditmeyer) of the problem concerning ConRail's undeliverable W–2 forms.

Mr. Ditmeyer relayed the above-referrenced information to FRA's Deputy Administrator (Robert E. Gallamore) and Administrator (John M. Sullivan) during mid-January, 1978 and, as well, to Secretary Adams' Special Assistant (Woodruff M. Price). Mr. Sullivan, in turn, apprised Secretary Adams of the problem concerning ConRail's undeliverable W–2 forms some time between January 21 and January 27, 1978.

Your understanding of dollar amounts involved.

DOT staff has no information regarding the dollar amounts involved in connection with ConRail's undeliverable W–2 forms, but understands that there

are currently less than 700 W–2 forms which ConRail has been unable to reconcile with its employee records.

Descriptions of conversations within DOT or with those outside discussing what action was being taken or should be taken.

Prior responses to these requests describe conversations within DOT discussing what action was being taken or should be taken with regard to the problem of ConRail's undeliverable W–2 forms.

Conversations with those outside DOT discussing what action was being taken or should be taken with regard to the problem of ConRail's undeliverable W–2 forms include:

(1) based on data analysis of labor cost/revenue ratios, DOT contacted USRA in late summer of 1977 to advise that USRA should be reviewing payroll cost accounting as one facet of ConRail's variation in that ratio from industry;

(2) in the fall of 1977, DOT was in contact with ICC staff on the same issue above;

(3) in mid-January, 1978, ICC staff advised DOT staff of non-delivered W–2 forms;

(4) a conversation between the Administrator of FRA and Chairman O'Neal of the ICC some time between January 21 and January 27, 1978 in which Chairman O'Neal informed the Administrator of the problem and its referral to the Criminal Division of the Justice Department;

(5) a conversation between Secretary Adams, the Administrator of FRA, the Associate Administrator for Policy and Program Development of FRA and Mr. Edward G. Jordan, Chairman and Chief Executive Officer of ConRail, on January 27, 1978 in which referral of the problem to the Criminal Division of the Justice Department was mentioned;

(6) periodic conversations between the Special Assistant to Secretary Adams, Mr. Woodruff M. Price, and the Vice President—Government Affairs for ConRail, Mr. John L. Sweeney, commencing in February, 1978 in which Mr. Sweeney apprised Mr. Price of ConRail's progress in examining the problem;

(7) periodic conversations between Mr. Thomas DeLaney, a member of the staff of the Associate Administrator for Policy and Program Development of FRA, and USRA and ICC staff commencing in January, 1978 in which Mr. DeLaney was apprised of the status of the problem;

(8) several conversations between Mr. David J. Umansky, Public Affairs Officer of FRA (and others of his staff) and members of the news media in January, February and June, 1978 in which Mr. Umansky referred inquiries to the Justice Department and ConRail; and

(9) two conversations between Mr. Timothy R. Murphy, Chief, Special Programs Division, Office of the Associate Administrator for Federal Assistance of FRA, and Mr. Michael A. Mates, Director of Financial Analysis of USRA, in May and June, 1978 in which Mr. Mates apprised Mr. Murphy of the status of the problem.

Any statements relating to the effect of this information about undeliverable W–2 forms on ConRail's Five Year Plan and ConRail's request for additional federal funding.

DOT has kept apprised of the status of the problem of undeliverable W–2 forms by ConRail because DOT is concerned that ConRail management prudently utilize federal funding for its intended purposes. In the event that investigations conducted by the Congress, the Justice Department, USRA or ConRail disclose that the problem of undeliverable W–2 forms is caused by fraudulent activity or mismanagement, DOT will join with other appropriate federal agencies to require that ConRail adopt meaningful safeguards against similar problems in the future.

Attachments A–D follow:

Attachment A

CONRAIL,
June 19, 1978.

From: Chief Counsel, RCC–1.

To: The Administrator, ROA–1, Associate Administrator for Federal Assistance, RFA–1, Associate Administrator for Policy and Program Development, RPD–1.

The Oversight and Investigations Subcommittee of the House Committee on Interstate and Foreign Commerce has requested the Department of Transportation to provide the Subcommittee with information no later than June 23 concerning the problem of ConRail's undeliverable W–2 forms (see attached enclosure). I have designated Bob Heath of my staff (x68220) to coordinate FRA's response to this request.

By the close of business on June 20, I ask that your respective offices indicate whom on your staff Bob may contact with regard to these matters and submit to Bob copies of the documents listed in Items 1–3 and 5, the written descriptions listed in Items 4 and 6–7, and the documents or descriptions referred to in the first full paragraph following Item 7 of the attached enclosure. If your office has none of the information requested, please provide written confirmation of that fact.

Enclosure.

RAYMOND K. JAMES.

Attachment B

CONRAIL,
June 19, 1978.

From: Chief Counsel, RCC–1.

To. The Administrator, ROA–1, Associate Administrator for Federal Assistance, RFA–1, Associate Administrator for Policy and Program Development, RPD–1.

In addition to the information requests of the House Oversight and Investigations Subcommittee (as attached to my memorandum of June 19 to you), Senator George McGovern has requested information on the three subjects itemized in his enclosed letter.

In order to avoid redundancy, please disregard the due date of my earlier June 19 memo, and respond to this information request *and* the prior one no later than c.o.b. *June 21.*

MICHAEL T. HALEY,
(For Raymond K. James).

Enclosure.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, D.C., June 12, 1978.

Hon. BROCK ADAMS,
Secretary, Department of Transportation,
Washington, D.C.

DEAR MR. SECRETARY: Over two months ago, information had come to my attention that the Justice Department, through the U.S. Attorney's Office in Philadelphia, was conducting a major investigation of financial irregularities in Conrail. Specifically, the information I received involved the undeliverability of several thousand W–2 forms and alleged other lesser forms of payroll fraud. During the last two months, my office questioned a number of officials within Conrail and the United States Railway Association who denied any knowledge of any investigation.

It has now come to my attention that the Interstate Commerce Commission, the Department of Transportation, a Federal grand jury, the Justice Department and the House Commerce Committee, Subcommittee on Oversight and Investigations are investigating various alleged financial irregularities which have occurred in Conrail. Specifically, the investigation is focusing on 16,000 undeliverable W–2 forms in 1977 and 4,000 undeliverable W–2 forms in 1976.

It has also come to my attention that the previously mentioned offices and USRA and Conrail had considerable knowledge of this investigation several months prior to the recent release of information by the House Oversight and Investigations Subcommittee. Additionally, I have learned that the ICC briefed the Senate Commerce Committee staff on the nature of the investigations early last month and that the Committee has taken no action.

I find it incomprehensible that this information was not released to the Congress and the Public several months ago when it became available to the previously mentioned departments and agencies. I find it an outrageous omission that this information was not made available to Congress in light of the $1.3 billion Conrail appropriation now pending in Congress. If these allegations are true we are discussing the gross mismanagement of millions of dollars of public monies.

I also find it incomprehensible that over the last six weeks in my investigation of these allegations, that the officials from both Conrail and USRA denied any knowledge of any investigation. I would like to add that my office questioned these officials some time after the staff briefing of the Senate Commerce Committee.

As you may know, I will be chairing national railroad hearings this summer to study a number of the core problems of the railroads which have not been

previously addressed in a comprehensive manner. I will be studying a number of problems related to rail management, rail labor, car utilization, excess plant, and the institutional regulatory environment, which when combined, prevent railroads from competing effectively among themselves and with other modes and prevent adequate reliable rail service in this nation.

Because these allegations, if proven, represent a massive symptom of the rail industry's overall dilemma, I am specifically requesting that you make available to me, no later than June 23, 1978, for use in my hearings, the following information.

1. All internal memorandums mentioning the undeliverable W–2 forms, correspondence among agencies about this matter, an analysis of Conrail accounting methods.

2. A description and copies of documents indicating when you or members of your staff became aware of the undeliberable W–2 forms by ConRail and the manner in which you became aware of this problem.

3. Any information you have, including staff memorandums or reports, concerning Conrail's refusal to give ICC investigators access to the returned W–2 forms, forcing the Commission's staff to seek the assistance of the U.S. Attorney's Office in Philadelphia to obtain the necessary documents.

It is imperative that I receive this information as soon as possible, and no later than June 23, 1978, in order to adequately prepare for my first hearing in New York on June 27.

If you have any question regarding this request, please contact Robin Carpenter of my staff at (202) 224–2321.

Sincerely,

GEORGE MCGOVERN.

Attachment C

W–2 PROJECT

Fall of 1977 decision made to mail W–2 rather than distribute with paycheck. Problem in delivering 1976 W–2s.

Disciplinary control concerns in that an individual could be responsible for receipt of time cards, distribution of checks and termination documentation.

January 1978 Internal Audit controlled the printing and mailing of approximately 127,000 W–2s; 4,000 no address on payroll master; 10,000 returned by postal authorities or reissued since individual indicated he had not received W–2.

February 1978 ICC auditors while at Personnel Accounting, observed the returned W–2s and requested copies of the working papers. The request was not promptly honored since the audit was in process. A subpoena from the United States District Court for the Eastern District of Pennsylvania was served by the ICC on February 15, 1978 requesting the working papers and other information.

April 20, 1978 using an April 18 cutoff, certain information required by subpoena satisfied, remainder satisfied in May. Approximately 1,000 (1,164 actual) W–2s not distributed.

Current status of 1,200 undistributed W–2s.

Mailing information obtained subsequent to April 18, 1978 and distributed	76
Amount per W–2 agreed with unclaimed wage file	105
Total	181
First priority for investigation determined from status code on December 31, 1977 master file:	
Active	289
Left service	211
No status	145
Total	645
Second priority for investigation wherein December 31, 1977 status code provided a plausible explanation for open status, such as deceased, disabled or where gross earnings per W–2 were less than $500	339
Total	1,165

Procedures currently in progress with respect to 645 first priority undelivered W–2s:

Comparison with current payrolls for payout observations—last payrolls in June.

Comparison of entry documentation signatures with cancelled checks—ongoing.

Sorting exceptions by pay location, management center, etc. for trends; 96 employees questioned the accuracy of the gross wages indicated on the W–2. All have been reconciled without exception.

Attachment D

PROFIT AND LOSS STATEMENT

[Base on ICC r-1, in millions; fiscal-calendar year basis]

	1970	1971	1972	1973	1974	1975
PENN CENTRAL						
Revenue:						
Freight	$1,293.37	$1,534.45	$1,606.54	$1,702.88	$1,939.36	$1,900.01
Passenger	145.42	94.87	80.22	81.79	87.60	90.86
Switching	21.94	21.25	21.34	24.26	27.41	22.78
Demurrage	27.29	31.03	26 93	46.28	56.13	32.69
All other	104.07	93.69	90.43	108.47	136.75	127.05
Total, revenues	1,691.09	1,775.19	1,825.46	1,963.67	2,247.26	2,173.39
Cash expenses:						
Maintenance of way	190,54	223.51	213.52	225.43	260.42	273.25
Maintenance of equipment	264.09	286.56	269.37	272.93	327.48	343.62
Taxes	150.66	145.52	147.60	167.82	216.26	211.29
Transportation	863.44	839.05	852.56	923.78	1,038.49	1,077.83
Traffic	22.98	19.76	20.98	20.41	21.16	22.93
Miscellaneous and general	119.43	101.11	92.23	96.00	97.84	110.05
Rents:						
Debits	221.93	259.47	262.56	212.89	313.25	300.96
Credit	8.33	8.46	7.40	10.96	11.17	10.10
Net rents	213.61	251.01	255.16	271.92	302.08	290.86
Total, cash expenses	1,824.76	1,866.52	1,851.42	1,978.28	2,263.72	2,392.82
Gross operating income	(133.67)	(91.33)	(25.96)	(14.61)	(16.46)	(156.43)
Add: Dep. and ret.:						
Roads	33.28	32.94	30.98	30.53	33.69	38.74
Equipment	63.34	59.48	55.38	55.49	53.11	51.71
Subtotal, dep. and ret	96.62	92.42	86.36	86.02	86.79	90.45
Total, operating expenses	1,921.37	1,958.94	1,937.78	2,064.30	2,350.52	2,420.26
Net operating income	(230.29)	(183.75)	(112.33)	(100.62)	(103.26)	(246.87)
Less: Bail fix. chgs./cont. int	144.37	136.09	130.59	135.10	144.51	130.17
Income, rail operations (pretax)	(374.65)	(319.84)	(242.92)	(235.72)	(247.76)	(377.05)
Other income and expenses:						
Add: other income	66.55	54.33	56.51	60.21	59.16	66.06
Less: Other expenses	(11.40)	(22.96)	(18.58)	(21.45)	(18.23)	(25.23)
Net other income and expenses	55.15	31.37	37.93	38.76	40.93	40.33
Income, consol, pretax	(319.51)	(288.47)	(204.99)	(196.96)	(205.83)	(336.72)
Less:						
Federal income tax	6.23	(3.94)	(7.09)	(7.96)	(8.81)	(10.30)
Def. taxes	0	0	0	0	0	0
Subtotal, tax	6.23	(3.94)	(7.09)	(7.96)	(8.81)	(10.30)
Income, ordinary (ICC r-1)	(325.74)	(284.52)	(197.90)	(189.00)	(198.02)	(326.41)
ICI:						
Rail only (percent)	−16.81	−12.59	−8.19	−7.22	−6.77	−12.71
Consol (percent)	−13.55	−10.82	−6.11	−5.24	−4.95	−10.86
F.C. Cov.:						
Rail only (X)	−1.60	−1.35	−.86	−.74	−.71	−1.90
Consol (X)	−1.21	−1.12	−.57	−.46	−.43	−1.59
Margin of safety (percent)	−22.15	−18.02	−13.31	−12.00	−11.03	−17.35
Gross operating margin (percent)	−7.90	−5.14	−1.42	−.74	−.73	−7.20
Net operating margin (percent)	−13.62	−10.35	−6.15	−5.12	−4.59	−11.36
Net rail profit margin (percent)	−22.52	−17.79	−12.92	−11.60	−10.63	−16.87

PROFIT AND LOSS STATEMENT—Continued

[Base on ICC r-1, in millions; fiscal-calendar year basis]

	1970	1971	1972	1973	1974	1975
BALTIMORE & OHIO						
Revenue:						
Freight	451.89	474.23	484.83	532.88	624.13	593.72
Passenger	2.66	1.10	.66	.73	.59	.38
Switching	4.41	4.46	5.07	5.27	5.12	6.01
Demurrage	6.27	5.98	5.16	9.07	11.42	7.62
All other	13.96	10.04	6.66	7.47	7.13	6.68
Total, revenues	479.19	495.81	502.38	555.43	648.38	614.41
Cash expenses:						
Maintenance of way	52.46	58.57	61.94	60.46	65.87	86.59
Maintenance of equipment	66.47	68.51	55.80	65.05	72.51	77.90
Taxes	34.49	34.01	35.85	41.06	52.20	50.12
Transportation	188.98	186.66	187.68	210.16	236.63	232.16
Traffic	11.87	12.31	11.07	11.87	10.77	10.70
Miscellaneous and general	29.52	31.42	31.74	34.59	39.73	35.77
Rents:						
Debits	64.01	62.24	67.00	78.30	84.67	75.54
Credit	6.91	4.90	4.83	6.71	3.97	5.44
Net rents	57.10	57.33	62.17	71.60	80.71	70.10
Total, cash expenses	440.89	448.83	446.24	494.78	558.41	563.34
Gross operating income	38.30	46.98	56.14	60.65	89.97	51.07
Add: Dep. and ret.:						
Roads	8.14	6.40	7.70	8.56	7.89	8.01
Equipment	11.12	11.34	11.77	11.46	11.26	12.43
Subtotal, dep. and ret	19.26	17.73	19.47	20.01	19.15	20.44
Total, operating expenses	460.15	466.56	465.71	514.79	577.57	583.78
Net operating income	19.04	29.25	36.67	40.63	70.82	30.63
Less: rail fix. chgs./cont. int	21.51	24.63	25.38	23.98	24.56	26.21
Income, rail operations (pretax)	(2.48)	4.62	11.29	16.66	46.26	4.42
Other income and expenses:						
Add: Other income	17.87	9.71	9.05	15.05	25.07	19.27
Less: Other expenses	(2.21)	(4.28)	(4.05)	(7.66)	(3.25)	(3.06)
Net other income and expenses	15.66	5.44	5.01	7.39	21.81	16.21
Income, consol, pretax	13.18	10.06	16.30	24.04	68.07	20.63
Less:						
Federal income tax	.18	.16	.16	.40	.19	.17
Defense taxes	0	0	0	0	14.63	1.22
Subtotal, tax	.18	.16	.16	.40	14.82	1.39
Income, ordinary (ICC r=1)	13.00	9.91	16.13	23.64	53.25	19.24
TCI:						
Rail only (percent)	3.47	4.48	6.09	6.53	7.80	3.82
Consol (percent)	6.73	5.57	7.09	7.86	11.17	6.46
F.C. cov.:						
Rail only (X)	.88	1.19	1.44	1.69	2.88	1.17
Consol (X)	1.61	1.41	1.64	2.00	3.77	1.79
Margin of safety (percent)	—.52	.93	2.25	3.00	7.13	.72
Gross operating margin (percent)	7.99	9.48	11.18	10.92	13.88	8.31
Net operating margin (percent)	3.97	5.90	7.30	7.32	10.92	4.98
Net rail profit margin (percent)	—.55	.90	2.21	2.93	4.85	.49
CHESAPEAKE & OHIO						
Revenue:						
Freight	432.30	435.64	434.70	467 81	541.22	542.74
Passenger	1.57	.38	.03	0	0	0
Switching	3.81	4.60	4.48	5.45	5.26	5.14
Demurrage	3.48	4.90	3.25	6.20	8.28	6.70
All other	11.87	9.68	8.87	10.61	14.07	17.03
Total, revenues	453.03	455.20	451.33	490.06	568.83	571.60

PROFIT AND LOSS STATEMENT—Continued

[Base on ICC r-1, in millions; fiscal-calendar year basis]

	1970	1971	1972	1973	1974	1975
Cash expenses:						
Mantenance of way	47.21	53.94	46.18	49.29	53.35	66.00
Maintenance of equipment	61.52	69.24	55.66	62.94	71.98	77.82
Taxes	36.59	34.05	35.10	41.70	52.60	51.83
Transportation	178.96	172.30	171.43	190.97	212.31	222.15
Traffic	11.91	11.80	10.13	10.06	10.15	9.15
Miscellaneous and general	26.74	28.03	29.30	32.02	35.32	34.69
Rents:						
Debits	18.57	24.47	19.26	20.65	23.71	27.16
Credit	4.51	3.51	5.98	8.58	4.25	2.85
Net rents	14.06	20.96	13.28	12.07	19.46	24.31
Total, cash expenses	377.00	391.01	361.07	399.05	455.15	485.95
Gross operation income	76.03	64.20	90.26	91.01	113.68	85.65
Add: Dep./ret.:						
Roads	6.56	7.04	6.23	7.60	8.27	5.57
Equipment	24.13	24.72	25.01	24.70	24.29	25.42
Subtotal, dep. and ret	30.69	31.77	31.25	32.30	32.55	31.00
Total operating expenses	407.69	422.77	392.32	431.35	487.71	516.95
Net operating income	45.34	32.43	59.01	58.72	81.12	54.56
Less: Rail fix chgs./cont. int	21.92	21.59	20.62	19.55	20.19	18.23
Income, rail operations (pretax)	23.42	10.84	38.38	39.17	60.93	36.43
Other income and expense:						
Add: Other income	22.99	13.98	11.28	15.18	73.68	43.97
Less: Other expenses	(1.60)	(5.44)	(1.32)	(4.47)	(7.57)	5.16
Net other income and expenses	21.38	8.54	9.97	10.71	66.11	49.13
Income, consol, pretax	44.81	19.38	48.35	49.87	127.04	85.55
Less: Federal income tax	1.62	(5.36)	6.59	10.48	21.77	5.00
Def. taxes	0	0	0	0	15.58	(3.26)
Subtotal, tax	1.62	(5.36)	6.59	10.48	37.34	1.74
Income, ordinary (ICC r-1)	43.18	24.74	41.76	39.39	89.70	83.82
TCI:						
Rail only (percent)	11.59	10.54	13.97	12.44	9.87	11.49
Consol (percent)	16.31	12.41	16.18	14.63	21.49	20.09
F.C. cov.:						
Rail only (X)	2.07	1.90	2.86	3.00	4.02	3.00
Consol (X)	3.04	1.90	3.34	3.55	7.29	5.69
Margin of safety (percent)	5.17	2.38	8.50	7.99	10.71	6.37
Gross operation margin (percent)	16.78	14.10	20.00	18.57	19.98	14.98
Net operation margin (percent)	10.01	7.12	13.07	11.98	14.26	9.56
Net rail profit margin (percent)	4.81	3.56	7.04	5.85	4.15	6.07
NORFOLK & WESTERN						
Revenue:						
Freight	704.99	700.81	765.35	808.75	945.83	950.50
Passenger	1,37	.51	.16	.18	.21	.22
Switching	8.27	8.37	8.99	9.93	10.48	12.09
Demurrage	2.98	4.02	6.17	8.95	10.68	6.17
All other	16.60	13.91	14.34	14.53	15.79	16.91
Total revenues	734.22	727.62	795.01	842.35	982.99	985.89
Cash expenses:						
Maintenance of way	70.09	72.30	81.95	87.16	103.97	117.01
Maintenance of equipment	77.01	83.02	88.13	97.40	114.08	110.72
Taxes	56.62	55.38	59.03	68.66	86.93	86.55
Transportation	269.63	263.85	272.60	302.69	352.10	342.63
Traffic	16.07	16.27	16.85	17.47	17.82	18.48
Miscellaneous and general	34.95	39.12	41.91	41.60	43.16	51.13
Rents:						
Debits	35.85	30.77	31.47	34.79	39.42	42.28
Credit	3.41	3.15	3.58	4.32	4.08	4.31
Net rents	32.44	27.26	27.89	30.47	35.33	37.96
Total, cash expenses	556.80	547.18	588.34	645.45	753.38	764.49
Gross operating income	177.41	180.44	206.67	196.89	229.61	221.41

PROFIT LOSS STATEMENT—Continued

[Base on [CC r-1, in millions; fiscal-calendar year basis]

	1970	1971	1972	1973	1974	1975
Add: Dep./ret.:						
Roads	10.61	11.00	11.20	11.55	11.29	12.29
Equipment	50.44	52.04	53.21	53.00	53.35	55.13
Subtotal dep. and ret	61.05	63.04	64.41	64.55	64.63	67.42
Total, operating expenses	617.85	810.22	652.75	710.00	818.01	831.91
Net operating income	116.36	117.40	142.26	132.34	164.98	153.98
Less: Rail fix chgs./cont. int	49.46	52.08	51.87	50.86	51.48	51.81
Income, rail operations (pretax)	66.91	65.32	90.39	81.49	113.50	102.18
Other income and expenses:						
Add: Other income	14.42	21.54	15.61	21.74	42.75	29.72
Less: Other expenses	(5.00)	(4.80)	(4.18)	(5.77)	(4.49)	(5.71)
Net other inc/exp	9.42	16.74	11.42	15.98	38.26	24.01
Income, consol, pretax	76.33	82.06	101.81	97.46	151.76	126.19
Less:						
Fed income tax	.14	4.36	11.98	11.50	24.02	10.45
Def. taxes	0.00	0.00	0.00	0.00	27,84	28.24
Subtotal tax	.14	4.36	11.98	11.50	51.92	38.69
Income, ordinary (ICC r-1)	76.16	77.70	89.83	85.96	99.84	87.51
TCI:						
Rail only (percent)	17.41	17.04	17.96	15.97	12.84	13.28
Consul (percent)	18.69	19.34	19.40	17.87	16.73	15.71
F.C. cov.:						
Hail only (x)	2.35	2.25	2.74	2.60	3.20	2.97
Consul (x)	2.54	2.58	2.96	2.92	3.95	3.44
Margin of safety (percent)	9.11	8.98	11.37	9.67	11.55	10.36
Gross operating margin (percent)	24.16	24.80	26.00	23.37	23.36	22.46
Net operating margin (percent)	15.85	16.13	17.89	15.71	16.78	15.62
Net rail profit margin (percent)	9.09	8.38	9.86	9.31	6.26	6.44

Attachment E

PAYROLL AND EXPENSES

[Estimated on basis of information reported to ICC in r-1S and wage statistics, forms A and P; wages and fringes in thousands, average wage in dollars]

	1970	1971	1972	1973	1974	1975
PENN CENTRAL						
I. Maintenance of way employees	12,576.00	11,551.00	10,072.00	9,078.00	9,758.00	10,925.00
Direct wages	95,483.00	95,843.00	93,487.00	95,441.00	108,956.00	132,536.00
All fringes	25,190.00	26,266.00	27,556.00	31,055.00	38,715.00	41,836.00
Subtotal	120,674.00	122,109.00	121,044.00	126,496.00	147,672.00	174,372.00
Average wage per revenue dollar	.07	.07	.07	.06	.07	.08
Average wage per employee	9,595.64	10,571.38	12,017.88	13,934.43	15,133.47	15,960.90
II. Maintenance of equipment employees	22,590.00	22,054.00	19,809.00	18,981.00	19,844.00	19,387.00
Direct wages	184,193.00	192,537.00	191,687.00	201,148.00	222,931.00	253,597.00
All fringes	48,912.00	50,604.00	53,393.00	62,497.00	76,036.00	76,615.00
Subtotal	233,105.00	243,142.00	245,080.00	263,645.00	298,968.00	310,212.00
Average wage per revenue dollar	.14	.14	.13	.13	.13	.14
Average wage per employee	10,318.96	11,024.85	12,372.20	13,889.98	15,065.94	16,001.05
III. Transportation employees:						
Train and engine employees	32,347.00	31,521.00	30,085.00	30,061.00	29,422.00	27,048.00
Direct wages	304,071.00	311,944.00	341,528.00	362,311.00	369,128.00	361,854.00
All fringes	112,295.00	112,178.00	125,168.00	149,897.00	171,635.00	163,111.00
Subtotal	416,366.00	424,123.00	466,696.00	512,209.00	540,763.00	525,365.00
Average wage per revenue dollar	.25	.24	.26	.26	.24	.24
Average wage per employee	12,871.88	13,455.25	15,512.60	17,039.00	18,379.57	19,423.47
All other transportation employees	12,486.00	11,251.00	10,073.00	9,398.00	9,058.00	8,708.00
Direct wages	105,699.00	103,719.00	103,344.00	106,608.00	109,510.00	117,290.00
All fringes	26,159.00	25,375.00	25,452.00	28,514.00	33,133.00	34,562.00
Subtotal	131,858.00	129,094.00	128,797.00	135,123.00	142,644.00	151,853.00
Average wage per revenue dollar	.08	.07	.07	.07	.06	.07
Average wage per employee	10,560.53	11,474.06	12,786.37	14,377.92	15,747.85	17,438.39
Total transportation employees	44,833.00	42,772.00	40,158.00	39,459.00	38,480.00	35,756.00

Direct wages	409, 771. 00	415, 664. 00	444, 873. 00	468, 920. 00	478, 638. 00	479, 145. 00
All fringes	138, 454. 00	137, 553. 00	150, 620. 00	178, 412. 00	204, 769. 00	198, 074. 00
Subtotal	548, 225. 00	553, 217. 00	595. 493. 00	647, 333. 00	683, 407. 00	677, 219. 00
Average wage per revenue dollar	. 32	. 31	. 33	. 33	. 30	. 31
Average wage per employee	12, 228. 17	12, 934. 11	14, 828. 77	16, 405. 21	17, 760. 08	18, 940. 02
IV. All other rail employees	20, 983. 00	19, 044. 00	17, 759. 00	16, 525. 00	16, 361. 00	16, 081. 00
Direct wages	172, 627. 00	170, 225. 00	169, 502. 00	174, 716. 00	183, 250. 00	199, 703. 00
All fringes	38, 403. 00	37, 954. 00	39, 035. 00	44, 669. 00	53, 093. 00	55, 606. 00
Subtotal	211, 031. 00	208, 179. 00	208, 538. 00	219, 386. 00	236, 344. 00	255, 309. 00
Average wage per revenue dollar	. 12	. 12	. 11	. 11	. 11	. 12
Average wage per employee	100, 057. 26	10, 931. 49	11, 742. 69	13, 276. 03	14, 445. 57	15, 876. 49
V. Total rail employees	100, 982. 00	95, 421. 00	87, 798. 00	84, 043. 00	84, 443. 00	82, 149. 00
Direct wages	862, 075. 00	874, 270. 00	899, 551. 00	940, 227. 00	993, 777. 00	1, 044, 982. 00
All fringes	250, 961. 00	252, 378. 00	270, 605. 00	316, 634. 00	372, 615. 00	372, 131. 00
Subtotal	1, 113, 037. 00	1, 126, 649. 00	1, 170, 157. 00	1, 256. 861. 00	1, 366, 392. 00	1, 417, 114. 00
Average wage per revenue dollar	. 66	. 63	. 64	. 64	. 61	. 65
Average wage per employee	11, 022. 13	11, 807. 14	13, 327. 83	14, 954. 99	16, 181. 24	17, 250. 54
Total, rail revenues						
BALTIMORE & OHIO						
I. Maintenance of way employees	3, 354. 00	3, 282. 00	3, 058. 00	2, 948. 00	2, 985. 00	3, 623. 00
Direct wages	22, 420. 00	25, 069. 00	26, 361. 00	27, 660. 00	29, 501. 00	33, 637. 00
All fringes	6, 263. 00	6, 937. 00	7, 282. 00	8, 499. 00	10, 282. 00	11, 239. 00
Subtotal	28, 684. 00	32, 006. 00	33, 643. 00	36, 160. 00	39, 783. 00	44, 876. 00
Average wage per revenue dollar	. 06	. 06	. 07	. 07	. 06	. 07
Average wage per employee	8, 552. 23	9, 752. 26	11, 001. 89	12, 266. 16	13, 327. 94	14, 845. 02
II. Maintenance of equipment employees	5, 067. 00	4, 793. 00	3, 803. 00	3, 768. 00	3, 719. 00	3, 349. 00
Direct wages	39, 559. 00	38, 293. 00	34, 760. 00	38, 472. 00	40, 425. 00	37, 501. 00
All fringes	13, 345. 00	10, 930. 00	10, 694. 00	12, 145. 00	14, 921. 00	13, 628. 00
Subtotal	52, 905. 00	49, 224. 00	45, 455. 00	51, 618. 00	55, 347. 00	50, 930. 00
Average wage per revenue dollar	. 11	. 10	. 09	. 09	. 09	. 08
Average wage per employee	10, 441. 14	10, 270. 05	11, 952. 63	13, 433. 65	14, 882. 26	15, 207. 53

PAYROLL AND EXPENSES—Continued

[Estimated on basis of information reported to ICC in r-1S and wage statistics, forms A and P; wages and fringes in thousands, average wage in dollars]

	1970	1971	1972	1973	1974	1975
III. Transportation employees:						
Train and engine employees	7,025.00	6,910.00	6,548.00	6,443.00	6,432.00	5,849.00
Direct wages	62,264.00	63,923.00	69,550.00	78,590.00	81,137.00	75,853.00
All fringes	20,969.00	21,724.00	23,284.00	28,427.00	33,400.00	32,191.00
Subtotal	83,233.00	85,648.00	92,834.00	107,018.00	114,538.00	108,044.00
Average wage per revenue dollar	.17	.17	.18	.19	.18	.18
Average wage per employee	11,848.25	12,394.88	14,177.54	16,609.97	17,807.59	18,472.34
All other transportation employees	2,574.00	2,464.00	2,290.00	2,167.00	2,084.00	1,933.00
Direct wages	22,910.00	24,555.00	25,262.00	26,378.00	27,542.00	28,972.00
All fringes	5,991.00	6,573.00	6,924.00	7,683.00	9,282.00	9,211.00
Subtotal	28,902.00	31,128.00	32,186.00	34,062.00	36,825.00	38,183.00
Average wage per revenue dollar	.06	.06	.06	.06	.06	.06
Average wage per employee	11,228.58	12,633.29	14,055.45	15,718.68	17,670.47	19,753.51
Total transportation employees	9,599.00	9,374.00	8,838.00	8,610.00	8,516.00	7,782.00
Direct wages	85,174.00	88,478.00	94,812.00	104,969.00	108,680.00	104,925.00
All fringes	26,961.00	28,298.00	30,209.00	36,110.00	42,683.00	41,402.00
Subtotal	112,136.00	116,777.00	125,021.00	141,080.00	151,363.00	146,228.00
Average wage per revenue dollar	.23	.24	.25	.25	.23	.24
Average wage per employee	11,682.09	12,457.55	14,145.91	16,385.65	17,774.04	18,790.57
IV. All other rail employees	3,763.00	3,604.00	3,124.00	2,857.00	2,688.00	2,395.00
Direct wages	31,818.00	34,103.00	32,100.00	32,960.00	32,735.00	31,475.00
All fringes	8,963.00	9,765.00	10,044.00	10,814.00	11,554.00	10,726.00
Subtotal	40,782.00	43,868.00	42,144.00	43,774.00	45,290.00	42,152.00
Average wage per revenue dollar	.09	.09	.08	.08	.07	.07
Average wage per employee	10,837.79	12,172.11	13,490.67	15,321.99	16,849.05	17,600.13
V. Total rail employees	21,783.00	21,053.00	18,823.00	18,183.00	17,908.00	16,549.00
Direct wages	178,973.00	185,945.00	188,034.00	204,063.00	211,342.00	207,189.00
All fringes	55,534.00	55,930.00	58,231.00	67,570.00	80,442.00	76,997.00

Subtotal	234, 508. 00	241, 876. 00	246, 266. 00	271, 633. 00	291, 784. 00	284, 187. 00
Average wage per revenue dollar	.49	.49	.49	.49	.45	.46
Average wage per employee	10, 765. 66	11, 488. 94	13, 083. 25	14, 938. 90	16, 293. 55	17, 172. 46
Total, rail revenues	479, 190, 400. 00	495, 811, 770. 00	502, 383, 560. 00	555, 426, 000. 00	648, 383, 000. 00	614, 406, 000. 00
CHESAPEAKE & OHIO						
I. Maintenance of way employees	2, 862. 00	2, 757. 00	2, 446. 00	2, 333. 00	2, 342. 00	2, 300. 00
Direct wages	19, 769. 00	21, 265. 00	21, 387. 00	22, 076. 00	23, 309. 00	26, 374. 00
All fringes	5, 188. 00	5, 911. 00	5, 814. 00	6, 684. 00	7, 827. 00	8, 407. 00
Subtotal	24, 866. 00	27, 177. 00	27, 202. 00	28, 760. 00	31, 137. 00	34, 782. 00
Average wage per revenue dollar	.05	.06	.06	.06	.05	.06
Average wage per employee	8, 688. 53	9, 857. 48	11, 121. 25	12, 327. 74	13, 295. 06	15, 122. 73
II. Maintenance of equipment employees	6, 172. 00	5, 541. 00	4, 151. 00	3, 821. 00	4, 005. 00	4, 254. 00
Direct wages	48, 099. 00	42, 999. 00	36, 747. 00	38, 899. 00	43, 322. 00	49, 116. 00
All fringes	17, 464. 00	12, 170. 00	11, 595. 00	12, 348. 00	15, 169. 00	16, 300. 00
Subtotal	65, 563. 00	55, 170. 00	48, 343. 00	51, 248. 00	58, 492. 00	65, 417. 00
Average wage per revenue dollar	.14	.12	.11	.10	.10	.11
Average wage per employee	10, 622. 73	9, 956. 70	11, 646. 16	13, 412. 38	14, 604. 80	15, 377. 88
III. Transportation employees:						
Train and engine employees	6, 246. 00	6, 092. 00	5, 799. 00	5, 683. 00	5, 539. 00	5, 286. 00
Direct wages	56, 893. 00	57, 591. 00	62, 875. 00	69, 975. 00	67, 177. 00	67, 872. 00
All fringes	14, 861. 00	16, 373. 00	17, 002. 00	21, 946. 00	23, 435. 00	27, 532. 00
Subtotal	71, 754. 00	73, 964. 00	79, 877. 00	91, 921. 00	90, 613. 00	95, 404. 00
Average wage per revenue dollar	.16	.16	.18	.19	.16	.17
Average wage per employee	11, 488. 09	12, 141. 28	13, 774. 43	16, 174. 86	16, 359. 14	18, 048. 59
All other transportation employees	2, 976. 00	2, 791. 00	2, 485. 00	2, 335. 00	2, 202. 00	2, 128. 00
Direct wages	26, 211. 00	26, 653. 00	26, 782. 00	28, 183. 00	28, 757. 00	30, 673. 00
All fringes	6, 080. 00	7, 342. 00	7, 410. 00	8, 276. 00	9, 282. 00	9, 393. 00
Subtotal	32, 291. 00	33, 996. 00	34, 193. 00	36, 460. 00	38, 039. 00	40, 066. 00
Average wage per revenue dollar	.07	.07	.08	.07	.07	.07
Average wage per employee	10, 850. 67	12, 180. 73	13, 759. 85	15, 614. 62	17, 275. 09	18, 828. 31
Total transportation employees	9, 222. 00	8, 883. 00	8, 284. 00	8, 018. 00	7, 741. 00	7, 414. 00
Direct wages	83, 104. 00	84, 245. 00	89, 657. 00	98, 158. 00	95, 935. 00	98, 545. 00
All fringes	20, 941. 00	23, 716. 00	24, 413. 00	30, 222. 00	32, 717. 00	36, 925. 00
Subtotal	104, 046. 00	107, 961. 00	114, 071. 00	128, 381. 00	128, 652. 00	135, 471. 00
Average wage per revenue dollar	.23	.24	.25	.26	.23	.24
Average wage per employee	11, 282. 39	12, 153. 67	13, 770. 06	16, 011. 71	16, 619. 68	18, 272. 39

PAYROLL AND EXPENSES—Continued

[Estimated on basis of information reported to ICC in r-1S and wage statistics, forms A and P; wages and fringes in thousands, average wage in dollars]

	1970	1971	1972	1973	1974	1975
IV. All other rail employees	6,760.00	6,548.00	5,706.00	5,468.00	5,366.00	5,258.00
Direct wages	55,756.00	61,225.00	58,139.00	61,538.00	63,195.00	66,459.00
All fringes	13,739.00	14,950.00	15,255.00	18,159.00	20,248.00	20,288.00
Subtotal	69,495.00	76,176.00	73,394.00	79,698.00	83,444.00	86,748.00
Average wage per revenue dollar	.15	.17	.16	.16	.15	.15
Average wage per employee	10,280.46	11,633.51	12,862.70	14,575.45	15,550.52	16,498.34
V. Total all employees	25,016.00	23,729.00	20,587.00	19,640.00	19,454.00	19,226.00
Direct wages	206,638.00	209,735.00	205,932.00	220,673.00	225,762.00	240,496.00
All fringes	57,333.00	56,748.00	57,078.00	67,415.00	75,963.00	81,922.00
Subtotal	263,972.00	266,484.00	263,011.00	288,089.00	301,726.00	322,419.00
Average wage per revenue dollar	.58	.59	.58	.59	.53	.56
Average wage per employee	10,552.13	11,230.33	12,775.61	14,668.52	15,509.73	16,769.98
Total, rail revenues	453,030,675.00	455,202,255.00	451,330,040.00	490,062,000.00	568,830,000.00	571,600,000.00
NORFOLK & WESTERN						
I. Maintenance of way employees	5,413.00	4,359.00	4,510.00	5,172.00	5,172.00	4,684.00
Direct wages	35,828.00	33,525.00	39,765.00	42,912.00	50,418.00	51,260.00
All fringes	9,011.00	9,016.00	9,812.00	12,226.00	16,401.00	17,447.00
Subtotal	44,839.00	42,542.00	49,577.00	55,138.00	66,820.00	68,707.00
Average wage per revenue dollar	.06	.06	.06	.07	.07	.07
Average wage per employee	8,283.72	9,759.73	10,992.85	12,131.70	12,919.60	14,668.51
II. Maintenance of equipment employees	6,765.00	6,239.00	6,196.00	6,061.00	5,977.00	5,242.00
Direct wages	54,380.00	50,958.00	59,491.00	62,890.00	64,746.00	60,242.00
All fringes	13,920.00	13,476.00	15,282.00	18,495.00	22,569.00	22,210.00
Subtotal	68,300.00	64,434.00	74,774.00	81,404.00	87,316.00	82,453.00
Average wage per revenue dollar	.09	.09	.09	.10	.09	.08
Average wage per employee	10,096.16	10,327.75	12,068.11	13,430.86	14,608.71	15,201.52

III. Transportation employees:						
Train and engine employees	9,671.00	9,434.00	9,144.00	9,070.00	9,050.00	8,326.00
Direct wages	84,495.00	83,744.00	97,542.00	105,248.00	108,536.00	102,954.00
All fringes	29,848.00	30,628.00	36,591.00	43,019.00	50,083.00	48,554.00
Subtotal	114,343.00	116,372.00	134.133.00	148,267.00	158,620.00	151,509.00
Average wage per revenue dollar	.16	.16	.17	.18	.16	.15
Average wage per employee	11,823.37	12,123.40	14,669.05	16,347.07	17,527.10	18,197.15
All other transporation employees	3,123.00	2,915.00	2,772.00	2,738.00	2,692.00	2,597.00
Direct wages	28,462.00	30,359.00	32,456.00	34,841.00	35,622.00	38,075.00
All fringes	6,955.00	7,396.00	8,002.00	9,771.00	12,335.00	12,534.00
Subtotal	35,417.00	37,756.00	40,458.00	44,612.00	47,957.00	50,609.00
Average wage per revenue dollar	.05	.05	.05	.05	.05	.05
Average wage per employee	11,340.89	12,952.49	14,595.56	16,293.87	17,814.65	19,487.53
Total transportation employees	12,794.00	12,349.00	11,916.00	11,808.00	11,742.00	10,923.00
Direct wages	112,957.00	114,104.00	129,998.00	140,089.00	144,158.00	141,029.00
All fringes	36,803.00	38,024.00	44,594.00	52,790.00	62,418.00	61,089.00
Subtotal	149,761.00	152,128.00	174,592.00	192,880.00	206,577.00	202,118.00
Average wage per revenue dollar	.20	.21	.22	.23	.21	.21
Average wage per employee	11,705.60	12,319.11	14,651.96	16,334.73	17,593.02	18,503.95
IV. All other rail employees	7,069.00	6,800.00	6,546.00	6,447.00	6,310.00	5,923.00
Direct wages	58,240.00	62,947.00	67,774.00	72,761.00	73,828.00	76,082.00
All fringes	12,104.00	13,015.00	13,964.00	17,727.00	22,467.00	23,141.00
Subtotal	70,345.00	75,963.00	81,739.00	90,489.00	96,296.00	99,223.00
Average wage per revenue dollar	.10	.10	.10	.11	.10	.10
Average wage per employee	9,951.24	11,171.13	12,486.89	14,035.88	15,260.90	16,752.30
V. Total rail employees	32,041.00	29,747.00	29,168.00	28,861.00	29,201.00	26,954.00
Direct wages	261,407.00	261,536.00	297,029.00	318,672.00	333,152.00	328,614.00
All fringes	71,839.00	73,533.00	83,654.00	101,240.00	123,857.00	123,887.00
Subtotal	333,247.00	335,069.00	380,683.00	419,912.00	457,009.00	452,502.00
Average wage per revenue dollar	.45	.46	.48	.50	.46	.46
Average wage per employee	10,400.64	11,263.99	13,051.41	14,549.49	15,650.49	16,787.97
Total, rail revenues	734,218,000.00	727,620,000.00	795,010,000.00	842,345,000.00	982,988,000.00	985,891,000.00

RESPONSE OF THE DEPARTMENT OF TRANSPORTATION TO A REQUEST FOR ADDITIONAL INFORMATION FROM SENATOR MCGOVERN

1. All internal memorandums mentioning the undeliverable W–2 forms, correspondence among agencies about this matter, an analysis of ConRail accounting methods.

In mid-January, 1978 the Associate Administrator for Policy and Program Development of the Federal Railroad Administration (FRA) directed his staff to prepare a memorandum to be sent by the Administrator of FRA to the Secretary of Transportation. The memorandum was prepared and, consistent with FRA administrative practice, all copies of the memorandum were delivered to the Administrator for his review on or about January 21. The memorandum stated in its entirety what FRA staff had learned through discussions with staff of the Interstate Commerce Commission (ICC), namely, that ConRail had recently mailed W–2 forms to its employees; ConRail had received back approximately 15,000 such forms as undeliverable, of which approximately 10,000 were returned due to addressee or address errors and approximately 5,000 were unmailable due to insufficient record information; ConRail was examining the matter; and the ICC had referred the matter to the Criminal Division of the Department of Justice. The Administrator met with the Secretary some time between January 21 and January 27, 1978, and transmitted the memorandum's content verbally. Consequently, we have not been able to locate any copies of the memorandum in Department of Transportation (DOT) files.

On June 19, 1978 the Chief Counsel of FRA sent two memoranda to offices in DOT. The memoranda requested copies of documents and descriptions requested by the Subcommittee or Senator McGovern in his June 12, 1978 letter to Secretary Adams. (Attachments A[1] and B.[2])

Woodruff M. Price, special assistant to Secretary Adams, received a memorandum from Mr. John L. Sweeney, vice president-government affairs for ConRail, some time between June 12 and June 16, 1978. (Attachment C.[3])

ConRail methods are analyzed by the United States Railway Association (USRA).

2. A description and copies of documents indicating when you or members of your staff became aware of the undeliverable W–2 forms by ConRail and the manner in which you became aware of this problem.

In January, 1977 FRA staff compared labor cost/revenue ratios for the Penn Central, the Chessie System, and the Norfolk & Western. This examination revealed that the annual labor/cost revenue ratio of the Penn Central was approximately forty percent (40%) greater than for the other two railroads in the six (6) year period 1970–1975 and was unaffected by a declining traffic base. (Attachments D[4] and E.[5])

In a March, 1977 meeting with USRA staff, FRA staff inquired whether USRA had examined the components of ConRail's labor costs.

In August and September, 1977 FRA staff discussed internally the relationship between its examination of the annual labor cost/revenue ratios of the Penn Central and the labor costs of ConRail.

In December, 1977 staff of the Rail Services Planning Office (RSPO) of the ICC informed FRA staff that ConRail's excessive labor costs raised a question whether ConRail was paying non-existent employees or paying employees for work that was never performed. In January, 1978 RSPO staff informed FRA staff that ConRail had mailed W–2 forms to its 94,000 employees, of which approximately 10,000 forms were returned due to addressee or address errors and 5,000 forms were unmailable due to insufficient information. FRA staff thereupon informed FRA's Associate Administrator for Policy and Program Development (Steven R. Ditmeyer) of the problem concerning ConRail's undeliverable W–2 forms.

Mr. Ditmeyer relayed the above-referenced information to FRA's Deputy Administrator (Robert E. Gallamore) and Administrator (John M. Sullivan) during mid-January, 1978 and, as well, to Secretary Adams' Special Assistant (Woodruff M. Price). Mr. Sullivan, in turn, apprised Secretary Adams of the problem

[1] See attachment A, beginning on p. 557.
[2] See attachment B, beginning on p. 558.
[3] See attachment C, beginning on p. 559.
[4] See attachment D, beginnnig on p. 560.
[5] See attachment E, beginning on p. 564.

concerning ConRail's undeliverable W–2 forms some time between January 21 and January 27, 1978.

3. Any information you have, including staff memorandums or reports, concerning ConRail's refusal to give ICC investigators access to the returned W–2 forms, forcing the Commission's staff to seek the assistance of the U.S. Attorney's Office in Philadelphia to obtain the necessary documents.

DOT has no information concerning ConRail's refusal to give ICC investigators access to the returned W–2 forms other than as contained in responses to Request Nos. 1 and 2.

[ICC Bureu of Accounts inter-Office memoranda on ConRail labor-materials cost ratio]

NOVEMBER 21, 1977.

To: William J. McCormick, Chief, Section of Financial Analysis.
From: Ralph Ladden, Financial Analyst.
Subject: Request for ConRail labor audit.

ConRail's wage ratio is considerably higher than the industry's average, and this is most evident in the maintenance of way accounts. In nine months of 1976, ConRail spent $1.36 in labor for every $1.00 spent for track material, around 50 percent more than the industry average. While the ratio of labor to track material was also unfavorable for ConRail's predecessor, it was readily explainable because of the low level of replacements undertaken by Penn Central for many years. For example, in the eight years of Penn Central's existence, tie and new rail replacements averaged less than two million ties and 200 miles a year respectively, compared to 4.5 million ties and 645 miles of ribbon rail for ConRail in the nine months of 1976.

The $1.36 for labor per $1 of track material spent by ConRail in 1976 would have been even more unfavorable had ConRail come into existence on January 1, 1976, instead of April first. Maintenance expenses in the first quarter usually consist mostly of labor as winter conditions do not allow for the laying of rail and ties. The table below shows ConRail's nine month figures with 12 month figures for seven other railroads.

COST TO INSTALL TRACK MATERIALS (1976)

[Thousands]

ICC account	ConRail FSP for 1976 (at 1973 prices)	ConRail actual, 9 mo	Selected class I railroads, 12 mo						
			N. & W.	B. & O.	C. & O.	ATSF	Southern	MKT	RI
212—Ties	$41,000	$59,026	$11,052	$8,107	$5,572	$13,793	$14,672	$1,388	$5,713
214—Rails	16,000	38,321	11,643	6,755	3,908	13,015	6,865	1,878	4,017
216—Other track materials	22,000	32,428	9,415	6,070	5,021	16,494	3,716	1,152	3,394
218—Ballast	13,000	9,632	3,104	2,602	1,498	5,076	2,764	439	1,442
Total	92,000	139,407	35,214	23,534	15,999	51,378	28,017	4,857	14,566
220—Track laying and surfacing (labor)	86,000	190,501	32,852	24,778	17,517	42,411	22,753	3,613	13,275
Ratio ("cost of labor to install $1 in materials")	$0.93	$1.36	$0.91	$1.05	$1.09	$0.83	$0.81	$0.74	$0.92

MEMO TO WILLIAM J. MCCORMICK FROM RALPH LADDEN

The amalgamation of six railroads into one results in much initial confusion, and it is possible that record-keeping of the company is not accurate. In addition, there were initial layoffs followed by rehirings because of labor protective features of the Penn Central merger. This poses an additional opportunity for confusion.

Currently there are approximately 95,000 ConRail employees, a figure we consider too high in view of ConRail's traffic base. Since the future profitability of ConRail, as stated in the Final System Plan presented by the United States Railway Association, predicts large increases in labor productivity, (large decreases in wage ratio), the Commission should concentrate its study of ConRail

in the labor area. As a matter of course, the first thing that should be done is an audit matching payroll checks with bodies to assure that funds are not being dispersed to individuals not actually in an employment relationship with the company. ConRail's difficulties in this regard may have been inherited from its predecessor companies. However, in light of the fact that each 100 surplus employees in 1978 will cost the company approximately $3 million per year, assuring that all paychecks flow to active employees employed in the business is essential if the public funds in ConRail are to be wisely spent.

The enclosed exhibit compares ConRail's track material and track labor costs with those of its predecessor Penn Central and with various other railroad for the years 1972 through 1976.

Enclosure.

RATIO OF LABOR TO TRACK MATERIAL DOLLARS—SELECTED ROADS, 1976–1972

[Thousands]

Year and ICC account	ConRail actual, 9 mo	N. & W.	B. & O.	C. & O.	ATSF	Southern	Katy	Chicago Rock Island
1976:								
212—Ties	$59,026	$11,052	$8,107	$5,572	$13,793	$14,672	$1,388	$ 5,713
214—Rails	38,321	11,643	6,755	3,908	13,015	6,865	1,878	4,017
216—Other track materials	32,438	9,415	6,070	5,021	16,494	3,716	1,152	3,394
218—Ballast	9,632	3,104	2,602	1,498	5,076	2,764	439	1,442
Total	139,407	35,214	23,534	15,999	51,378	28,017	4,857	14,566
220—Labor (track L. & S.)	190,501	32,852	24,778	17,517	42,411	22,753	3,613	13,275
Ratio (cost of Labor to install $1 in materials)	$1.36	$0.91	$1.05	$1.09	$0.83	$0.81	$0.74	$0.92
	Penn Central							
1975:								
212—Ties	17,559	11,052	8,024	4,696	14,131	12,399	1,544	3,624
214—Rails	4,332	11,643	5,589	3,607	2,186	2,596	(30)	2,225
216—Other track materials	16,273	9,415	4,494	3,227	12,635	3,995	331	1,679
218—Ballast	2,516	3,104	2,152	1,168	3,312	2,478	266	799
Total	40,680	35,214	20,259	12,698	32,254	21,468	2,111	8,345
220—Labor (track L. & S.)	76,717	32,052	21,337	15,199	35,610	19,928	2,994	11,050
Ratio (cost of labor to install $1 in materials)	$1.88	$0.91	$1.05	$1.19	$1.19	$0.93	$1.42	$1.32
1974								
212—Ties	19,025	11,998	4,579	2,028	11,774	15,864	1,398	3,586
214—Rails	3,305	3,747	241	(651)	1,918	8,506	(122)	249
216—Other track materials	13,277	5,128	3,192	1,553	10,051	6,658	203	1,752
218—Ballast	4,091	1,842	1,560	782	3,416	2,551	247	835
Total	39,698	22,715	9,572	3,712	27,159	33,579	1,726	6,422
220—Labor (track L. & S.)	83,087	27,558	17,781	12,454	38,693	22,859	2,923	13,773
Ratio (cost of labor to install $1 in materials)	$2.09	$1.21	$1.85	$3.35	$1.42	$.68	$1.69	$.214
1973:								
212—Ties	12,854	7,334	2,890	2,231	7,652	9,202	1,550	1,832
214—Rails	8,026	4,915	1,681	1,344	7,258	7,257	208	689
216—Other track materials	12,149	5,448	3,169	1,793	9,767	6,160	427	1,730
218—Ballast	3,354	1,684	1,446	615	2,349	1,919	233	902
Total	36,383	19,381	9,186	5,983	27,026	24,538	2,418	5,153
220—Labor (Track L. & S.)	70,609	21,679	16,671	10,984	34,980	17,371	3,309	11,935
Ratio (cost of labor to install $1 in material)	$1.94	$1.12	$1.81	$1.83	$1.29	$0.71	$1.36	$2.32
1972:								
212—Ties	11,103	6,315	3,844	2,125	8,308	10,847	1,199	3,312
214—Rails	7,311	5,422	3,865	772	5,930	8,876	1	1,237
216—Other track materials	11,188	3,975	4,874	2,383	8,341	5,525	99	1,857
218—Ballast	3,751	1,866	1,564	741	2,246	1,652	185	871
Total	33,353	17,578	14,147	6,021	24,825	26,900	1,484	7,277
220—Labor (track L. & S.)	68,774	19,848	15,289	9,627	28,868	14,878	3,182	11,290
Ratio (cost of labor to install $1 in materials)	$2.06	$1.13	$1.08	$1.60	$1.16	$0.55	$2.14	$1.55

MEMORANDUM

PHILADELPHIA, PA., *January 6, 1978.*

From: George K. Deller, Regional Auditor.
Subject: Unfavorable ratio of labor costs to material—ConRail.
To: J. Richard Berman, Chief, Section of Audit.

A memorandum from Auditor Aigeltinger is attached outlining the major reasons for the disparity of labor costs to material costs when comparing ConRail costs to industry averages.

This information is furnished on a preliminary basis. Our auditors will attempt to derive or estimate the cost of each mentioned item. I will forward their findings to you as soon as possible.

MEMORANDUM

PHILADELPHIA, PA., *June 6, 1978.*

From: John F. Aigeltinger, Auditor.
Subject: Unfavorable ratio of labor costs to material.
To: George K. Deller, Regional Auditor.

The high cost of track labor relative to track material costs results from the following special conditions which prevail on ConRail:

a. Labor costs are high because:

(1) Most track crews performing the track maintenance program in year 1976 were relatively untrained and inexperienced. Track forces available from the predecessor railroads were small in number and inadequate to perform the extensive upgrading and rebuilding program incorporated in the requirements of the Final System Plan. As a result, large numbers of new track workers were employed. In addition to the track labor, supervisory personnel also had to be recruited. They, also, were unfamiliar with the requirements of their job, and as a result there was measurable inefficiency throughout much of the first year of operation.

(2) In an attempt to lessen the inefficiencies resulting from untrained work crews, schools were established in the winter months of the period December, 1976 through March, 1977, to train supervisory engineers. The salaries of these track supervisors and all associated costs of their schooling, including living and travel expenses, were charged to account 220, Track Laying and Surfacing. These training schools have been reestablished for the winter period of 1977–1978. Labor costs are thus inflated without adding any material costs.

(3) In order to accomplish the work program laid out in the Final System Plan for year 1976 (the laying of 727 miles of new rail and the installation of 4.55 million crossties), it was necessary to work a considerable amount of overtime at punitive rates of pay. We point out that the Final System Plan was predicated on twelve months of ConRail operation, when, in fact, ConRail only operated the property for nine months in 1976.

(4) In a further effort to complete the required track work for year 1976, ConRail continued its programmed track work into December. The weather turned unexpectedly very cold. Snow rapidly covered the ground over most of the system. As a result, track crews incurred expense without laying ties or installing rail.

(5) As the track crews were available and not preoccupied with track work, they were utilized under emergency conditions removing snow and clearing yards and main line right of way. If proper accounting had been performed for this snow removal, the costs would have gone against account 272. Removing Snow, Ice and Sand. Because the work was performed by track crews, timekeepers, in most instances, incorrectly charged their time to account 220, Track Laying and Surfacing.

(6) Heavy track machinery required in the 1976 track program had not been serviced the previous winter by forces of the predecessor railroads and, as a result, much time was lost due to breakdowns or inoperable equipment.

b. Material costs are low because:

(1) Twenty-five percent of all track laid in 1976 was relay rail carried in stock at a cost to ConRail of $5.00 per ton (included in original acquisition from predecessors).

(2) Unserviceable or worn out rail was replaced. The rail retired had a book cost of $5.00 per ton. Much of this rail was sold as scrap for about $80 per ton, thus generating a credit of about $75 per ton which was applied to material costs

in account 214, Rail. Scrap recovered from displaced tie plates and angle bars generated similar credits to account 216, Other Track Material.

(3) Various transportation authorities, such as the MTA (Massachusetts Transportation Authority) and the CTA (Connecticut Transportation Authority), have made available to ConRail large amounts of track material, consisting mostly of ties and rail, which was furnished the railroad at no cost. ConRail installed this material in commuter areas and absorbed the cost of the labor. Here, again, the ratio of labor costs to material is being adversely distorted when compared to ratios obtained by other carriers in the industry.

This report is submitted as an interim report and will be supplemented by a final report when additional cost information becomes available.

[This memo[1][2] was hand delivered to the Senate Appropriations Committee by ConRail the morning of Thursday, June 15, 1978, ostensibly for the Committee's use in their mark-up of the ConRail supplemental appropriation that afternoon]

In November of 1977, ConRail's Finance Department became concerned about scattered information that there were "phantom workers" on the ConRail payroll. The Finance Department decided that the best auditing technique to determine the truth or falsity of this information was through a revised W-2 proceeding.

The standard practice under our bankrupt predecessors was to distribute the W-2 forms along with either the first or second paycheck in January.

Robert Plant, Executive Vice President for Finance and Administration, sought verification of the existence of these employees on the payroll by mailing a W-2 to each, a total mailing of 127,000 W-2 forms. When that process was begun, it revealed that approximately 4,000 W-2 recipients did not have available addresses within our own information system. As process was underway, approximately 10,000 of the 123,000 forms that had been mailed were returned by the post office.

Thus, ConRail was looking for approximately 14,000 deliverable addresses. Since the law requires W-2 forms to be issued by January 31 of each year, our Finance Department was searching for these addresses in order to comply. During this hectic search, an investigator for the Interstate Commerce Commission witnessed the battery of people we had put to work tracking down the addresses.

He asked for a complete set of documents and he was requested to wait until we had completed the search process.

He was apparently miffed. It is our conclusion that he contacted the United States Attorney's office in Philadelphia. Shortly thereafter, on February 15th, we received a subpoena from the U.S. District Court for the Eastern District of Pennsylvania.

Our attorneys have been working with the U.S. Attorney's office. We have provided them with all the data and documents which they have requested, and we have no indication of what may result, nor do we know whether the present sitting Grand Jury for that District, which we are told has been informed of the problems, will take any action on its own behalf.

As of April 20th, ConRail had managed to deliver all but 1,165 of the previously undeliverable 14,000 W-2's. Since that time we have found mailing addresses for 76 additional individuals. We have determined that 105 others have neither sought a W-2 form nor have claimed their last 1977 paycheck or paychecks.

Therefore, at present, ConRail is looking for an address and or the whereabouts of 984 people whose W-2's we still have in our possession.

We have separated these 984 forms into two categories, and we are giving first priority to 645 forms through an intensive field investigation. Of those 645, our records show that 289 persons are still on our payroll. When the next paycheck is delivered to these individuals it will be proffered, along with the W-2 form, by a member of ConRail's central staff—not by the individual who would normally deliver the check at the employee's work station. At that time we will seek to obtain a valid address. This should be a conclusive step in determining whether or not the potential for fraud has existed for these 289 persons.

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[1] There is no known explanation as to why this document was not identified by ConRail.
[2] This document was obtained by the Joint Economic Committee for use in hearings entitled "National Railroad Policy : Which Way Is Up?

Our records indicate that an additional 211 of the 645 individuals have left ConRail's employment. We will first compare a card that every employee signs when he is first hired with the signatures of endorsement on the back of his/her cancelled checks. This process is underway and should be completed in the near future.

Based on the information obtained by that survey, we will then proceed to investigate any that indicate discrepancies in the signature. On the remainder, we will seek by field interviews with his previous fellow workers to determine his/her identity and presence within that work site. These interviews will start with conversations with the individual's superior, who filled out the timesheet on which the paychecks were based and which, in turn, became the basis for the undelivered W–2's.

The remaining 145 persons within the 645 are carried on our records in such a manner that we, at first look, cannot determine whether they are still employed or have left ConRail. We are investigating the status of each and when that is completed we will follow through with the procedures outlined above for both active and former employees.

We have placed 339 W–2's in a secondary priority category. These include people who are known to be deceased or whose earnings were not subject to taxation either because they were less than the taxable amount or were based on disability pay. One of our primary tools for locating the addresses of the undelivered W–2's was the request for such from employees who did not receive them in the mail. When we have completed the investigation of the 645 in category 1, we will then move on to category 2.

It should be noted that another tool for determining fraud is an employee's questions as to the amount of gross wages that have showed up on the W–2 form. When that employee can show that he received less pay than his W–2 form indicates, it may indicate that there was fraud at the levels above the employee. ConRail received such inquiries from 96 employees and in every one of the 96 cases, without exception, the W–2 amounts and the amounts shown on the payroll records and cancelled checks has been reconciled.

We hope that those who are inquiring into the matters associated with these undelivered W–2's will recognize that it was ConRail's own investigation that has brought them to light. The facts outlined above are a result of the decision made last November—a decision from which the issue of the undelivered W–2's inevitably resulted.

We assume that the present concern that has been expressed here in Washington relates to the possibility that, somewhere in the ConRail system, there are individuals who have the means to manipulate the payroll process and have been so doing. That was precisely ConRail's concern and precisely the reason why the entire process was set in motion last November.

Eligible W–2 recipients	127,000
No addresses in CR files	4,000
W–2's returned by post office as "undeliverable"	10,000
Total	14,000
Delivered by April 20, 1978	12,835
Problem W–2's	1,165
Accounted for as of June 15, 1978	181
Total	984

REPORT BY THE

Comptroller General

OF THE UNITED STATES

Information On Alleged Conrail Mismanagement Of Contracting And Track Rehabilitation In Its Toledo And Ft. Wayne Divisions

GAO could not substantiate allegations that Conrail had mismanaged (1) contracts for derailment and crew transportation services and (2) tract rehabilitation. According to Conrail studies, contracting for derailment and crew transportation services is generally economical because the services are required infrequently or sporadically. GAO did not find evidence of poor rehabilitation on three track sections, and concludes the allegation was based on incomplete and/or inaccurate information.

CED-79-41

FEBRUARY 23, 1979

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-164497(5) FEBRUARY 23, 1979

The Honorable Richard Bolling
Chairman, Joint Economic Committee
Congress of the United States

Dear Mr. Chairman:

You and Senator McGovern requested in an August 14, 1978, letter that we assess the validity of allegations of mismanagement and fraud by Conrail executives. The request was prompted by allegations Conrail employees and a Transport Workers Union official made during hearings before the Subcommittee on Economic Growth and Stabilization of the Joint Economic Committee on July 24, 1978. In a subsequent meeting with your office, we agreed to focus on examples which had occurred in Conrail's Toledo, Ohio, and Ft. Wayne, Indiana, Divisions relating to (1) Conrail's practice of contracting for derailment and crew transportation services and (2) the adequacy of track rehabilitation. Our findings follow. (More details are in app. I.)

Conrail, as well as other railroads, generally contracts for derailment and crew transportation services because its studies show that occasional contracting is more economical than equipping, staffing, and operating its own derailment and transportation services. Our study indicated that Conrail management is monitoring its contracting costs and tries to obtain required services at minimum cost.

Conrail's use of contractor-supplied cranes and crews for rerailing appeared reasonable. However, Conrail could probably handle routine derailments more economically with its own employees and equipment. Conrail wants additional cranes and other equipment, but its monetary resources are limited.

Our review of allegedly poor rehabilitation on three track sections showed no evidence of poorly performed rehabilitation, and indicates that the allegation was based on incomplete and/or inaccurate information.

B-164497(5)

Since we could find no evidence of mismanagement in the Toledo and Ft. Wayne Divisions, we have decided not to pursue this matter elsewhere in Conrail. However, as noted in our prior reports, "Conrail's Attempts To Improve Its Use of Freight Cars" (CED-78-23, Jan. 24, 1978) and "Conrail Faces Continuing Problems" (CED-78-174, Oct. 6, 1978), Conrail management must overcome significant problems to become financially self-sufficient. Accordingly, we will continue to evaluate Conrail's efforts along these lines.

We discussed our findings with Conrail officials, and considered their views in preparing this report. As arranged with your office, we are making this report available to other interested parties.

Sincerely yours,

Comptroller General
of the United States

APPENDIX

INFORMATION ON ALLEGATIONS OF CONRAIL MISMANAGEMENT

BACKGROUND

In an August 14, 1978, letter, the Chairman, Joint Economic Committee and Senator George McGovern, asked us to assess the validity of allegations of mismanagement and possible fraud by Conrail executives. The allegations were made by Conrail employees and a Transport Workers Union official at a hearing on national railroad problems July 24, 1978. We agreed to concentrate on the alleged mismanagement involving (1) Conrail's practice of contracting for derailment and crew transportation services and (2) the adequacy of track rehabilitation.

During the hearings, Conrail employees and the union official said that Conrail contracts for derailment and crew transportation services when Conrail employees and/or other means would be more economical. They identified Conrail's Toledo and Ft. Wayne Divisions as examples of locations where improprieties in contracting had occurred. The employees also alleged that Conrail's track rehabilitation program was in "shambles," as evidenced by poorly rehabilitated track.

We agreed to assess the validity of allegations about Conrail's Toledo and Ft. Wayne Divisions. The study would determine if further review throughout Conrail was necessary.

CONTRACTING FOR DERAILMENT AND CREW TRANSPORTATION IN CONRAIL'S TOLEDO AND FT. WAYNE DIVISIONS

The Toledo and Ft. Wayne Divisions generally contract for derailment and crew transportation services. Details concerning contracting in these divisions follow.

Contracting for derailment service at Stanley Yard

All railroads require equipment and personnel to rerail cars and locomotives derailed because of accidents, bad weather conditions, or other causes.

For the past 10 years, Conrail's Toledo Division has obtained derailment service from area contractors. Conrail officials said it is generally more economical to

contract for needed services than to equip, staff, and operate a wreck force capable of taking care of all its derailments. Officials of two other major railroads operating in the Toledo area (the Norfolk and Western and the Chessie System Railroads) said they also contract for derailment services and use the same contractors Conrail uses.

The contractors mainly used by the three railroads are Hulcher Emergency Wrecking; Fondessy Enterprises, Inc.; and Isringhausen Co. Officials of all three railroads said they use Hulcher for clearing major mainline derailments because it is best equipped to clear track quickly. They said they used the other two contractors for less urgent situations because their services are less expensive. Officials of all three railroads said they use Fondessy most frequently. Conrail's payments to the three principal contractors for the period January 1 through August 31, 1978, were as follows:

Fondessy	$286,000
Hulcher	70,000
Isringhausen	10,000
	$366,000

During the hearing, a union official alleged that (1) derailment equipment at the Toledo Division Stanley Yard (which would enable Conrail employees to do more of the work) "disappeared," (2) Conrail violated the union wrecking agreement by using contractors rather than available Conrail employees, and (3) Conrail made improper payments to a contractor for work not performed.

In past years, Conrail generally handled minor yard derailments with its own work force. However, in 1977 Conrail's Stanley Yard crane was declared obsolete and unsafe. Since then, the Toledo Division has contracted for all derailment service requiring a crane. Conrail's own work force still handles minor derailments that can be corrected without a crane.

Unlike mainline derailments, yard derailments occur in one geographical area and are more frequent. A Toledo Division study concluded that some derailments could be handled more economically by Conrail employees if they had a crane. As a result, the Toledo Division requested headquarters approval of a 75-ton yard crane for its Stanley Yard. This request is in Conrail's $2.8 million proposed crane acquisition program for 1979. Conrail headquarters

officials told us, however, that 1979 requests for equipment total over $500 million--$300 million more than Conrail has for equipment purchases. Consequently, Conrail would only be able to approve high priority requests, made on the basis of "rate of return," safety considerations, and other factors.

When contractor derailment services are used, Conrail, under union agreement, must call its designated wreck force members to assist the contractors. Under the agreement, the members are entitled to pay even if they are not called for assistance. Designated wreck force members are normally union employees with high seniority, as assignment to the wreck force is coveted as a means of earning extra income.

Both union and non union employees at Conrail's Stanley Yard told us they were unaware of any significant violation of the union agreement. A review of the yard's pay records for the period January 1 through August 31, 1978, confirmed that there was only one derailment reported where the Conrail wreck force was not called for assistance. In that instance, the wreck force was paid in accordance with the union agreement. During the same period, the Toledo Division's Labor Relations Section had not received or processed any grievance pertaining to violations of the union wrecking agreement for any of its three yards.

We could not substantiate the allegation that contractors were paid for work not performed at the Stanley Yard. The allegation was based, in part, on the fact that a contractor had submitted a number of invoices for identical amounts for a 7-day period in early 1978. During this period, the Toledo area was hit with a severe winter storm and the contractor was retained on a 24-hour basis for most of the period. The contractor billed identical amounts for each 12 hours of service. For example, each billing for 12 hours' (overtime rate) use of a 90-ton crane and crew amounted to $2,013.

The only discrepancy we found was that the yard's documentation for contractor services could not be reconciled exactly to Fondessy's billings. In fact, the yard's documentation indicated that the contractor may have undercharged for its services.

Conrail has attempted to improve its documentation and payment procedures. New instructions, effective September 1, 1978, require that separate purchase orders be issued each time a contractor is used, and the services must be documented by a receiving report. The new procedures

should provide better control over payments to contractors, although, at the time of our review, Conrail management was having problems getting the new procedures implemented properly.

Contracting for crew transportation in the Ft. Wayne Division

Conrail and other railroads must provide transportation to (1) move crews between terminals to correct train scheduling imbalances, (2) relieve crews whose workday is complete, and (3) move crews from terminals to lodgings. In the Ft. Wayne Division, Conrail contracts for such transportation with private cab or transit companies. For the period January 1 through August 31, 1978, Conrail's Ft. Wayne Division paid about $220,000 to transportation contractors. Conrail employees alleged that Conrail's Ft. Wayne Division was using cabs to transport crews in lieu of less expensive means of transportation, and that favoritism had been shown in selecting a cab company in the Ft. Wayne area.

Contracting for crew transportation is common throughout Conrail. The Conrail official responsible for monitoring crew transportation costs in several divisions, including Ft. Wayne, told us that Conrail generally contracts with local cab or transit companies because this is the most economical means of obtaining required transportation. According to the official, scheduled public transportation normally (1) does not provide service to and from Conrail terminals or to points along Conrail routes where crews must be relieved and (2) is untimely. Timely transportation is critical because Conrail must pay crews awaiting transportation and in transit. The other railroads we asked also contracted with local cab companies and agreed that such contracting is generally more economical than the alternatives.

Conrail's Industrial Engineering Department has made several studies on how transportation could be obtained most economically. A 1977 study showed that operating company-owned vehicles in Cleveland, Ohio, would cost $188,000 a year more than contracting. While no similar study has been performed for Ft. Wayne, the industrial engineer responsible for monitoring Ft. Wayne's crew transportation costs believes the factors that make company vehicles uneconomical in Cleveland--salaries, vehicle purchase cost, and maintenance--also would apply for Ft. Wayne.

As part of its responsibilities for monitoring crew transportation costs, the Industrial Engineering Department attempts to reduce contractor rates where possible. The department, concerned that it was paying too much for transportation in the Ft. Wayne area, negotiated a 1977 contract with a new contractor for $0.35 less per mile than the rate charged by the previous contractor for the same service (and significantly less than rates available to the general public). This contract apparently prompted the allegation of favoritism in selecting contractors in Ft. Wayne. (To win back the business which it claims to have had for over 50 years, the original contractor recently threatened Conrail with a lawsuit charging favoritism.)

For the year ended June 30, 1978, Conrail spent about $13 million on crew transportation. Conrail officials acknowledge that these costs are substantial and are considering implementing a new operating control system which may improve crew scheduling. GAO has already suggested prompt action to implement this system. (See CED-78-23.)

ADEQUACY OF TRACK REHABILITATION

Conrail is in the third year of a track rehabilitation program to correct bad tracks caused by years of deferred maintenance. While Conrail claims to be significantly improving its tracks, it acknowledges that bad tracks and many "slow orders" still permeate Conrail.

During the hearings, a Conrail employee claimed that tracks were the same or worse after rehabilitation. The employee based his allegation, in part, on three sections of track on the Chicago-Pittsburgh mainline:

--A 10-mile section between Crestline and Bucyrus, Ohio, allegedly rehabilitated in March 1978, and now under a 10 miles per hour (mph) slow order.

--A 12-mile section between Valparaiso and Hobart, Indiana, allegedly rehabilitated in May and June 1978, and still under a 30 mph slow order.

--A section near milepost 391, allegedly rehabilitated so poorly in the fall of 1977 that a derailment occurred in July 1978.

Our examination of rehabilitation of the three track sections showed the following:

--From Crestline to Bucyrus (milepost 190 to 200), track 2 was recently rehabilitated from milepost 191.3 to 200.0. No slow orders are in effect on the rehabilitated track. A 30 mph slow order is in effect on an unrehabilitated section of track 2 from milepost 190.5 to 191.0 because the rail is old and needs replacing. Incomplete rehabilitation of an interlocking track section necessitated a 10 mph slow order from milepost 191.1 to 191.3 on both tracks 1 and 2. As of October 16, 1978, work had still not been completed, but the slow order had been changed to 40 mph. Completion of this work is scheduled for late 1978.

--From Valparaiso to Hobart (milepost 423 to 435) track 2 was rehabilitated in June and July 1978. A 30 mph slow order, which was in effect pending completion of work, has been removed. A 50 mph slow order is currently in effect on part of this track because of rail fractures unrelated to the rehabilitation work. Track 1 is scheduled for rehabilitation in late 1978 to remove a 30 mph slow order from milepost 423.7 to 424.3.

--Bad tracks caused a derailment in July 1978 on track 1 at mile post 391. This derailment occurred on track which Conrail had not rehabilitated. Track 2 was recently rehabilitated around milepost 391, and no slow orders are in effect on the rehabilitated section.

A Federal Railroad Administration track inspector, who inspected one of the track sections with us, said that he knew of no instances of improper rehabilitation on the Chicago-Pittsburgh line.

SCOPE OF REVIEW

We reviewed Conrail's contracting for derailment and crew transportation and the adequacy of track rehabilitation. We made our review at Conrail's Ft. Wayne and Toledo Divisions. Additional information was obtained from Conrail headquarters and other Conrail locations, the Federal Railroad Administration, and other railroads.

(34368)

LETTERS OF COMMENT ON THE REPORT BY THE COMPTROLLER GENERAL OF THE UNITED STATES—GAO

HUNTINGTON, IND., *March 4, 1979.*

Senator GEORGE MCGOVERN,
Joint Economic Committee,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR MCGOVERN: After Bob and I examined the GAO Report during this weekend, it is not very difficult for us to come to the cynical conclusion that either the agency didn't know what it was going or that it was "gotten to".

We were stunned by the way the report is written indicating nothing whatsoever is wrong with Conrail and that its operation is just fine. The report also indicates that the working men criticizing Conrail on the basis of their own knowledge of the system are just blowing smoke or are of a low mentality and that all the testimony, personal observations and facts presented had no merit or were greatly exaggerated at the hearing. If we read the report correctly, all of us are just trying to ruin the outstanding reputation of the Conrail managers. That could not be further from the truth. All we wish to do is to work for a good railroad.

We must state that since the hearing there have been some minor improvements in the Western Region. We have also had some "heat" on us for being at the hearing. Perhaps with the minor changes the gross waste and incompetence is more covert.

Bob and I sincerely appreciate your efforts and the opportunity to comment on the GAO report before the hearing record is printed. We also hope that our elected representatives will get better coverage in what they are trying to do to make this a viable rail system for the shippers and for my fellow workers. What we need are lasting improvements and not just the rhetoric of the corporate officials.

Sincerely,

RICHARD F. MORRETT, Jr.

TRANSPORT WORKERS UNION OF NORTH AMERICA,
RAILROAD DIVISION,
New York, N.Y., March 21, 1979.

DEBBIE DUBRULE,
Joint Economic Committee,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SIRS: I would like to thank the Chairman of the Joint Economic Committee, Sub-Committee on Economic Growth and Stabilization for this opportunity to comment on the report of the Comptroller General of the United States made to the Joint Economic Committee.

The Comptroller General's report was made after an investigation into complaints filed with the Joint Economic Committee by Albert A. Terriego, Vice President of the Transport Workers Union of America, AFL–CIO during hearings in Washington, D.C. on July 24, 1978.

We have reviewed the Report of the Comptroller General and find that the investigation into the evidence presented by Mr. Terriego was inconclusive, and further it did not even touch the tip of the iceberg.

Mr. Terriego's statement to the Joint Economic Committee was presented in a three part series that dealt with:

(a) Mismanagement of ConRail's finances.

(b) Suspicions of widespread fraud in the use of outside contractors to clean up wrecks and derailments.

(c) Misuse of Company owned equipment and employees in connection with wrecks and derailments on ConRail property.

At no time did the Comptroller General's office contact Mr. Terriego to secure the documents and evidence which included notarized statements from individual ConRail Supervisors and workers that supported Mr. Terriego's statements to the Committee that revealed widespread mismanagement waste and suspicion of fraud in Part I of his testimony.

The Comptroller General's investigation only dealt with Part III of Mr. Terriego's statement. The Comptroller General's office should have focused its investigation on Part I of the Statement because that part of Mr. Terriego's Statement substantiated Mr. Terriego's allegations that there was a massive coverup by ConRail's special auditing department into the mismanagement waste and suspicion of fraud.

We can support Part I with direct evidence by statements and eye witnesses from employees.

We would like to meet with representatives of the Comptroller General's office to hand over the evidence that is not included in Mr. Terriego's Statement. We were standing by and ready to meet with the Comptroller General's office to turn over the evidence, however, we were never contacted and never had the opportunity to participate in the investigations, instead the Comptroller General's office accepted statements of ConRail management at face value.

We feel that it would be an injustice to close the investigation without consideration of the evidence that is in Mr. Terriego's possession.

Part I of Mr. Terriego's testimony shows the following:

(a) $91,546.33 was paid to an outside contractor for work not performed.

(b) ConRail employees were paid for staying at home while outside contractors were performing work of wrecking at five times the cost.

(c) ConRail paid $468.00 per day for a pick-up truck for twenty-three days that was never on ConRail property.

(d) ConRail was charged for and paid using contractors equipment two times for performing the same work.

(e) ConRail was charged and paid $6,630.00 for a wreck in Vanport, Pa. but performed no work at the scene of the wreck and witnesses can be presented that the contractors equipment never showed up at the scene.

We feel that we can assist the Comptroller General's office in uncovering a case of possible waste and possible fraud with evidence already presented and material that we have in our possession that supports our testimony before the Committee.

We request that the investigation continue until the above is reviewed.

Respectfully submitted,

ALBERT A. TERRIEGO,
International Vice President.

44-399 O - 79 - 38

Interstate Commerce Commission
Washington, D.C. 20423

MAY 1 1979

Honorable George McGovern
United States Senate
Washington, D.C. 20510

Dear Senator McGovern:

On August 1, 1978, you forwarded to Chairman O'Neal copies of prepared statements, supporting documents and transcripts of verbal testimony regarding serious charges of mismanagement and possible fraud by executives of the Consolidated Rail Corporation.

The accusations were made by Mr. Albert Terriego, International Vice President and Director, Railroad Division, Transport Workers Union of America, and by several Conrail enginemen and trainmen.

Our investigation of these charges has failed to substantiate the allegations by Consolidated Rail Corporation employees.

Chairman O'Neal has asked that I forward a copy of our investigative reports to you for use by the Subcommittee on Economic Growth and Stabilization of the Joint Economic Committee.

If I can be of further assistance, please advise.

Sincerely yours,

Bruce N. Hatton
Congressional Relations Officer

Interstate Commerce Commission
BUREAU OF INVESTIGATIONS AND ENFORCEMENT
BUREAU OF OPERATIONS
Chicago, IL: 60604

INVESTIGATION OF ALLEGATIONS CONCERNING THE CONSOLIDATED RAIL CORPORATION MADE BEFORE THE SUBCOMMITTEE ON ECONOMIC GROWTH AND STABILIZATION, JULY 24, 1978

David F. Burnette
Glen W. Hoover
Railroad Service Agents
April 24, 1979

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SUBJECT

UNITED STATES GOVERNMENT

memorandum

DATE: April 24, 1979

REPLY TO ATTN OF:

SUBJECT: ALLEGATIONS CONCERNING FORT WAYNE, IN to CRESTLINE, OH MAIN LINE OF THE CONSOLIDATED RAIL CORPORATION (CONRAIL) File: 4-001-79(R)

TO: Chief Special Agent Dieter H. Harper
Bureau of Investigations and Enforcement

INTRODUCTION:

Regional Managing Director Rathert's memorandum number 78-17, dated October 4, 1978, directed that an investigation into certain allegations pertaining to Conrail be conducted. These allegations suggested both poor track rehabilitation and poor crew and train scheduling. An investigation into these allegations was begun October 16, 1978, and information obtained during that investigation was included in our report of November 30, 1978, a photocopy of which is included as Exhibit A.

On March 12, 1979, a reinvestigation of certain subjects was ordered by Special Agent L. Shannon of the Bureau of Investigations and Enforcement's Section of Investigations, and confirmed by a memorandum from Chief Mauk of the Section of Investigations on March 27, 1979. This reinvestigation was conducted during March and April, 1979, and this report will include information developed during both investigations. The majority of exhibits included with our earlier memorandum have been included with this memorandum.

DESCRIPTION OF CONRAIL:

As general information, a photocopy of a booklet prepared by Conrail and entitled "Conrail in Perspective" is included as Exhibit B. This booklet, in general, presents information on Conrail's operations and vital statistics how and why Conrail was created, its progress and problems, plans for the future, and expected results.

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

OPTIONAL FORM NO. 10
(REV. 7-76)
GSA FPMR (41 CFR) 101-11.6
5010-112

DESCRIPTION OF MAIN LINE - Fort Wayne, IN, to Crestline, OH:

That portion of the Fort Wayne, IN to Crestline, OH main line extending from Fort Wayne, IN, to Bucyrus, OH, is part of the Fort Wayne Division of the Western Region of Conrail. Exhibits C and D, respectively, consist of a map of the Fort Wayne Division, and a listing of stations, mile posts, and interlocking plants on this main line. The portion of the main line under study begins at milepost 200.6 and ends at milepost 321.1. The main line trackage continues westward to milepost 423.0 at Valparaiso, IN, where the Chicago Division begins.

Fort Wayne Division officials, including the Division Superintendent, the Division Engineer, and train and crew dispatchers are located in Fort Wayne, IN, and report to Conrail Western Region officials in Chicago, IL.

The section of main line between Crestline, OH (Mile post 188.7) and Bucyrus, OH (Mile post 200.5) is part of the Youngstown Division of Conrail's Central Region. Train dispatching is conducted from Youngstown, OH which is also the location of other Youngstown Division officials. Exhibit E is a listing of the stations, mile posts, and interlocking plants on this section of Conrail.

Normal crew changing points on this main line are located at Fort Wayne, IN, and Crestline, OH.

Conrail's current freight schedule book lists 39 one-way freight train schedules over all or part of the main line as follows: daily operation (27 trains), six days per week (5 trains), five days per week (4 trains), three days per week (2 trains), and one day per week (1 train). These schedules represent two mail trains, six local freight trains, eight train van (or piggy-back) trains, and twenty-three symbol freight trains. Not included within this

total are two Amtrak trains, any unscheduled extra freight trains, trains operated within yard limits, and work trains.

TAXICAB EXPENSES:

Allegations were made that Conrail was spending large amounts of money on taxicab service for transporting train crews, and that Conrail's personnel and equipment could be used to provide the same service for a lesser amount of money.

Conrail's Rehabilitation and Capital Planning Division files in Chicago, IL contained three taxicab studies, one conducted during each of the last three years; 1976, 1977 and 1978. These studies, which are summarized below, are included as Exhibit F.

In late 1976, a brief study was made of the crew transportation service on the Cleveland Division. A memorandum dated November 4, 1976, reported that the use of Conrail employees and vehicles instead of taxicabs would cost the Division approximately $1,500,000 annually. A second study, conducted in 1977, essentially for the Cleveland (Collinwood Yard) area estimated that the use of company vehicles operated by Conrail employees in transporting crews would cost Conrail an additional $188,000 per year over the present system. A third study, also for the Cleveland area, was conducted in early 1978 and concluded that the use of Conrail employees and vehicles was not economically feasible. Even though these studies applied to the Cleveland area, Conrail officials believe that the same decisions would be reached concerning transportation of crews on the Fort Wayne Division.

Public surface transportation paralleling Conrail's main line into and out of Fort Wayne, IN, is limited to two Amtrak trains daily (east and westbound) and six Greyhound Lines trips. Most deadhead crew transportation into

and out of Fort Wayne is provided by Bohren Transit Systems, Inc., of Fort Wayne. This company operates under an agreement with Conrail which provides for payment on the basis of a rate of sixty-five cents per mile for each trip operated; however, when Conrail employees are transported in both directions of a trip, a rate of thirty-three cents per mile is applicable for the return trip (See Exhibit G). Bohren provides such service to Conrail on a twenty-four hour basis, seven days per week. Although Bohren applied to this Commission for contract carrier authority, it has not yet obtained such authority, and will be made the subject of a separate investigation report. According to a document contained in Exhibit H, Conrail paid Bohren $120,105.00 for its taxicab service (including local and out-of-town trips) between January and August, 1978. We were unable to determine any connection between Bohren Transit Systems officials and Conrail officials.

During this investigation we conducted a study of deadhead crew transportation on the Fort Wayne Division main line between Chicago, IL and Crestline, OH, for the month of May, 1978. During the month a total of 148 Conrail crewmembers were transported from Fort Wayne to Chicago via Amtrak at a cost of $12.50 per crewmember. The number of return trips from Chicago to Fort Wayne via Amtrak were not obtained, nor were we able to determine the number of times Conrail employees were transported by Greyhound; however, Greyhound's Fort Wayne Terminal Superintendent told us that Greyhound is used three or four times a week by Conrail employees traveling from Fort Wayne to Chicago.

An examination of Bohren Transit Systems trip tickets for the month of May, 1978, disclosed 192 trips made between Fort Wayne, IN, Crestline, OH, and intermediate points. Many of these trips could be justified by Conrail as no

other means of transportation being available at the time the crews were to be transported. However, we did discover trips made by Bohren which could have been handled by public transportation or on Conrail freight trains.

Examples of such instances are as follows:

1. On May 10th, J. L. Insley was transported by Bohren (Trip No. 2951) from Fort Wayne to Chicago; the trip departed Fort Wayne at 6:15 AM and arrived in Chicago at 9:25 AM. Alternate transportation which could have been used included Conrail Train No. 9 which departed Fort Wayne at 6:39 AM, Conrail Train No. TV-11 which departed Fort Wayne at 7:00 AM, and Greyhound Lines Trip No. 4375 which also departed Fort Wayne at 7:00 AM.

2. On May 5, E. E. Endsley and four other crewmembers were transported by Bohren (Trip No. 2539) from Fort Wayne, (departed 6:35 AM) to Chicago (arrived 9:45 AM). They could have been sent by Greyhound at 7:00 AM with a 9:55 AM arrival in Chicago at a total cost of $67.00 rather than the $102.05 charged by Bohren for the 157 mile trip.

3. On May 25th, two Bohren cabs transported 10 men to Chicago between the hours of 2:30 AM and 6:00 AM (Bohren trip Nos. 2753 and 2754). These crewmembers could have been transported on Conrail trains TV-61 and TV-11 which departed Fort Wayne at 2:39 AM and 2:50 AM, respectively.

4. On May 18th, Bohren Trip No. 2681 took R. W. Settler and four other crewmembers to Hamlet from Fort Wayne; they left Fort Wayne at 5:55 AM and arrived at Hamlet at 7:30 AM. Alternate Conrail freight train service which could have been used was:

Train Symbol	LV. Fort Wayne	AR. Hamlet
USG 31	4:05 AM	6:20 AM
MEBR	4:56 AM	7:35 AM
#9	6:15 AM	8:09 AM

5. On May 11th, Bohren Trip No. 2613 took P. E. Bauman and four crewmembers from Fort Wayne (LV 7:35 PM) to Crestline (AR 10:15 PM), a distance of 137 miles. These men could have been put on Amtrak's train #40 which left Fort Wayne at 7:50 PM and arrived in Crestline at approximately 10:45 PM.

During the summer of 1978, Conrail purchased over one hundred cabooses in the 21200- and 21300- series which were equipped with extra seats installed for the specific purpose of deadheading train crews. (Deadheading: The transporting of railroad crews, on pay status, to a location where they will assume operation of a train.) Although not assigned to specific Conrail regions or

trains, these cabooses are used mainly on trail van (piggyback) trains. Even though these cabooses could have been used to transport crews into and out of Fort Wayne, several Fort Wayne Division officials as well as engine and train crew members told us that crews could not be transported on freight trains in the Fort Wayne Division due to a union agreement. However, an inquiry at Conrail's Labor Relations Department in Chicago revealed that Conrail does have the authority to transport crews by freight train over the Fort Wayne Division and that such transportation has been authorized since 1975, prior to the formation of Conrail.

Despite its failure to transport crews by freight train, Conrail does provide one piece of equipment for such service in Fort Wayne; this is a carryall which is used for round-the-clock transportation of crews in the Fort Wayne area.

CREW AND TRAIN SCHEDULING:

In checking return trips for the men deadheaded to Chicago from Fort Wayne, we found wide gaps between the time these men went on duty in Chicago and the first time their trains were listed on the dispatcher's sheets; as a result, many trains would arrive at the western end of the Fort Wayne Division with less than five hours of working time left before the crews had to be relieved. Examples of these are:

CONDUCTOR	ON DUTY	TRAIN SYMBOL	TIME FIRST LISTED	TIME BY HOBART
R. W. Clark	4:15 AM 5/1	PR 2	8:46 AM	10:05 AM
G. W. Haslip	10:15 AM 5/13	CP 8	5:55 AM 5/14	6:09 AM 5/14
W. B. Newhart	7:00 AM 5/26	BNPI 5	3:06 AM 5/26	4:19 PM 5/26

In an attempt to determine the reasons for the long amount of time between the crews' on duty time and their departure from Chicago, train performance and movement directors' sheets were examined for the early part of

November, 1978. We found that the movement directors' sheets were not completely filled out as to departure time and that the train performance sheets did not show any reasons for terminal delays. A total of 41 trains, including trail van trains, was examined and we found that these trains were delayed a total of 121 hours and 15 minutes for an average of almost three hours per train. Delayed times varied from a low of 40 minutes to a high of seven hours. Apparently, no accountability is required for terminal delays, whether for late makeup of trains, or late arrival of locomotives or crews, or for other reasons, and this information which might help Conrail avoid such problems in the future is not kept by any Conrail officials.

Fort Wayne officials also indicated that the deadheading of crews from Fort Wayne to either Chicago or Crestline, both of which are beyond the bounds of the Fort Wayne Division, presented problems in that they lost control of these crews and did not know either when or where they would return to the Fort Wayne Division. We would recommend a complete study by either Conrail or by the Commission of the coordination of crew, train, and locomotive ordering and dispatching, in the Chicago terminal area. This study would help to identify the reasons behind the delays noted previously and could suggest remedies that would allow a faster return of Fort Wayne Division crews to their home division.

USE OF OUTSIDE WRECKING CONTRACTORS

In the Fort Wayne area, Conrail's own wreck forces perform the majority of yard wrecking assignments (rerailing cars and locomotives) as well as some minor main line wrecking assignments. For major main line derailments, Conrail uses the services of Hulcher Emergency Service, Inc., located at Virden, IL, and Bluffton, IN, and Vance Motors of Hammond, IN. We took no exceptions to the use of outside wrecking contractors in the Fort Wayne area.

TRACK REHABILITATION:

Testimony before the Subcommittee on Economic Growth and Stabilization alluded to poor track rehabilitation work. In rebuttal to these allegations, Mr. A. B. Cravens, General Manager-Western Region of Conrail, made the following comments concerning track rehabilitation in a memorandum to Mr. R. B. Hasselman, Senior Vice President Operations of Conrail (See Exhibit H):

> The Fort Wayne Division since the inception of Conrail has reduced its miles of slow orders by 132.8. This can be directly attributed to our extensive rehabilitation program, and does directly contradict the testimony.
>
> As you well know, our M of W Department and our track rehabilitation work is constantly monitored by Mr. Popina's quality control group. Although we do have areas where improvement is needed I think the attached reports indicate we are doing a fair to good job, and are constantly striving to improve. Those items noted in these reports our quality was not up to standard were repaired and brought up to standard.
>
> 10 M.P.H. Slow Order placed on rehabilitated track. Our records indicate no such incident occurred on the Division in 1978. Per our own MW-4 it may be necessary to place a 10 M.P.H. for 25 hours after the installation or rail relaying, but this is only temporary and for safety purposes.

During our investigation of Conrail's track rehabilitation program on the Fort Wayne Division, we had occasion to interview the following Conrail officials or employees:

> Mr. Jerry D. Cossell, Chief Regional Engineer, Western Region, Chicago, IL;
> Mr. W. L. Hammons, Jr., Division Engineer, Ft. Wayne Division, Ft. Wayne, IN
> Mr. Howard Noah, formerly Assistant Production Engineer, Ft. Wayne Division, Ft. Wayne, IN; and
> Mr. Tomas Hirt, Supervisor of Track, Ft. Wayne Division, Lima, OH.

Reports of Oral Interview for each of these individuals are included as Exhibits I through L, respectively.

Conrail's 1978 discretionary track maintenance program provided for nineteen separate work orders on the Fort Wayne Division main line under study and seven separate work orders on the Youngstown Division main line under study. A photocopy of selected pages of the Fort Wayne Division discretionary track maintenance program is included as Exhibit M, and a listing of the Youngstown Division work orders is included as Exhibit N. Exhibit O represents the major track maintenance status of the Fort Wayne Division's two main line tracks between Wanatah, IN, and Bucyrus, OH, as of September 25, 1978. A slow order comparison included on the exhibit shows that miles of track under slow orders have been reduced from 150.4 miles in April, 1976, to 92.1 miles in September, 1978. What this comparison does not indicate is that during the 1978 track maintenance program, many grade corssings, control points were skipped, and some interlocking plant rehabilitation work was not performed by the track rehabilitation gangs; consequently, the continued presence of these slow order locations (a slow order approximately every eight miles on track No. 1, and a slow order approximately every twelve miles on track No. 2, between mile posts 200 and 320.1) did not allow Conrail freight trains to maintain a consistent speed across the Division.

The decision to skip these locations usually was a joint decision by the Assistant Production Engineer and his superiors on the Division to avoid tying up an entire track crew and its machinery in an area where maximum production or performance could not be obtained. Conrail officials apparently felt that it was more practical to work these areas with either a portion of the track rehabilitation crew or with other maintenance crews not working on the rehabilitation project. We were told that present Conrail practice is to perform such work prior to the assigning of a track rehabilitation gang to the particular

area, which means that once the track rehabilitation gang completes its work, all slow order will have been removed from the area.

We were concerned about the quality of the track rehabilitation program in view of the quality control reports which we reviewed (See Exhibit P) and which cost the Assistance Production Engineer his job in late 1978 (See Exhibit Q). It appears that Conrail places particular emphasis on production (or quantity of work performed) rather than the quality of work performed. This desire for production was mentioned by both Mr. Noah and Mr. Hirt during our interviews with them. Railroad Service Agent Hoover (who had some experience working in track gangs early in his railroad career) and I examined portions of the Fort Wayne Division main line between Van Wert and Nevada, OH, and our observations tended to be reinforced by the later comments of Mr. Hirt. We observed loose and bent track spikes, the absence of spikes in certain locations, ties neither straight nor centered, the lack of rail anchors, loose joint nuts and bolts, irregular surfacing (sags, low joints, or short depressions and bumps in the roadbed), and poor drainage in certain areas. A specific area where this was observed was on track No. 1 from approximately mile post 250 to 252 (Ada to Lafayette, IN) and which supposedly had been completed on October 17, 1978 under the authority of work order CG-306.

Other problems relating to the track rehabilitation program are: (1) the main line rail was laid in 1941 and 1942 and is now beyond the recommended life span of thirty-five years for such rail; (2) the Division supposedly was given no choice in the hiring of track rehabilitation employees and may not have received the best employees for the jobs to be done; (3) Conrail has problems in obtaining sufficient quantities of ties and other track material; (4) Conrail requires all track rehabilitation projects to be requested and

justified on an annual basis with no carryover of uncompleted projects to the following year; (5) although a fair number of road crossing, control points, and interlocking plant work have now been completed, the Division has been and will continue to be required to perform this work through the use of regular maintenance of way forces, thus taking them away from other needed maintenance work; (6) the Division Engineer has no means of determining whether track rehabilitation project either will or has gone over the authorized budget amount.

A request was made of Region II personnel to develop additional information concerning the source of funds for the track rehabilitation projects, the amount of money authorized and expended for each work order, as well as other related information; however, we have not yet received this information.

INTERVIEWS WITH MESSRS. McNALLY, MANNING and MORRETT:

A major goal of our investigation was to interview the three railroad employees who testified before the Subcommittee on Economic Growth and Stabilization.

T. W. McNally:

On April 12, 1979, Mr. McNally was interviewed by Railroad Service Agent T. W. Ballenger and Special Agent P. G. Collins. During this interview, Mr. McNally alleged that $4 million in diesel parts had been ordered but never received by Elkhart. He had no specific information on this subject, nor, when interviewed, did either of the other two individuals which he mentioned in his interview (See Exhibit U). We have not made any investigation into the alleged use of Conrail personnel to build a swimming pool at the home of a Conrail official and will not do so until Mr. McNally provides us with additional information. During the interview, Mr. McNally provided no other specific information. (See Exhibit R).

R. E. Manning

On April 19, 1979, Mr. Manning was interviewed by Railroad Service Agents Burnette and Hoover, and the report of oral interview is included as Exhibit S. Mr. Manning was unable to provide us with any specifics concerning his allegations of poor track rehabilitation or the allegation that the Motor World motel in Chicago was controlled by the Chicago Division Superintendent and the mafia.

R. F. Morrett, Jr.

On April 5, 1979, Mr. Morrett was interviewed by Railroad Service Agents Burnette and Hoover (See Exhibit T). Again, as in the two previous interviews, Mr. Morrett had little in the way of specific information for us to check. However, on page seven of the report of oral interview, he referred to a derailment at the Indiana Harbor on March 26th in which Vance Motors was called to rerail a locomotive and allegedly did not arrive for over eight hours, when Conrail's own wrecker could have been called from 59th St. Yard. (Our inquiry revealed that the derailment occurred at 3:25 AM on the 26th. Conrail's block truck was called at 3:50 AM and Vance Motors was called at 5:15 AM. Vance supposedly had labor problems that morning and did not arrive until 9:20 AM, four hours after being called. The locomotive was rerailed at 9:45 AM.)

Mr. Morrett also referred to Motor World at Chicago, and possible mafia connections. (Our investigation determined that Motor World is owned by Gordon Nelson Realty Co., and is leased to Mr. Sam Henning who operates the business. Additional information concerning the property is contained in the report of oral interview with Mr. Kiwan M. Kang. As Conrail has the right to audit the books of Motor World according to the contract negotiated between

the two parties, we would suggest that Conrail's internal audit group conduct an audit to determine whether any irregularities exist.)

SUMMARY

Interviews with Messrs. McNally, Manning and Morrett revealed little information of any substance, and generated the thought that all three, who are former Erie Lackawanna R.R. employees, might be unaccustomed to working conditions and attitudes on the former Pennsylvania R.R. side of Conrail as represented by the Fort Wayne Division. However, based upon their allegations and our investigation, which was necessarily limited due to time constraints imposed on us, we recommend the following:

1. That Conrail's internal audit unit conduct an audit of the books of Motor World as authorized by Conrail's contract with that motel.

2. That a full-scale investigation be conducted into delays incurred by Conrail trains in the Chicago terminal area.

3. That Conrail begin transporting Fort Wayne Division train crews in the cabooses designed for such service.

4. That Conrail place less emphasis on production and more emphasis on the quality of track rehabilitation work.

5. That Conrail provide for carryover track rehabilitation projects instead of requiring the Divisions to make an annual request and justification for such projects, including a resubmission of uncompleted projects form the previous year.

Conrail's problems in crew and train scheduling, and its use of taxicabs appear to us to be interrelated not just to each other, but to the very basic problem of rebuilding a main line railroad which seems to have suffered far too long from deferred maintenance. Completion of the track rehabilitation program several years hence will not be the solution to all of Conrail's ills but it should help to solve a few of the railroad's problems.

DAVID F. BURNETTE
Railroad Service Agent

GLEN W. HOOVER
Railroad Service Agent

Attachments (Exhibits A - V)

INTERSTATE COMMERCE COMMISSION
BUREAU OF INVESTIGATIONS AND ENFORCEMENT

EXHIBIT SUMMARY

NAME OF RESPONDENT	ICC EXHIBIT NUMBER
CONSOLIDATED RAIL CORP. (CONRAIL)	OR
INVESTIGATION REPORT NUMBER	ICC EXHIBIT LETTER
	T

DESCRIPTION OF EXHIBIT, SOURCE AND CUSTODIAN

Description of Exhibit: Report of Oral Interview - M. Richard F. Moretti, Jr., Engineer, Conrail

Source and Custodian: Interstate Commerce Commission

REMARKS

INVESTIGATOR	DATE
David F. Burnette/Glen W. Hoover	April 20, 1979

BIE-FIELD-3 (7/77)

INTERSTATE COMMERCE COMMISSION

ORAL INTERVIEW

PERSON CONDUCTING INTERVIEW	PLACE OF INTERVIEW (CITY, STATE)	DATE
DAVID F. BURNETTE/GLEN W. HOOVER	FORT WAYNE, IN	APRIL 5, 1979

TYPE OF INTERVIEW (CHECK ONE)	LOCATION OF INTERVIEW (CHECK ONE)
☐ TELEPHONE ☒ PERSONAL	☐ OFFICE ☒ FIELD

NAME OF PERSON INTERVIEWED	TITLE
MR RICHARD F. MORRETT, JR.	ENGINEER
NAME AND ADDRESS OF FIRM	TYPE OF OPERATION
CONSOLIDATED RAIL CORPORATION PHILADELPHIA, PA	RAILROAD
	DOCKET

SUBSTANCE OF INQUIRY AND ANSWER GIVEN

Interview with Rick Morett 4-5-79 at Fort Wayne, Indiana, in the passenger station crew room. In substance the following are the questions posed and the answers given:

Q. Mr. Morrett, what is your number of years on the railroad and in what jobs?

A. 12 years as engineer and fireman. First with the Erie-Lackawanna. After the Erie was taken over by Conrail in 1976 the service has been with Conrail.

Q. Are you any better or worse off financially by working for Conrail than you were with the E.L? Are you working as much or as often as you desire?

A. Probably better off now with the exception of having to drive into Fort Wayne from Huntington to go to work about every other day. Under Title 5 protection we are guaranteed to be no worse off.

I am being called sporadically and then laying over too long in Chicago.

Q. Where is the major portion of your work?

A. I am usually running between Fort Wayne and Chicago but I also have some runs from Marion, Ohio, and to Crestline once in a while but these all start out of Fort Wayne.

Q. How long do you usually have to stay in Chicago when you go there?

A. Usually about 16 to 24 hours before we are called. We have to have 10 hours off before hours of service law will give us full time to work coming back

Q. Do you often get called to deadhead?

A. Not too often on west end except to go out and relieve a crew that is out of time. If I deadheaded it is usually to Chicago or to Crestline.

(Continued)

Q. What method of travel is usually used for deadheading?

A. To Chicago or Crestline is usually via Amtrak or by cab company.

Q. Do you know of a cheaper or more efficient way to travel when it is necessary to headhead?

A. We sometimes use Greyhound, but is takes about 6½ hours to get to Chicago. The cab is much faster.

Q. Do you ever deadhead on piggy back or van trains or on regular freight trains?

A. No. The train crews usually deadhead with us and they have a past practice agreement that they don't have to deadhead on such trains. Our (engineers & foreman) agreement wouldn't prevent us from deadheading on those trains.

Q. In a local newspaper article last summer relating your testimony before a congressional committee, you were quoted that your jobs may have been in jeopardy as a result of your activity. Has there been anything to this?

A. No. We were assured by Mr. Hasselman (Vice President of Operations, Conrail) that no action would be taken against anyone involved.

Q. Has anything been said by or done by other Conrail officials?

A. No.
We did hear some rumors that the people running Motor World in Chicago were not happy with our complaints and that we might get our heads busted if we didn't shut up. Also we heard the same type of thing because we complained about the "Y" (YMCA) at Crestline.

Q. Were any direct threats received?

A. No.

Q. By union officials?

A. No. At first, the union was concerned about what we were doing, but after a meeting with them they had no serious objection to our testifying.

Q. Was your testimony in Washington as a Union Representative or otherwise.

A. We went first on our own with a bunch of records. Then when we testified it was at the expense and request of the sub committee and not as union Reps.

Q. Not counting the bad weather problems around Chicago this past winter, has there been any significant changes in the deadheading, use of cabs which were not related to the new union agreement that went in last fall?

A. The new agreement was only for conductors and trainmen and had nothing to do with engineers and firemen. No, we haven't seen any change.

Q. The newspaper article mentions adjacent divisions fueding. What was meant by this and what are the results?

A. No co-ordination between divisions and poor communication. Trains running from one division to another and often almost out of time when the next division receives them. For example, trains leaving Chicago are often called and crews on duty several hours before train is ready to go. As a result when train gets onto the Fort Wayne Division, not enough crew time is left for the train to get to Fort Wayne and it is then necessary to call another crew and send them by taxi to meet and relieve the crew out of Chicago.

Q. Regarding delays after crew is on duty in Chicago. Where does crew go on duty?

A. At Motor World.

Q. Even if the train and engine is out at Blue Island, you still go on duty at Motor World?

A. Yes.

Q. Where are the engines usually at for eastbound trains?

A. If out of Blue Island the engines are usually already there. Anywhere else the engines are usually at 59th Street engine facility.

Q. How do you get from Motor World to these locations?

A. Motor World operates some vans and they take us or pick us up when we arrive in from the east.

Q. Do you have any suggestions as to how the operation could be improved to avoid delays getting out of Chicago and have you discussed this with Conrail officials?

A. Trains are originating at yards on other railroads such as from the Milwaukee Road at Bensenville; Burlington Northern at Cicero; Chicago Northwestern at Proviso; Rock Island RR at South Chicago; Illinois Central at Markham; and Belt Railway of Chicago at Clearing. Except for the Van trains, most other trains are out of Blue Island, Illinois, and Gibson, Indiana, operated by the Indiana Harbor Belt RR.

A better coordination between the other railroads and Conrail would certainly improve the performance delays of from 2 to 8 hours from the time on-duty to departure from Chicago is not uncommon.

Better route of handling trains from the Belt Railway and Rock Island RR could also save time.

At Blue Island, Conrail orders the crews before knowing when the IHB will have the train made up. Manay times we spend a lot of time in other railroad yards in trying to locate the caboose we are supposed to use.

Q. How long after you go on duty and are not out of Chicago before the Railroad has to pay a penalty?

A. One and one-half (1½) hours before Initial Terminal Delay. The penalty pay is fine, but most of us would rather get the train out and over the road because we don't think the delays we see are efficient railroading. It takes about 30 minutes when we go by cab to Blue Island.

Q. Have you given any of these suggestions to railroad management?

A. Yes. We have repeatedly suggested to the movement directors and trainmasters, ways to improve efficiency. The Company recently ran a "suggestion" program with a $10,000 prize. Our people told Conrail that we didn't need a prize; that we were giving them suggestions all the time, but they weren't using them. We suggested by-passing trains so they didn't get into Blue Island and Gibson Yards.

Q. In this employee suggestion program, were any of your suggestions or any of your fellow employees suggestions put into use that you know of?

A. No.

Q. Who were these suggestions to go to?

A. The Regional Suggestion Co-ordinator in Chicago. I don't know the name.

Q. In the newspaper article, it quoted you as referring to a janitor who became a locomotive engineer practically over night. Can you expand on this?

A. I was grossly misquoted. What I actually said was that a former janitor had been made a diesel locomotive electrician and was put on the job immediately. He was on an "on the job" training program.

Q. Do you feel that engineers and trainmen are generally qualified?

A. As far as engineers, they know how to run the locomotives but sometimes they are required to operate on tracks which may not be entirely familiar to them. This is not too often. Generally, most of them are well qualified.

Q. In your testimony, you mentioned about Movement authority granted to tower operators and crew callers instead of dispatchers. Where is this and what is the effect?

A. At Crestline, the crew dispatchers seem to be doing the yardmastering and dispatching instead of the dispatcher at Youngstown that should be doing it. We don't think this is a very efficient operation.

At Delphos, Ohio, the tower operator tries to direct how we do the industry switching especially at Central Soya.

At Hobart tower (near Gary, IN) the operators work for the EJ&E Railroad and the train crews have problems with them.

At Homan Avenue (Hammond, IN) the operator often won't answer the radio. This causes delays in getting crews off of pay on westbound trains going into Blue Island. This operator is the one to call for cab transportation to Motor World Hotel.

Q. In your testimony you mentioned that expanding Division points would save funds and reduce wasted man-hours. Can you elaborate on this?

A. The Division point between the Chicago Division and the Fort Wayne Division is a mail post marker out in the country between Valparaiso and Wanatah, IN. The Fort Wayne Division ends at Bucyrus, Ohio. In both instances, the trains neither terminate or even stop at those points. The train crews also operate past those points. A better over all operation could result if division points were the same as the crew change points.

Q. In your testimony you mention the frustration to your fellow workers when suggestions are made to management that they are verbally intimidated and chastized for suggestions and are told that "mangement will run the railroad and they should just do their job." Do you have any specifics on this?

A. At Hamlet, Indiana, we had cars to switch at the elevator. If we could have done this the way we wanted to, it would have taken us about 20 minutes. The way tower operator instructed us to do the work, it took over 2 hours to do it. He would not accept our crews suggestions.

Q. In your testimony, you mention that management fails to realize that if their efforts were directed more to moving trains and servicing shippers instead of harassing and intimidating rank and file there would be an improvement in morale, productivity. Any specifics on this?

A. The incident at Hamlet is a very good example. Also, the situation I described at Crestline where the crew dispatchers run the show and won't listen to us.

Bob Manning has a lot more on this and can give you details.

Q. In your testimony, you mention instances of waste and mismanagement in such areas as repair of locomotives, printing costs, motel accommodations for away-from-home train crews and that you have further information available. What type of information do you have?

A. At Elkhart I know of an instance where $4 million worth of locomotive parts were ordered and paid for but were never received. Tom McNally knows all about this. He works out of Elkhart now. His address is RR#5 Elkhart at 50935 County Road 11 near Simonton Lake north of Elkhart.

Q. What about the printing costs referred to?

A. The huge amounts of bulletin orders they issue all the time. On the former Erie Lackawanna we never had this. A bulletin was posted and that was it. They way its done now the bulletins are printed by the hundreds.

Q. What about the motel costs for away from home crews?

A. At Upper Sandusky when we were on a work train we were required to stay at the Evergreen Motel. We preferred to stay some place else but were required to stay there. At Crestline, we have to stay at the Y.M.C.A. At Chicago, we have to stay at the Motor World Hotel. These places aren't very clean and are infested with bugs and ants. Company officials and Union officials run the Y.M.C.A. at Crestline so they won't change anything. We think there must be collision between these other motels and Company officials because they won't allow a change in where we stay.

Q. Page 13 testimony regarding track rehabilitation program allocations was read and Morrett was asked for any specifics and what was meant.

A. He indicated that Mr. Manning had specifics on this subject. Said he wasn't sure which ares had been rehabilitated that were worse than before or no better. Thinks that from Van West, Ohio to Fort Wayne is now 30 miles per hour track that had been worked on. A rail detector car operated by the DOT (Department of Transportation) found 1400 defective rails in November and December, 1978.

There is very poor drainage at Lima, Monroeville, Nevada, Ada and Colson which causes poor track conditions. Around Gary and Tollston (Indiana) is also bad.

No. 2 track from Warsaw to Selby is bad and at Dug Run near Lima crossover is also bad but I don't know for sure if these areas had been worked on.

At Van Dale on No. 2 track it is still 30 mph. limit and it had been worked on. It is a good place for "blotting out." This is where a low spot in the track causes the locomotive body to bounce and actually hit the rail with the overhanging parts.

Q. Since last July when you testified, have you seen or know of any changes that have been made in the track rehabilitation program?

A. No.

Q. In your testimony, you referred to $165,000 for taxi cab bills. Can you tell me what this represents and how this figure was arrived at?

A. I saw a letter or report on either the trainmasters desk or the clerks desk. It was a regional report because the amount was broken down to something like $95,000 for Fort Wayne, $35,000 for Crestline, and $25,000 for Elkhart. I think it was for a month during either December of 1977 or January of 1978.

Q. Do you know of any cheaper or more efficient way to get crews to where they are needed?

A. They could use company vehicles with company drivers. It would be cheaper. They do have a company operated Van at Elkhart and at Fort Wayne. Probably Cabs are the best way.

Q. In the testimony, you refer to deadheading for no reason. What is meant by this and do you know of specifics?

A. Sometimes it looks like they deadhead just to keep the cab companies in business. Sometimes when we deadhead to Chicago or Crestline we are 9 or 10 times out when we get there and no chance of getting out so why were we deadheaded anyway? Looks like we could have just been used on a train instead.

Q. Reference has been made to the excessive use of outside contractors for wrecking work. What do you think of this?

A. We think these contractors are used a lot when the regular employees should have been used. We think there must be collusion between Company officials and these contractors.

Q. Do you know of any specific instances that we can check out?

A. Yes. On March 26th we were called to relieve a crew at Indiana.Harbor. The front trucks of the engine were derailed. Instead of using the big wreck truck owned by Conrail which was just sitting at 59th Street, Chicago, they called Vance Motors to do the job. We were on the eastbound main track. A couple of old timer car department men at hand too couldn't figure out why the company's own wrecker wasn't used. We had to wait over 8 hours for Vance to get there because they were out on another job down south somewhere. The engine was derailed at 3 and Vance didn't get there until about 11 AM.

Q. What is the general locomotive conditions you encounter?

A. Usually pretty good. I do hear of parts shortages or trouble getting parts at Fort Wayne. They have a problem getting traction motors rebuilt.

One problem is that they have a tonnage rating system where the book says an engine can handle a certain size train. This rating is for when the engine is new and doesn't take into consideration the age or stage of being worn out. This is why a lot of trains don't get over the road. A lot of the engines are just overloaded and overworked until they burn out.

Q. In the newspaper article you mentioned possible criminal activity by officials. What is meant by this and can you name any specifics?

A. Like I said before about the Y.M.C.A. at Crestline and at Motor World. Because they won't consider a change they must be getting something out of it. The same way with Vance Motors. There has to be a reason for using them so much. The Motor World situation has to be the worst.

Q. Who owns Motor World?

A. We don't know and haven't been able to find out. It may be mafia controlled. A Sam Henning is the manager.

Q. Do you know of any Conrail official that is getting anyting out of the Motor World operation?

A. John Ennace is the Chicago Superintendent. He is seen there about every week and goes to lunch with Sam Henning. He must be getting something out of it.

End of Interview: 6:00 PM - April 5, 1979

INTERSTATE COMMERCE COMMISSION
BUREAU OF INVESTIGATIONS AND ENFORCEMENT

EXHIBIT SUMMARY

NAME OF RESPONDENT	ICC EXHIBIT NUMBER
CONSOLIDATED RAIL CORP. (CONRAIL)	OR
INVESTIGATION REPORT NUMBER	ICC EXHIBIT LETTER
	S

DESCRIPTION OF EXHIBIT, SOURCE AND CUSTODIAN

Description of Exhibit: Report of Oral Interview, Mr. Robert E. Manning, Chairman, Conrail

Source and Custodian: Interstate Commerce Commission

REMARKS

INVESTIGATOR	DATE
David F. Burnette/Glen W. Hoover	April 20, 1979

BIE-FIELD-3 (7/77)

INTERSTATE COMMERCE COMMISSION

ORAL INTERVIEW

PERSON CONDUCTING INTERVIEW	PLACE OF INTERVIEW (CITY, STATE)	DATE
DAVID F. BURNETTE/GLEN W. HOOVER	CHICAGO, IL	APRIL 9, 1979

TYPE OF INTERVIEW (CHECK ONE)	LOCATION OF INTERVIEW (CHECK ONE)
☐ TELEPHONE ☒ PERSONAL	☐ OFFICE ☒ FIELD

NAME OF PERSON INTERVIEWED	TITLE
ROBERT E. MANNING	TRAINMAN
NAME AND ADDRESS OF FIRM	TYPE OF OPERATION
Consolidated Rail Corp. (CONRAIL) Philadelphia, PA	RAILROAD
	DOCKET

SUBSTANCE OF INQUIRY AND ANSWER GIVEN

This inquiry pertained to statements presented to the Joint Economic Committee, Sub-Committee on Economic Growth and Stabilization, during its hearings on national rail policy in Washington, DC, in July, 1978.

Mr. Manning stated that he has twelve years of railroad experience working just with the Erie-Lackawanna R.R. and then with Conrail. He is working more now than he was on the Erie-Lackawanna.

He is of the opinion that, in general, track that was rehabilitated is now no better than prior to rehabilitation. And, that the track work was not good because the track gangs have to speed through an area to keep up their production. He thought that the area around Forrest and Van West, Ohio, had received a good renovation but had no specific locations for poor track rehabilitation.

Although he had no specifics, Mr. Manning thought that there was a connection between Conrail's Chicago Division Superintendent John G. Eaunace and local mafia types in the control of the Motor World motel in Chicago.

He objected to tower operators telling crews what to do as far as working industries, as this was not done on the Erie Lackawanna. In particular, he mentioned that he was having "problems" with the tower operator at Delphos, Ohio.

Mr. Manning stated that there was a local, unwritten agreement that did not allow train crews to deadhead on freight trains; this agreement was initiated by Mr. Charlie Glass, the local chairman.

INTERSTATE COMMERCE COMMISSION
BUREAU OF INVESTIGATIONS AND ENFORCEMENT

EXHIBIT SUMMARY

NAME OF RESPONDENT	ICC EXHIBIT NUMBER
CONSOLIDATED RAIL CORP. (CONRAIL)	OR
INVESTIGATION REPORT NUMBER	ICC EXHIBIT LETTER
	V

DESCRIPTION OF EXHIBIT, SOURCE AND CUSTODIAN

Description of Exhibit: Report of Oral Interview M. Kwan M. Kwan, Regional Operations Assistance Officer, Conrail

Source and Custodian: Interstate Commerce Commission

REMARKS

INVESTIGATOR	DATE
David F. Burnette/Glen W. Hoover	April 20, 1979

BIE-FIELD-3 (7/77)

INTERSTATE COMMERCE COMMISSION

ORAL INTERVIEW

PERSON CONDUCTING INTERVIEW	PLACE OF INTERVIEW (CITY, STATE)	DATE
GLEN W. HOOVER	CHICAGO, IL	MARCH 10, 1979

TYPE OF INTERVIEW (CHECK ONE)	LOCATION OF INTERVIEW (CHECK ONE)
☐ TELEPHONE ☒ PERSONAL	☐ OFFICE ☒ FIELD

NAME OF PERSON INTERVIEWED	TITLE
KIWAN M. KANG	REGIONAL OPERATION ASSISTANCE OFFICER
NAME AND ADDRESS OF FIRM	TYPE OF OPERATION
CONSOLIDATED RAIL CORPORATION (CONRAIL) PHILADELPHIA, PA	RAILROAD
	DOCKET

SUBSTANCE OF INQUIRY AND ANSWER GIVEN

This inquiry pertained to the use of taxicabs and motel accommodations by Conrail.

Conrail's contract with Ace Cab Co. of Elkhart, Indiana, provides a limit of $265,000 to be spent on the taxicab service. This represents an estimate of the maximum amount ofmmoney which will be spent in Elkhart for taxicab service and represents a limit for budget and accounting control. If this limit was reached before the end of the contract period, the payment allowed by the contract would be withheld until a proper budget allowance was provided.

Mr. Kang believes that the type of service provided by Ace Cab Co. is exempt from any Interstate Commerce Commission regulations and that no authority from the Commission is needed to operate.

The shuttle service provided by Ace Cab Co. from downtown Elkhart to Conrail's Robert R. Young yard in Elkhart was initiated in the 1950's when the yard was built.

At that time train and engine crews complained that the yard was beyond any of the city bus lines and the railroad agreed to provide hourly car service in lieu of busses. Employees on duty or reporting for duty are carried on the shuttle free of charge. If the employees use the shuttle for personal reasons they are to pay twenty five cents per trip, an amount equivalent to the Elkhart bus fare at the time of construction of the yard. Any such collections by the taxicab company are, by contract, to be deducted from the taxicab company's bill for service. Conrail would like to eliminate this service because of its minimal use and has asked union representatives to amend the agreement but the unions to date will not agree to such an amendment.

The Motor World property in Chicago is owned by Gordon Nelson Realty Co. and is leased to Mr. Sam Henning who operates the business. Conrail's contract with Mr. Henning was negotiated by Mr. Kang with the approval of the Western Region General Manager and with the concurrence of the Chicago Division Superintendent. Under the terms of the contract, Conrail may make audits of Motor World's books. Motor World charges Conrail $8,65 per person for a sixteen hours stay; if the sixteen hours are exceeded, another $8,65 is charges. Motor World also provides transportation in van type vehicles for train and engine crews throughout the Chicago terminal area at a rate of $3.72 per person per trip. As the contract

(Continued)

with Motor World does not provide for exclusive use of its facilities, Conrail does use other motel and hotel facilities in the Chicago area if needed.

Although studies and proposals have been made to locate other suitable lodging or to have a more convenient facilitiy built for Conrail, the higher costs of these alternatives have prevented any changes.

INTERSTATE COMMERCE COMMISSION
BUREAU OF INVESTIGATIONS AND ENFORCEMENT

EXHIBIT SUMMARY

NAME OF RESPONDENT	ICC EXHIBIT NUMBER
CONSOLIDATED RAIL CORP. (CONRAIL)	OR
INVESTIGATION REPORT NUMBER	ICC EXHIBIT LETTER
	B

DESCRIPTION OF EXHIBIT, SOURCE AND CUSTODIAN

Description of Exhibit: Report of Oral Interview, Mr. T. W. McNally, Engineer Conrail.

Source and Custodian: Interstate Commerce Commission

REMARKS Interviewed by SA's T. W. Gallagher and SA P. G. Gillins.

INVESTIGATOR	DATE
David F. Burnette/Glen W. Hoover	April 20, 1979

BIE-FIELD-3 (7/77)

INTERSTATE COMMERCE COMMISSION

ORAL INTERVIEW

PERSON CONDUCTING INTERVIEW	PLACE OF INTERVIEW (CITY, STATE)	DATE
T. W. Ballenger -SA P. G. Collins	Elkhart, IN	April 12, 1979

TYPE OF INTERVIEW (CHECK ONE)	LOCATION OF INTERVIEW (CHECK ONE)
☐ TELEPHONE ☒ PERSONAL	☐ OFFICE ☒ FIELD

NAME OF PERSON INTERVIEWED	TITLE
T. W. McNally	Engineer
NAME AND ADDRESS OF FIRM	TYPE OF OPERATION
Consolidated Rail Corporation 6 Penn. Center Plaza Philadelphia, PA	Railroad
	DOCKET RR 19000

SUBSTANCE OF INQUIRY AND ANSWER GIVEN

This interview was conducted at Mr. McNally's home at 50935 County Road 11, Elkhart, IN. The purpose of the interview was to obtain specific information regarding Mr. McNally's testimony in July 1978 before the Subcommittee on Economic Growth and Stabilization of the Joint Economic Growth Committee.

Mr. McNally stated, in general terms, that Conrail locomotives do not receive adequate preventative maintenance. He said this causes problems at Elkhart and other points. He mentioned Conrail's facility at 59th Street in Chicago as being particularly bad. He said Conrail has several foremen there who are competent and hardworking but their workers are less than satisfactory, resulting in the foremen having to do virtually all the work.

He said that the lack of a sufficient number of qualified electricians at Elkhart has resulted in inadequate locomotive maintenance there. According to Mr. McNally, there is only one electrician per shift at Elkhart - two being needed.

Four electricians had transferred to engine service as firemen and had not been completely replaced. One man was transferred from the track department but he was not a fully qualified electrician according to Mr. McNally.

Mr. McNally discussed the alleged shortage of locomotive parts at Elkhart. He said part of the problem results from Conrail's distribution system. He cited one example: Conrail delivers parts to its various shops by truck and if the truck reaches Ft. Wayne, IN and has only a few packages for Elkhart, the driver will put these

BOp Field 3 (6/70)

packages on an Elkhart bound train. No one at Elkhart knows the parts are coming and they ride around in an engine for days or weeks until discovered. In the meantime the needed parts are cannibalized from another engine. Mr. McNally stated that parts such as light bulbs for locomotive engine rooms are sometimes unavailable for weeks or months.

We asked Mr. McNally about an alleged disappearance of $4 million in diesel parts which had been ordered but never received by Elkhart. He said he thought either Dick Brown or Fred Kramer (diesel shop employees) might know specifics on this. He expressed the belief that the parts may have been diverted to other Conrail shops.

Mr. McNally mentioned an alleged misappropriation of Conrail labor in Elkhart. He said two Conrail employees had spent six days last summer constructing a swimming pool at the home of a Conrail official. This work was allegedly performed on company time. He had no specifics other than that the work was done for a Mr. William R. Mellen, locomotive foreman. Times and dates are available from one of the employees involved and Mr. McNally said he would obtain the information and send it to us.

Mr. McNally made several general statements regarding terminal delay times and crew dispatching. These allegations are covered in the transcripts of various testimony before the Congressional Subcommittee. He also expressed the opinion that the engine dispatchers for the Western Region (Chicago) are unsatisfactory. He gave an example of having had two of four locomotives dead on one of his trains.

This was the result of poor planning and utilization of available equipment. He said reports of defective engines and required repairs are not forwarded to the enroute or destination officials who could order the repairs made.

UNITED STATES GOVERNMENT

memorandum

DATE: April 18, 1979

REPLY TO ATTN OF: SA Patrick G. Collins
RRSA Tommy W. Ballenger
Indianapolis, IN

SUBJECT: Conrail Investigation
File 4-001-79

TO: CSA Dieter Harper
Chicago, IL

I Synopsis:

Our team was assigned to investigate five areas of concern:

(1) Quality of track rehabilitation work.
(2) Services provided by wrecking contractors.
(3) Use of rented vehicles w/drivers for crew transport.
(4) Services provided by Ace Cab of Elkhart, Inc.
(5) Possible ownership of wrecking contractors and cab companies by Conrail officials or employees.

We checked the quality of the track work on Conrail's Southwest Division-Lines East which includes the mainline between Indianapolis and Bellefountain, OH. The track rehab work appeared to be generally satisfactory.

Last fall we reviewed the invoices from wrecking contractors for work performed and found nothing unusual, i.e. nothing other than what the contractors were hired to do.

The use of rented vehicles to transport crews is, according to available evidence, generally less expensive than using Conrail vehicles and employees for that purpose.

Ace Cab of Elkhart, Inc. is operating as an interstate carrier without authority. A separate report on this will be submitted. Ace is still providing the "turn cab service" mentioned in our report of November 1978 (Exhibit A) We learned that an estimated 40 passengers per day are served at a cost of $166.50 per day. According to all sources this service is required by the union contract.

We found no apparent connection between Conrail officials and any of the wrecking contractors or cab companies.

II Facts:

A. Track Rehabilitation.

We checked the quality of the rehab work done on the Indianapolis-Bellefountain Main Line (known as the B-Line) and

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

OPTIONAL FORM NO. 10
(REV. 7-76)
GSA FPMR (41 CFR) 101-11.6
5010-112

other Southwest Division track segments.

One measure of the quality of the track work is the amount of work done after the reported completion date of the project, i.e. did it have to be re-done. To accomplish this we examined records on file with the Regional and Division engineers. We abstracted information concerning work orders listed on the 1978 Program Completion Report for Southwest Division Lines East (which includes the B-Line). This report, attached as Exhibit B, lists work order numbers, location and type of work, work gang number and starting and completion dates. We listed on the abstract (Exhibit C) the last date of work shown on the work order form itself and the last date shown on the Production Gang Log. The latter two forms are regional forms developed by the Southern Region. The work order lists location, nature of work, work gang number, dates of work done, and a daily and to date production. The Production Gang Log shows the work accomplished by each work gang. This is taken from a Conrail system form called the Daily T&S Production Report. A copy of this report is telexed daily to Conrail headquarters in Philadelphia.

We found only one work order where there appeared to be a problem with the quality of work resulting in considerable production time after the reported completion date of the project. This was work order number CR386 which was ties and surfacing on a track at Avon Yard, near Indianapolis. A total of 210.3 team production hours were spent between August 12 and September 19, 1978. The completion date shown on the 1978 Program Completion Report is August 17, 1978.

Other work done after reported completion dates was minor and we found no indication of a substantial amount of work having to be re-done.

To further check the quality of the track rehab work, we reviewed the quality control inspection reports on file in Indianapolis. Except for the one work order at Avon Yard, mentioned above, we found no significant problems with the quality of track work.

B. Services Provided by Wrecking Contractors.

Contractor invoices were reviewed last fall during our initial investigation and we discovered no apparent irregularities in services provided, i.e. nothing other than wreck and derailment clean up work.

The Southern Region recently received the 100 ton crane mentioned in our previous report. According to James L. Strahle, Accounts Payable Clerk, the use of contractors has decreased since receipt of the new crane. He

also said that he reviews all the contractor invoices for accuracy and services provided and does not process them for payment unless any questions he has are satisfactorily resolved. See Exhibit D for an example.

Conrail has recently adopted a new purchasing system covering the use of outside equipment and personnel. We do not have the details on this system but according to Mr. Strahle it is designed to put tighter controls on the purchase of services. Attached as Exhibit E are copies of letters Mr. Strahle recently wrote two wrecking contractors concerning the new procedures.

Exhibit F is a memo from Mr. Strahle to the Southwest Division staff and others explaining the necessity for initiating purchase orders before work by contractors is started. This is part of the program to increase the control over use of outside work forces.

We also asked Mr. Strahle if he knew of any correlation between the assignment of local Conrail officials and the beginning of the use of particular contractors. He replied that the wrecking contractors used by the Southern Region have been doing business with the railroad here for many years and that officials responsible for requesting their services had changed several times during that period. He mentioned the fact that there has even been a decline in the use of contractors in the past few months due to arrival of a new Conrail owned crane.

Also on the subject of wrecking contractors, we checked with the Indiana Secretary of State's office to obtain the officers and directors these companies. We checked on the three contractors used by the Southwest Division:

(1) Hulcher Emergency Service, Inc.
(2) Isringhausen RXR Specialists, Inc.
(3) Panscape Corporation.

The Secretary of State had no records for Panscape Corporation, but did have the following information on Isringhausen and Hulcher:

(1) Isringhausen RXR Specialists, Inc. is an Illinois corporation formerly known as Isringhausen Trucking Co. President and Director is Loren Isringhausen of Route #3, Jerseyville, IL. Secretary is Donna Isringhausen, also of Route #3, Jerseyville, IL.

(2) Hulcher Emergency Service, Inc. is a Delaware corporation. The President (and Director) is listed as M. L. Hulcher of the same address.

C. Use of Rental Vehicles for Crew Transportation.

As reported in our memo dated November 28, 1978, Conrail at Indianapolis rents 4 vehicles with drivers from Reliable Railroad Service, Inc. Their vehicles and drivers are rented on a 24 hour, 7-day a week basis for local transportation and deadheading of crews. As of November 1978 the cost of each of these vehicles was $7.29/hour plus fuel. The cost, at that time was figured at 168 hours per week per vehicle and fuel at 6 mpg and $.607 per gallon.

We wanted to see if Conrail has any vehicles which could be used for crew transportation rather than renting them from Reliable Railroad Service. We asked the Supervisor, Auto Equipment, Mr. Romie E. Houchin, for a list of owned and leased vehicles assigned to the Southern Region. We requested only sedans, station wagons and carry-alls since vehicles such as pickup trucks and fork lifts could not be considered adequate for transporting 4 to 6 passengers and their baggage. The information provided by Mr. Houchin is attached as Exhibit G. A review of the vehicle assignments does not reveal any unutilized vehicles. Decisions regarding reassignment of in-use vehicles would require a detailed management study beyond the capabilities of our investigation team in the time alloted.

Conrail has studied the comparative cost of using Conrail personnel and vehicles versus contract personnel and vehicles for crew transport. Exhibit H contains copies of such a study and replies from various officials on the results of that study. This particular study was conducted at Cleveland, Columbus and Pittsburgh in January 1977. The initial study indicated it was cheaper to use Conrail people and vehicles. Subsequent studies conducted at Cleveland and Columbus indicate the opposite. There is no record of similar studies conducted at Indianapolis, but a cursory look at the cost of having Conrail people drive company-owned vehicles seems to indicate it is cheaper to rent vehicles with drivers. The Conrail drivers would be clerks, who are members of the Brotherhood of Railway and Airline Clerks. These people earn at least $7.00 per hour not counting fringe benefits. Conrail would have to purchase or lease vehicles and, if owned, would have to provide maintenance on them. Fuel and oil would not be any different for owned equipment than for rented.

It appears the wages and fringe benefits alone for a Conrail employee would exceed the hourly rental rate for the Reliable Railroad Service vehicles and drivers.

D. Services Provided by Ace Cab of Elkhart, Inc.

The yard-to-town shuttle known as "turn cab service", mentioned in our previous report, is provided by Ace Cab under a contract with Conrail. This service costs Conrail $166.50 per day. (The charges were formerly listed as $130.00 per day to which Conrail applied a 7½% discount. Charges

are now stated including the discount). The service is hourly, seven days a week and has been provided since about 1955, when Elkhart Yard was moved from a downtown location to its present location. At that time the train and engine crews' unions demanded that transportation be provided between the yard and downtown. The service has continued despite various recommendations that it be dropped. According to Robert W. Personett, owner of Ace Cab, he has tried to talk the railroad into discontinuing the service because he makes a very small profit on it. He said he has been told "the unions" won't allow the service to be dropped. Fred K. Barclay, Superintendent of Elkhart Yard told us essentially the same thing.

We asked Mr. Personett about the use of the turn cab service. He said he keeps no record of passengers, but at our request he queried two of his turn cab drivers. They estimated daily passengers at 40 with peak periods of 11am to 1pm, 3pm to 5pm and 10pm to midnight. One driver said weekends are a little heavier than other times.

We also asked Mr. Personett about the $265,000, 21 month contract between Ace Cab/and Conrail. He explained that the responsibility for monitoring the contract was transferred from Conrail's Western Region (Chicago) to Conrail Headquarters. The 21 month contract covered the interval between the Western Region giving up its responsibility and Philadelphia picking it up. The $265,000 is a maximum and represents a budgetary limitation rather than a guaranteed amount. This contract is now renewed yearly instead of every four years as in the past.

Copies of the United Transportation Union contract specifying the turn cab service were unavailable at Elkhart. We did obtain a copy of the agreement between Conrail and the Brotherhood of Locomotive Engineers (BLE) effective January 1, 1979. This agreement does not specifically mention the turn cab service at Elkhart but it does require transportation to be provided by the railroad in various circumstances "...when the distance between any of the points listed below is sufficient to cause a hardship..." See Page 38 of the attached Exhibit I for a list of the circumstances. A note following this list says that the Division Superintendent and the General Chairman (of the BLE) will confer and agree on the distance beyond which transportation is required. According to F. K. Barclay, that distance is 500 feet in the Chicago Division,

There are two carry-alls assigned to the Elkhart Yard which are leased to Conrail and manned by Conrail employees. According to Robert Jackson, Assistant Superintendent, these two vehicles are used to transport crews in the yard and to and from the main line, to deliver waybills and other miscellaneous messenger duties. Mr. Jackson said these two vehicles are unable to handle any additional crew transportation and these are the only vehicles of their type assigned to Elkhart Yard.

E. Ownership of Wrecking Contractors and Cab Companies.

We obtained information from the Indiana Secretary of State's Corporations Division concerning the officers and directors of Ace Cab of Elkhart, Inc; Reliable Railroad Service, Inc.; Isringhausen RXR Specialists, Inc.; and Hulcher Emergency Service, Inc. The information on Isringhausen and Hulcher was listed earlier. The Secretary of State listed the following information for Reliable Railroad Service, Inc.:

Name	Position
John A. McJoynt, Jr.	President, Treasurer, Director
Donald C. Carter	Vice President, Secretary, Director
Stephen M.D. Burns	Asst. Secretary, Director

Reliable is an Ohio corporation incorporated in 1976 with headquarters at 1014 Enquirer Bldg., 617 Vine Street, Cincinnati, OH.

The Secretary of State listed the following information on Ace Cab of Elkhart, Inc.:

Name	Position
Robert T. Personett	President, Director
Robert W. Personett	Vice President, Director
Annabelle C. Personett	Sec./Treas., Director

Robert T. Personett has retired and Annabelle Personett is deceased.

Robert W. Personett is now Secretary-Treasurer and owns 2/3 of the stock. His son, Robert M. Personett is President and owns 1/3 of the stock. Robert T. Personett, although officially listed as retired, is now Vice President but owns none of the stock. Mr. Robert W. Personett told us that his father, Robert T. had purchased the company on January 9, 1947 from Herman Snavely. We did not check to see if Mr. Snavely has any connection with the railroad.

SUPPLEMENTAL INVESTIGATION OF CONSOLIDATED RAIL CORPORATION

B.I.E. CASE NO. 2-005-19

SUPPLEMENTAL REPORT

UNITED STATES GOVERNMENT

memorandum

Philadelphia, PA

DATE: April 16, 1979

REPLY TO ATTN OF: Special Agent Herbert F. Behrens, Jr.
Special Agent Martin J. Carroll

SUBJECT: CONSOLIDATED RAIL CORPORATION
BIE #2-005-79(R)

TO: M. Faith Angell
Regional Counsel

Submitted herein are the results of additional investigation dealing with thirty-nine questions proposed by Special Agent Lawrence S. Shannon of BIE's Section of Investigations in Washington, DC.

Such questions deal primarily with further clarification of allegations made by the Transport Workers Union against Consolidated Rail Corporation and certain ConRail employees.

Each question has been restated in full with the investigative results or action taken following.

Submitted by:

Herbert F. Behrens, Jr.
Special Agent

Martin J. Carroll
Special Agent

QUESTION 1:

Who was the Conrail auditor allegedly propositioned by Hulcher Emergency Railroad Service? What was the nature of the proposition?

ANSWER 1:

This allegation was first made by Mr. Al Terriego, International Vice President of the Transport Workers Union of America, AFL-CIO, to Special Agent Charles C. Hodges. S/A Hodges reported these allegations in his memorandum of November 24, 1978 to Regional Counsel Angell. Mr. Terriego made the same allegation to these investigators on March 21, 1979 at a meeting with Mr. Terriego in his office in New York City. This time, Mr. Terriego told us that eight months ago at a meeting with Gerald Walsh (Director, Special Audit - Conrail), he was told that a Conrail auditor, Louis LaCivita, was offered a trip to Hawaii by someone from Hulcher Emergency Service, Inc., Verden, IL. Mr. Terriego had no proof of this allegation.

On April 3, 1979, I had a meeting with Gerald Walsh and Louis LaCivita at Conrail's office located at 1528 Walnut Street, Philadelphia, PA. I first asked Mr. Walsh about the allegations made by Mr. Terriego. He replied, "I never said any such thing to Mr. Terriego". I then asked Mr. LaCivita about Terriego's allegation. He replied, "There is no truth to that. I was the senior auditor when

we audited Hulcher's books. I was there throughout the audit and neither I nor the other auditor, P. Rearden, was offered a trip or anything else by the people at Hulcher. Mr. LaCivita said that Hulcher's records did not show any evidence of any trips to Hawaii or anywhere else.

QUESTION 2:

Delve deeper into the allegations that sides of beef were given to Conrail supervisors.

ANSWER 2:

In 1977, TWU members saw large amounts of heavy equipment at wrecks and there were "rumors" that contractors supplying the equipment were giving sides of beef to Conrail supervisors.

During a meeting with Albert Terriego, International Vice President of TWU, we questioned him concerning the origin and basis of this allegation. He advised that a Mr. Ted Flecher at Conrail's Cleveland car repair shop had received an offer of such beef and could give us full details concerning the matter.

Upon visiting Cleveland, Mr. Flecher stated when he was general foreman, he received a postcard advising that a side of beef was available to him and to indicate on the card how he wanted it cut. Instructions were to return the completed card to the meat distributor. According to Flecher, the beef was provided by All Erection & Crane Rental, Cleveland, OH. Flecher said he did not accept the beef and disregarded the entire matter. He subsequently received a follow-up card reminding him of the beef earmarked for him. It was at this point Flecher stated that he mailed the card to All Erection, with a letter and a copy

of Conrail's Conflict of Interest Code. The letter was addressed to Mr. Mike Liptack, President and principal owner of All Erection. Nothing more was ever heard of the incident. Flecher could not remember the name of the beef supplier. When asked for a copy of his letter to All Erection, he stated it was not in the file. He knew this from previously checking the master mechanic's records. He attributes this and other missing records on the continuing changing of master mechanics and wreck masters at Cleveland.

Upon further questioning, Flecher stated that he knew of only one other person who received such a postcard and that was a Mr. Fred Cheney, Master Mechanic, who is now in the Locomotive Design and Engineering Department of Amtrak in Washington, DC.

According to Flecher, he and Cheney discussed this matter at one point. Flecher advised Cheney the action he had taken and Cheney allegedly stated that it appeared he, too, would have to return the card in the same manner. Flecher was unaware whether or not Cheney actually refused or accepted such beef.

Mr. Flecher admitted that he did at one time receive and accept a snow suit provided for by Hulcher Emergency

Service, Inc., Virden, IL.

We visited the facilities of All Erection and Crane Rental. In the absence of its President, Mr. Mike Liptack, we were directed to Mr. John Swan who identified himself as All Erection's manager. It was later learned that Mr. Swan is the son-in-law of Mr. Liptack. Upon questioning, Mr. Swan stated he knew nothing of offering sides of beef to Conrail employees or to any other railroad employee. In fact, he said that this was the first time he has heard of it. Any further clarification of the matter would have to be taken up with Mr. Liptack, who was out of town for two weeks.

All Erection is one of the largest crane and heavy equipment rental agency in the United States. They handle, when called upon, re-railing for Conrail and other roads in the Cleveland area. But, this appears to be only when regular wrecking contractors (Hulcher, Fondessy, Isringhousen, etc.) are unavailable. They have at times rented equipment to Conrail but dislike doing so since, according to Swan, Conrail's people are rough on equipment. Mr. Swan stated that they (All Erection) have been approached on numerous occasions for "handouts" in the way of whiskey or All Erection jackets,

These requests have predominately come from "Union" employees.

As far as the All Erection jackets, they are nothing more than red lightweight jackets with white-printed "All Erection" advertisement on the back. Most of All Erection's employees wear such jackets which have a value of approximately $8.00.

Mr. Swan stated he could not remember Conrail ever engaging a crane or any other equipment on a stand-by status.

QUESTION 3:

What was discussed in the Williamsport tie case?

ANSWER 3:

This allegation was mentioned in S/A Hodges' report to Regional Counsel Angell dated November 24, 1978. This allegation was presented by Al Terriego in a prepared statement submitted to the Joint Economic Committee - Sub Committee on Economic Growth and Stabilization Hearings on National Rail Policy, Washington, DC, July 24, 1978. In his statement, Mr. Terriego alleges that a Conrail employee stole 300 railroad ties.

On April 4, 1977,we visited the office of Arthur Dunn (Captain - Conrail Police) at 30th Street Station, Philadelphia, PA. Mr. Dunn was involved in this investigation and outlined the case for us. Chester Keller (General Car Foreman - Williamsport, PA) was arrested by Captain Dunn for allegedly taking part in a theft of 278 railroad ties from the yard and transporting them to a farm owned by Ronald Cimini, about five miles from the yard. Dunn said that Keller used Cimini's farm to graze his horses. The ties were in a gondola car where they caught on fire. According to the Division Superintendent, McGuire, about 80% of the ties were still intact. Keller and Cimini removed the ties without authority and Keller was brought up on charges by the District Attorney in Lycoming County, PA.

After a hearing, Keller was found innocent; however, he was fired from his job. The investigation report is in the hands of Conrail's legal department because, according to Dunn, Keller is suing Conrail for false arrest.

QUESTION 4:

Who is Mr. Korn and Don Craine? Do they have any interest in the 50-ton crane?

ANSWER 4:

Mr. Carl A. Korn is Superintendent of equipment of the Pittsburgh Central Region. Mr. Donald R. Craine is a former Master Mechanic and is presently Regional Superintendent - Car Inspection and Repair at Pittsburgh.

The above question refers to interest in a 50-ton crane stationed at Conway Yard on a rental basis. See Page 5 of S/A Hodges' report dated December 1, 1978.

This crane was received and placed into service by the former Penn Central Railroad on February 20, 1970. It was acquired under a eight year lease from Excelsior Truck Leasing Co., Inc., Pittsburgh, PA with a monthly rental of $2,115.00. Under the lease, all maintenance and repairs are to be borne by Conrail. During the nine year period the crane was used, Conrail paid Excelsior a sum of $228,420.00. We were advised by Conrail people that the original (new) cost of the crane was approximately $60,000.00.

Submitted herein as Exhibit BC - 1 is a copy of Excelsior's delivery receipt and a photo of the crane in question.

At no time during the course of this investigation was any evidence found or indicated to substantiate Mr. Korn's or Mr. Craine's interest in this crane or any other equipment used by Conrail.

QUESTION 5:

Where do Korn and Craine fit into the picture?

ANSWER 5:

Numerous allegations were made against Carl A. Korn and Donald R. Craine by officials of the TWU, especially during the undersigned investigator's visit to the TWU's headquarters in New York City. Allegations of accepting hunting trips from contractors, personal interest or ownership in various wrecking cranes and receiving various forms of entertainment were made.

This investigation failed to find any substantiality to such allegations and it appears that neither Mr. Korn or Mr. Craine are or were involved in any matter that resulted to the detriment of Conrail.

QUESTION 6:

Did Conrail make any follow-up investigation reports which are referred to as ".007"?

ANSWER 6:

The ".007" is a term used by Al Terriego to describe the Special Audit Investigation Reports prepared by Conrail auditors which pertain to outside wrecking contractors. These reports were included as exhibits in Auditor Douglas M. Massengill's memorandum to S/A Hodges dated December 1, 1978.

QUESTION 7:

Why did Craine threaten Lewis? What was the nature of the threat?

ANSWER 7:

On March 29, 1979, we interviewed Donald Craine (Superintendent of Cars - Pittsburgh) and asked him about threats made to Lewis. He replied that he made no threats to Lewis and that there was nothing to threaten him about. He also said that he was not aware that it was alleged that he threatened Lewis until we asked him. He also said that he goes hunting with Lewis.

On March 30, 1979, we spoke with Richard Lewis by phone. I asked him about being threatened by Craine. He said, "Whoever said that Craine threatened me are big liars". He went on to say that he was never scheduled to testify with Al Terriego (reason for alleged threat) and that he does not belong to the same union, he belongs to the American Railway Supervisors Union.

QUESTION 8:

Why did Mr. Trumbetti have a change of heart? Was he also threatened? If so, the nature of the threat?

ANSWER 8:

Al Terriego made the allegation that Don Craine threatened John Trumbetti by making mention that Trumbetti has relatives working for Conrail and that he should be thankful for this. Mr. Craine denied making any threats to Trumbetti. He also stated that he did not know if Trumbetti had any relatives working for Conrail.

On March 30, 1979, the undersigned investigators contacted Trumbetti by phone and asked him about alleged threats to him by Craine. Trumbetti said, "Craine never threatened me about anything. I don't think he even knows that I have relatives who work for Conrail". Trumbetti also said that he was not selected to testify with Terriego before Senator McGovern's Committee.

QUESTION 9:

Why were all involved Conrail supervisors promoted out of Conway? Who was involved, and in what way?

ANSWER 9:

No action taken.

QUESTION 10 AND QUESTION 17:

Why were Conrail employees paid on time card rather than time slip. Did this result in overtime being paid, rather than straight time? Why was this information being kept out of the Philadelphia office?

Why did Mr. A.A. Zottola allegedly falsify time cards? Was he instructed to? If so, by whom? Did he actually falsify the time cards?

ANSWER 10 AND ANSWER 17:

An indepth review of all time cards and pay records at the Conway Yard by the undersigned investigators failed to indicate any instances where such records were ever changed or falsified.

Mr. Jack Goodwin, Chief Timekeeper and Clerk at Conway stated that he has never altered or changed a time card in order to increase a employees pay due to a union claim.

Goodwin said that when a claim is submitted or an adjustment to an employee's pay is necessary, a separate and distinct card is made out for such adjustments. He said this card is earmarked by a yellow border at the top. He further stated that once these cards are completed, they are forwarded and handled by the payroll department, in the same manner as any other pay record. He advised a time card and time slip are one in the same item.

A.A. Zottola stated that he has never been instructed nor has he ever falsified a employee's time card in any manner. He admitted that there have been times when Conrail engaged the services of a wrecking contractor but failed to furnish Conrail ground crews at the derailment in accordance with TWU contract. He advised when this did happen, the local TWU president would file a claim for the number of men not used. The claim would be based on either straight or overtime depending on the time the men were supposed to have been used. In any event, if the claim was in order, he would make a list of such names, including the amounts due each person. The list would then be given to Mr. Goodman who would make out an adjustment pay card for each employee involved and forward for payment in the usual manner.

Submitted as Exhibit BC - 2 is a sample adjustment pay card and two completed penalty/time claim records.

QUESTION 11:

Who was the Conrail official who instructed the wreckmaster not to call out Conrail ground crews? What wreckmaster?

ANSWER 11:

This was an allegation of Terriego and Shimrock made to S/A Hodges. The undersigned investigators asked Terriego about this during our meeting on March 21, 1979. They could not recall making this statement to S/A Hodges and know nothing about the allegations.

QUESTION 12:

At Toledo, OH, an outside contractor submitted invoices during the period 1/20 - 2/6/78 in the amount of $2,013.00 each day. Allegedly, these invoices were approved by various Conrail employees - who and why? What equipment was allegedly used? Was it used?

ANSWER 12:

The allegation was made by Terriego before Senator McGovern's Committee. It is alleged that no work was performed by the contractor. On April 4, 1979, the investigators interviewed Steffanie Winter, a Conrail auditor, who was one of a team of auditors who audited the records of Fondessy Enterprises, Inc., Oregon, OH. The audit started October 10, 1978 and was completed on December 15, 1978. Conrail's audit disclosed that A.J. Wayne (Conrail - Division Superintendent - Toledo, OH) ordered the 90-ton crane in question from Fondessy. Mr. Wayne ordered the crane to be placed on standby to protect the yard because of severe weather conditions. The $2,013.00 per day standby rental included twelve overtime hours for the crew and crane. Fourteen derailments occurred during the seven day period that the crane was on standby. Conrail was charged for standby service on nine invoices covering a period of seven days. Conrail's records (MP 200's) show that Fondessy performed wrecking services on five of the days and re-railed at least 14 cards, including five engines.

Conrail's audit work papers (MP 200's) and the Fondessy bills are included as Exhibit BC - 3.

QUESTION 13:

Did Hulcher actually provide Conrail people trips to Hawaii, Wyoming and Newfoundland?

ANSWER 13:

Mr. Melvin L. Hulcher, President of Hulcher Emergency Service, Inc. was interviewed at his offices in Virden, IL (217) 965-3361. Also present during the interview were: Mr. Floyd Campbell, Western Regional Manager; Mr. Bob Moorehead, Eastern Regional Manager; Mr. Mel Ewing, Vice President - Operations; Mr. James S. Swanson, Secretary - Treasurer, and Mr. Glen Hulcher, Son of Melvin Hulcher and part owner of the company.

Besides the above question, Mr. Hulcher was asked whether he personally, his company or anyone in Hulcher Emergency Service, Inc. ever provided trips to Virginia Beach, VA and/or Ocean City, MD for Conrail employees via his airplanes or by any other means?

He was also asked whether his company, in any manner or form, provided a trip to Reno or Las Vegas in August 1977 for Mr. Kenneth Lowe, then Division General Superintendent at Cleveland, OH.

Mr. Melvin Hulcher stated that he, including his company, has never provided trips to any place for Conrail

employees or for anyone else outside of Hulcher Emergency Service. He termed the three allegations as utterly false. Mr. Hulcher further stated that he is ready and willing, at anytime, or place and at his own expense, to confront those who made these allegations together with such persons who allegedly took such trips. The point being, he said, to prove the falsehood of such allegations.

Mr. Hulcher stated that his company owns two airplanes. A twin engine Cessna 310 and a twin engine Piper Cheyenne. Each plane can seat five passengers plus the pilot. Both planes are based at Mr. Hulcher's farm in Virden, IL where a black top runway has been constructed. Such planes, according to Mr. Hulcher, are used to ferry company employees around the country and to derailment wrecks.

Upon further questioning, he admitted that he was still giving "snow suits" to various railroad employees except those of Conrail. Mr. Hulcher stated that Mr. R.B. Hasselman, Vice President - Operations of Conrail, requested that he cease giving such suits to Conrail employees.

Mr. Hulcher stated he has been giving these suits to rail employees for several years. They are purchased through Drap's Clothing Store, Virden, IL. A visit to Drap's revealed that approximately 500 suits have been purchased during the last four years. According to

Drap's records, such purchasing of suits began in 1970 at a cost per suit (to Hulcher) of $28.00. The present cost to Hulcher is $45.00. Drap purchases the suits from Oshkosh B'Gosh, Inc., Oshkosh, WI at a present cost per suit of $35.85, including tax. Hulcher picks up all inbound transportation costs and outbound postage. Both Hulcher and Drap maintain a record (name and address) of each person to whom a suit is shipped.

Submitted as Exhibit BC - 4 is a list of Conrail employees who were recipients of such snow suits and a sample card forwarded with each suit given.

In addition, Conrail's audit of Hulcher failed to disclose any trips whatsoever being furnished by this contractor. Submitted as Exhibit BC - 10 is the current Dun & Bradstreet report applicable to Hulcher Emergency Service, Inc., Virden, IL.

QUESTION 14:

What was the dispute between Winters and Lake Steel? Did Conrail investigate? What were the results?

ANSWER 14:

No action taken.

QUESTION 15:

Can it be proven that Conrail parts are showing up at the alleged small shops?

ANSWER 15:

This allegation is under active investigation by Conrail Police and a local District Attorney.

QUESTION 16:

At Grand Rapids, MI, an engine was derailed. Allegedly, the trainmaster ordered the railroad employees not to touch the wreck. An outside contractor arrived and charged Conrail $1,700.00 for rerailing the engine. Who was the trainmaster, and why did he order the carrier employees not to touch the wreck? What outside contractor performed the service and why?

ANSWER 16:

No action taken.

QUESTION 17:

See QUESTION 10.

QUESTION 18:

According to Master Mechanic R.B. Salyers, the division superintendent ordered more equipment than was necessary. What division superintendent? Where did this occur and when?

ANSWER 18:

In the original investigation report, it was purported that Mr. Salyers remarked that he knew of only two instances where the superintendent's office said more equipment was needed than necessary. Upon questioning, Mr. Salyers stated that that was not exactly what he said or what was implied. He went on to say that the Division Superintendent has final say as to the contractor to use and amount of equipment to order. Under these circumstances, we stated there could have been or there may have been a time or two, possibly through misunderstanding, that more equipment was ordered then actually necessary. He stated he could not pinpoint any particular instance.

QUESTION 19:

Mr. R.B. Salyers stated it would be almost impossible for the outside contractor to buy business from a wreckmaster. If the wreckmasters were being given sides of beef, vacations or other gifts, would they not be subject to return favors?

ANSWER 19:

Mr. Robert B. Salyers, who resides at 2021 Maryland Place, Northwood, OH, 666 - 0059, stated that a contractor who gives various gifts to rail employees usually accounts for the cost of such gifts on their books. Therefore, an internal audit by the carrier of the contractor's records would automatically reveal the name or names of railroad employees who are accepting such gifts.

Mr. Salyers admitted that he and Assistant General Foreman Robert Williams were recipients of Hulcher snow suits. According to Salyers, Williams kept his suit but Salyers gave his to a person by the name of Marvin Smith, Delrose Street, Northwood, OH. Smith is not employed by any railroad. A check on Smith disclosed he is no longer located at this address.

QUESTION 20:

Mr. R.B. Salyers put out instructions at Toledo for the crews to use only the Isringhouse Holmes crane. Why? Was it the only crane being used?

ANSWER 20:

The Isringhouse Crane was stationed at Stanley Yard and was more convenient if needed. In addition, Isringhouse's rates are more economical since the first eight hours or less that equipment is used is based on straight time basis. Moreover, Mr. Salyers stated that he was experiencing problems with other contractors and felt more competition was needed.

QUESTION 21:

Any connection between Salyers and Isringhouse?

ANSWER 21:

No connection was found between Salyers and Isringhouse or between Salyers and any other wrecking contractor.

QUESTION 22:

Were any standby charges paid by Conrail for the Isringhouse Holmes crane? Was it actually used in re-railing work?

ANSWER 22:

According to Salyers and Isringhausen's records, at no time was an Isringhausen crane or any other equipment ever engaged on a standby basis.

QUESTION 23:

Assistant Superintendent of Terminals Schackelton says Isringhouse was used very little. This conflicts with Salyers' memorandum.

ANSWER 23:

Upon the unavailability of Mr. Schackelton, we questioned Mr. Salyers concerning this statement. He said Isringhausen was used in the immediate area where its crane was located. Considering there may have been fewer derailments in this particular area, this would constitute using Isringhausen less. Furthermore, a wreck could be of such a nature that side booms had to be used. Since Isringhausen does not have this type of equipment, another contractor would have to be called in.

QUESTION 24:

Who are Mr. Russ Houth and Mr. Robert Clark? What part did they have in obtaining Fondessy's services?

ANSWER 24:

According to Mr. Richard Fondessy, Officer and Owner of Fondessy Enterprises, Inc., Oregon, OH, neither Russ Houth, formerly of the Mechanical Department at Toledo (now in Philadelphia) nor Robert Clark, Division Engineer, Union Station, Toledo, had any direct input in securing Fondessy's services. He stated that the first job done for Conrail was re-railing a car at Lakefront Pier, Toledo. Fondessy was requested (via telephone) to perform this service by Mr. Gene Marlow. It appears that Conrail's own equipment could not handle the derailment.

QUESTION 25:

What is the status of the alleged $8 million cargo claim?

ANSWER 25:

This allegation was made by Fondessy to S/A Hodges. The allegation was that Conrail experienced a cargo claim of $8 million due to Hulcher's mishandling of a wreck at Vermillion, OH on or about August 11, 1978. On April 6, 1979, we contacted Robert Andrew (Conrail's Assistant Manager of Freight Records - Philadelphia) and asked him about the alleged claim. After checking his records, he gave us a wreck number (C 8670985) and suggested we call Robert Cecchini, Manager of Freight Records - Buffalo, NY. Subsequent discussion with Mr. Cecchini failed to disclose any large claim against Conrail pertinent to a derailment at Vermillion. On April 11, 1979, we spoke with Robert Morehead, Eastern Regional Manager of Hulcher. He checked his records which disclosed that Hulcher did not take part in a wreck at Vermillion, OH during the period of the alleged claim.

QUESTION 26:

Who owns Isringhouse?. Any connection between Fondessy and Conrail officials?

ANSWER 26:

Isringhousen Specialists, Inc., 1 Industrial Park, Jerseyville, IL (618) 498 - 6441 is owned by Mr. Carl Loren Isringhausen, its President. Donna Isringhausen, his wife, is Secretary of the corporation and Curt Kasten, its General Manager. Submitted as Exhibit BC - 5 is a copy of Isringhausen's current Dun & Bradstreet Report.

No evidence was found connecting Fondessy, its officials or any Conrail official with Isringhousen, either whole or in part.

QUESTION 27:

If the mechanical department orders 75% of the equipment, who orders the other 25%, and why?

ANSWER 27:

Mr. Richard Fondessy stated that 75% of the calls received from Conrail are from the Mechanical Department ordering equipment for derailments. The other 25% are received from various other departments within Conrail requesting service for setting panels, snow removal, ditch cleaning, etc. The latter calls are not related in any manner to wrecks or derailments.

QUESTION 28:

What part did Mr. Houth play in securing Fondessy's services?

ANSWER 28:

See answer to Question No. 24.

QUESTION 29:

Who is Mr. Marlow? What transactions could he be aware of?

ANSWER 29:

Mr. Gene Marlow was formerly Master Mechanic at Toledo and is now located in Chicago. No evidence or information was developed during the course of this investigation to indicate any questionable transactions taking place between Marlow, Fondessy or any Conrail official. The only connection uncovered between Mr. Marlow and Fondessy was that the latter was the first Conrail employee to ever call the contractor for emergency wrecking service.

QUESTION 30:

Marlow and Houth may have brought in Isringhouse in July 1978. What wreckmasters were told not to use Isringhouse? Who and why?

ANSWER 30:

Because of the unavailability of Mr. Marlow and Mr. Houth, no action was taken on this question.

QUESTION 31:

A review of the MP 200's and other documents indicate a pattern of dates and times not agreeing with invoices - why?

ANSWER 31:

In discussing this matter with Mr. Craine, Mr. Zottola and other Conrail personnel, including involved wrecking contractors, the only explanation given was "sloppy" record keeping. They stated they realize the importance of proper information and correct dates and for this reason, they now require all contractors to post the "MP" number on all invoices. This number is given to the contractor when equipment is ordered. Furthermore, the numbers of all cars or power equipment re-railed must be shown on the invoices.

A comparison of MP 200's against the contractors' records did indicate a lack of accuracy on Conrail's part.

QUESTION 32:

At the Conway engine house derailment, who called in Hulcher and Penn Erection? Why?

ANSWER 32:

This allegation made by Martin Hoover (Foreman - Conway Yard) to S/A Hodges was that at the engine house, derailment extra contractors equipment was ordered and not used. The answer to this question can be found on Page 12 of S/A Hodges memorandum to Regional Counsel Angell dated December 1, 1978. This part of the memorandum refers to an interview with Mr. Mike Love (Terminal Superintendent - Conway Yard) who made a statement to the effect that he ordered extra equipment from Hulcher because he did not think Penn Erection's crane could handle the job because there was no room to get to the derailed equipment. The Conrail wreck train could not be used because the turntable was out of service. While waiting for Hulcher, Mr. Love's assistant suggested that they try to remove the derailed cars by pulling them out with locomotive power. This was done and it was successful, however, Mr. Love believes that the decision to order the Hulcher equipment was a correct decision under the circumstances.

QUESTION 33:

What, if any, connection between Mr. Craine and Mr. Krutz of Penn Erection? Any financial interest?

ANSWER 33:

In discussions with Mr. Craine and Mr. Krutz and the follow through investigation of certain allegations made by the TWU, it appears that the relationship between the two men is strictly of a business nature.

Craine has no financial interest in Penn Erection nor does he have any part interest in any equipment operated by Penn Erection.

Submitted as Exhibit BC - 6 is a copy of Dun & Bradstreet's current report applicable to Penn Erection.

Conrail's internal audit substantiated the above findings.

QUESTION 34:

What pressure is General Manager Owens putting on Wreckmaster Hoover and why?

ANSWER 34:

On March 28, 1979, Martin Hoover told us that the only pressure he was receiving from Owens was that Owens wanted Conrail men to do the ground work when outside contractors are called in to clear wrecks.

QUESTION 35:

Wreckmaster Lewis says many times outside equipment is rammed down their throats - by whom and why?

ANSWER 35:

On March 30, 1977, Mr. Lewis was interviewed by phone and was asked about equipment being rammed down his throat. He told us that when he made that statement, he meant that too many different people were ordering contractors equipment and no one knew who ordered it. Mr. Lewis said that the situation is better now because of better control.

QUESTION 36:

Is there any connection between Zottola and outside contractors? How and why did the time slips get out of hand?

ANSWER 36:

No evidence was found during this investigation connecting A.A. Zottola with any wrecking contractor. The original allegation of time slips getting out of hand was made by Wreckmaster Richard Lewis. According to Lewis, he meant that Conrail was not furnishing ground crews at derailment sites and consequently, numerous non-working claims were being filed. Zottola said that this was true, and contributed the failure to call out ground crews on a lack of knowledge by Conrail personnel of the TWU contract.

Zottola went on to say that this situation has been corrected since Conrail has not had a non-working claim of this nature since October 1978.

QUESTION 37:

Why and who authorized the 100-ton crane that Terminal Superintendent Lowe refers to?

ANSWER 37:

This refers to the 100-ton Penn Erection crane which was on standby during the periods January 13 through January 24, 1977 and from January 31 through February 11, 1977.

On March 29, 1977, we interviewed Donald Craine (Regional Superintendent of Car - Inspection and Repairs) and asked him why the Penn Erection crane was on standby and allegedly doing no work. Mr. Craine told us that this matter was investigated by Conrail thoroughly in 1978. He gave us a copy of a memorandum dated April 24, 1978 directed to R.B. Hasselman (Vice President - Operations) from C.W. Owens (General Manager - Pittsburgh Division). This letter explains that the standby invoices were investigated and no evidence of fraud or neglect on the part of Conrail or its supervisors was found. Attached to this letter was the following:

1. List of wrecks during standby period where the Penn Erection 100-ton Holmes crane was used.

2. Copy of a memorandum dated May 26, 1977 to C.W. Owens from R.E. Gratz (Division Superintendent - Pittsburgh) explaining the standby crane situation.
3. Conrail MP 200's pertaining to wrecks during standby period.
4. List of "out of service" dates of the Conrail 50-ton Holmes crane at Conway Yard during the standby period.
5. Copies of the Penn Erection invoices covering the standby crane.

All of the above documents are included as Exhibit BC - 7.

On April 3, 1979, we interviewed Louis LaCivita (Conrail Auditor) and asked him about his audit of Penn Erection Co. He told us that he and another auditor spent three months conducting the audit and turned in a report dated June 23, 1978. We asked him specifically about the Penn Erection Crane on standby in January - February 1977; he said the audit showed the crane was used.

Mr. LaCivita gave us the following documents to support the use of the Penn Erection Crane which was on standby:

1. Copy of index to six books which contain the underlying documents of Conrail's audit.
2. Memorandum dated April 19, 1977 to R.B. Hasselman from C.W. Owens explaining the use of the standby crane.
3. Copy of a signed statement of Martin Hoover dated July 21, 1979. This letter was taken by Conrail Auditor Richard Pastin and was witnessed by Donald Craine (Superintendent - Car Repair). Hoover is one of the individuals who wrote an annonymous letter to R.B. Hassleman dated February 22, 1977 which among other things, alleges that Conrail paid contractors for equipment which was not used. Mr. Hoover's statement is as follows:

> "From January 13, 1977 through January 24, 1977, whenever the Holmes Crane was in use at the Conway car shop, it was the Penn Erection 100-ton Holmes Crane".

"The Penn Erection Holmes Crane was used for a total of thirty-one times on fifty-one cars, two engines, and a load shift.

Attached to this statement is a list prepared by Martin Hoover showing the dates and times the Penn Erection Crane was used during the standby period.

4. An affidavit of Auditor Pastin dated July 25, 1978, a portion of which reads:

"That while Mr. Hoover was clarifying the log book entries, he remarked that "when we wrote the letter to Hasselman, we didn't mean for it to go this far. All we wanted to do is get some new wrecking equipment".

5. A similar affidavit of Auditor LaCivita.

6. Copy of pertinent pages of a wreck book supplied to Auditor LaCivita by Al Zottola (Regional Supervisor of Cars - Pittsburgh). These pages show wreck activity in the Conway wrecking territory for the period November 30, 1976 through March 4, 1977. These pages show that a Holmes Crane was used on 58 occasions during the January - February standby

period. Zottola told Auditor LaCivita that the reference to the Holmes Crane means the 100-ton Penn Erection Crane.

The above mentioned documents are included as Exhibit BC - 8.

On March 28, 1979, we interviewed Edward Kruck, General Manager of Penn Erection, at his office in Turtle Creek, PA. Our main objective was to obtain information about the 100-ton standby crane and the VanPort, PA wreck on January 21, 1977. (Terriego alleged that Conrail paid for equipment not used at VanPort -- this is besides the allegation regarding the standby crane.) Mr. Kruck gave us copies of invoices pertaining to the standby crane, along with dispatch papers which show who ordered the standby crane and also how many cars it helped re-rail.

Regarding the VanPort wreck, Mr. Kruck told us that Max Solomon (Assistant Superintendent - Pittsburgh) ordered the following equipment:

a. One 100-ton Holmes High Rail with crew.

b. One No. 1 583 Sideboom with operator.

c. One No. 2 583 Sideboom with operator.

d. 977 Cat with operator.

e. 75-ton crane.

f. Two Low-Boy Trailers with drivers.

Penn Erection's Dispatcher, Tom Sterbenz, explained that Dave Douglas, its Wreckmaster, was the first one on the scene at VanPort and radioed back to the dispatcher that the wreck was of such a nature that the 100-ton crane was all that was needed. The other equipment, although en route, was then sent back. Conrail, however, had to pay for the equipment ordered but not used. Kruck called it a case of bad judgement on Solomon's part.

We took pictures of Penn Erection's 100-ton; also, the block trucks which would accompany it. We also took a picture of the Conrail 50-ton crane which is stationed at Conway Yard.

For copies of invoices, dispatch sheets, photographs, price list, employee list, along with Penn Erection's brochure and wrecking contract, see Exhibit BC - 9.

QUESTION 38:

Review internal auditor's reports for follow-up information.

ANSWER 38:

This has been done and pertinent records have been made a part of this report.

QUESTION 39:

According to Massengill's report, the Conrail auditors found that Isringhouse overbilled Conrail $36,360.56 which was refunded at the auditor's request. What was the basis for these charges? Who audited the original invoices? Why were the payments authorized? According to Conrail's report, Isringhouse paid $2,339.39 for repairs to cars belonging to a Mr. J.A. DePaola. Can this $36,360.56 be tied to Mr. DePaola?

ANSWER 39:

During our visit to Isringhousen at Jerseyville, IL, neither Mr. or Mrs. Isringhousen were available. Both were out of town and not expected back for a week. Mr. Curt Kasten, the contractor's General Manager, has only been with the company a year. He was totally unaware of the transactions outlined in the above question. An attempt to locate the invoices and/or records covering the $36,360.56 and $2,339.39 proved fruitless. It was requested that upon return of the Isringhousen's copies of these records and all accompanying documents, be forwarded to these investigators.

Raymond Schockley, a Conrail Auditor, told us that $22,161.40 of the $36,360.56 which was overpaid by Conrail was monies supposedly paid to Pennsylvania Truck Lines, Inc.; however, it mistakenly paid to Isringhousen the balance of the $36,360.56 which was in payment of duplicate billings of Isringhousen.

Isringhousen deposited the overpayments and according to Mr. Schockley, did not let Conrail know about it until he discovered it during his audit. Subsequently, Isringhousen reimbursed Conrail the $36,360.56.

Mr. DePaola, whose cars were repaired at the expense of Isringhousen, is no longer employed by Conrail and there is no connection between the car repairs and the Conrail overpayments. The car repairs took place in 1975 and 1976 and the overpayments in 1977 and 1978.

Mr. Schockley recommended, in his audit report, that Conrail consider terminating all future business relationships with Isringhousen; however, this recommendation was not followed.

Sheraton Hotel
Pittsburgh, Pa.
May 9th 1977

STATEMENT OF: PETER J. MIKE

GIVEN TO: Inspector J.D. Robinson -S.S.I.U.
Inspector A.T. Dunn - S.S.I.U.

TIME & DATE: 9:00PM, 5/9/77

RELATIVE TO: Alleged illegal activities of company officials and the use of Penn Erection equipment on Conrail property.

S T A T E M E N T

Mr. Mike, for the record would you please state your full name, address, position with Conrail Corp., place of employment and years of service.

PETER J. MIKE, 610 Davidson Drive, Rochester, Pa., Lead Car Repairman-Plaining Mill, Conway Car Shop, 29 years service.

Mr. Mike, are the statements you are about to give the truth to the best of your knowledge and belief and are you giving these statements of your own free will with no promises or threats made against you?

All my statements are the truth, and no promises or threats have been made against me.

Mr. Mike will you be willing to sign this statement upon its completion?

Yes.

Mr. Mike, in your own words would you tell us what you know about the alleged illegal activities of some company officials and the use of Penn Erection Company equipment on Conrail property?

In 1974, I came back into the Shop and began working on the wreck train. It seems that whenever we would be sent to a wreck Penn Erection would also arrive at the scene but the railroad workers were the only people who did any work. The Penn Erection people would just sit by. Many times prior to 1976, our Holmes crane would be broke down but the derrick would be available. The wreck train would also sit idle and Penn Erection would be called for the job. After April of 1976, it seemed the Penn Erection had the exclusive right to all wrecks or derailments and the wreck crew was very seldom called. I would like to point out that Conrail paid the

STATEMENT OF: PETER J. MIKE
DATE: 5/9/77
RELATIVE TO: Alleged illegal activities of company officials and the use of Penn Erection equipment on Conrail property.

Penn Erection Company as well as the Conrail employees who were entitled to the work. Claims were filed by both TWU members as well as the Supervisor's Union. In the last year claims are paid on a "top secret" basis, no one knows who is being paid for the claims and the claims never leave the office of the General Terminal Foreman Al Zattola. I'd like to give you a perfect example of how Penn Erection has been taking advantage of Conrail:

From 1/13/77 through 1/24/77, Penn Erection had a 100 ton crane assigned to Conway Yard on "stand-by" duty, while the Conrail wreck derrick was available in the same yard. The derrick was only about 70 feet away from the crane. This crane never moved and in some instances another 100 ton crane was called in by Conrail Officials to perform work which could have been performed by members of the wreck train. I must emphasize that both the original 100 ton crane, which belonged to Penn Erection, and the Conrail wreck train sat by. Conrail paid for this original crane, the wreck train crew and the additional 100 ton crane which was called out by some unconcerned Conrail official. The specific dates that an additional 100 ton crane was called in were: 1/16/77 (an additional 100 ton crane and a 75 ton crane)- 1/24/77 (an additional 60 ton crane was called)- 1/21/77 (an additional 100 ton crane, one sidewinder, one #2 sidewinder, one CAT, 75 ton crane, two tractor trailers and a tool and block truck), all this equipment was called while the original 100 ton crane stood by in Conway Yard. I would also like to point out that the Conway Wreck Train was also on stand-by, except in the wreck of 1/21/77, at Vanport, Pennsylvania. I'm sure that Wreck-Master's would be able to give you a more detailed explanation with more dates.

During the periods of 1/31/77 and 2/10/77, the same type of "stand-by" situation with the 100 ton crane occurred in Conway Yard. On 2/6/77, another 100 ton crane was called by a Conrail Official and this crane was also put on a "stand-by" basis while the crew from the Conrail block truck worked on a derailment at Island Avenue in Pittsburgh, Pa. The crew from the 100 ton crane from Penn Erection never did a bit of work and the entire derailment was handled by Conrail employees. Although I wasn't at the derailment it is common knowledge around the shop area that Conrail employees handled the derailment, there should be records on file in the Conway Shop to substantiate this. On 2/8/77, an additional 100 ton crane was called in, and on the same date a 75 ton crane was called into Island Avenue to rerail one car. In both instances the block truck as well as the wreck derrick were available. To the best of my knowledge these are the only times when the additional cranes were called in, but there may be other incidents on record at Conway.

STATEMENT OF: PETER J. MIKE
RELATIVE TO: Alleged illegal activities of company officials and the use of Penn Erection equipment on Conrail property.
DATE: 5/9/77

- 3 -

Mr. Mike, were you working at the derailment in Vanport, Pennsylvania on 1/21/77?

Yes I was.

Mr. Mike, can you tell me who cleared the derailment and what equipment was on the scene?

The Conrail derrick cleared the derailment. The Conrail 250 ton derrick and the wreck train. I never saw any equipment from Penn Erection Company in Vanport, Pennsylvania on 1/21/77.

Mr. Mike, do you know who owns Penn Erection, or who has controlling interests in the company?

No.

Mr. Mike, do you know, what Conrail official orders Penn Erection equipment onto the property to work either on a "stand-by" basis or at derailment scenes?

To the best of my knowledge it's the Terminal General Foreman Al Zottola.

Mr. Mike, were you one of the authors of the anonymous letter to Vice President (Operations) R.B.Hasselman, concerning the alleged illegal activities of company officials and the use of Penn Erection Equipment on Conrail property?

No.

Mr. Mike, did you see a tool and block truck from Penn Erection at Conway Yard, during the periods of 1/13/77 to 1/24/77 and 1/31/77 to 2/10/77?

I've never seen a tool and block truck from Penn Erection in Conway Yard during these periods of time.

Mr. Mike, did you work every day during these periods of time?

To the best of my knowledge I did except for Saturday and Sunday, which are my authorized Rest Days.

STATEMENT OF: PETER J. MIKE
DATE: 5/9/77
RELATIVE TO: Alleged illegal activities of company officials and the use of Penn Erection equipment on Conrail property.

Mr. Mike, can you tell us why the original 100 ton crane, which was actually placed on "stand-by", used in these derailments?

I have no idea. It was there for the using but for reasons beyond me it wasn't used.

Mr. Mike, have you ever approached any union officials, or company officials about these alleged illegal activities?

I went to the local Chairman and the President of the Union, they did nothing. I also attempted to speak to several Conrail officials and they also did nothing.

Mr. Mike, who were the Conrail officials you spoke with?

I spoke with Master Mechanic Crane and Superintendent Short, they always fluffed me off and never gave me any answers, when I asked why the contractors were getting all the work and the Conrail Wreck Train was readily available.

Mr. Mike, can you tell me where you obtained the records which you have referred to during this statement?

During the month of March, the exact date I don't know, I found these records on my desk, I don't know where they came from.

Mr. Mike, in your opening statement you stated that after April 1976, it seemed Penn Erection had the exclusive right to all wrecks and derailments and the wreck crew was very seldom called. Can you clarify this statement?

I feel there was an agreement made between our local union officials and company officials to use Penn Erection exclusively, for their own gain. I have very little proof of this right now, but many of the statements which I have given above certainly would lead one to believe this is true.

Mr. Mike, do you have anything else to add to this statement?

Yes, on many occasions the wreck train was called to a wreck but

STATEMENT OF: PETER J. MIKE
DATE: 5/9/77
RELATIVE TO: Alleged illegal activities of company officials and the use of Penn Erection equipment on Conrail property.

because of the way it was routed by the Operating Department, we always seemed to arrive too late. No matter what time we arrived and if Penn Erection was already on the scene the entire crew of the wreck train would be paid.

Mr. Mike, are the statements you have just given the truth to the best of your knowledge and belief and are you giving these statements of your own free will with no promises or threats being made against you?

All my statements were the truth, and no promises or threats have been made against me.

Mr. Mike, will you sign this statement?

Yes.

Mr. Mike, can you tell me how far it is from Penn Erection's yard to the Shop at Conway Yard?

Approximately 30 miles. /s/ Peter J. Mike

/s/ Arthur T. Dunn
ARTHUR T. DUNN
Inspector
System Special Investigative Unit

/s/ Peter J. Mike
PETER J. MIKE
Car Repairman
Conway Yard, Pennsylvania

/s/ James D. Robinson
JAMES D. ROBINSON
Inspector
System Special Investigative Unit

Sheraton Hotel
Pittsburgh, PA
May 10th, 1977

STATEMENT OF: JOSEPH A. TROMBETTO

GIVEN TO: Inspector A. T. Dunn - S.S.I.U.
Inspector J. D. Robinson - S.S.I.U.

TIME & DATE: 2:00 P.M., 5/10/77

RELATIVE TO: Alleged illegal activities of company officials and the use of Penn Erection equipment on Conrail property.

S T A T E M E N T

Mr. Trombetto, for the record would you please state your full name, address, position with Conrail Corporation, place of employment and years of service?

JOSEPH A. TROMBETTO, 1301 Farraguet Street, Conway, Pennsylvania, Assistant Wreck Master at Conway Yard with thirty years service.

Mr. Trombetto, are the statements you are about to give the truth to the best of your knowledge and belief and are you giving this statement of your own free will, with no promises or threats made against you?

My statement is the truth, and no promises or threats have been made against me.

Mr. Trombetto, will you be willing to sign this statement upon its completion?

Yes.

Mr. Trombetto, in your own words would you tell us what you know about the use of Penn Erection Company equipment on Conrail property since April of 1976?

Since Conrail came into existence the Conrail employees have been generally kept within Conway Yard, while Penn Erection Company gets the work outside the yard. According to Mr. D. R. Crane, Master Mechanic and Mr. A. A. Zattola, Terminal General Foreman, the Conrail equipment (Holmes Crane) is obsolete and won't be ordered out of Conway Yard, for fear that it won't make it back to the yard. In some instances the derrick was ordered out of Conway and when we arrived at the scene of the derailment, Penn Erection would be working and we were told to just sit by. Of course Conrail had to pay for the crew of the wreck train as well as the crew and equipment from Penn Erection Company. Between 1/13/77 and 1/24/77, Penn Erection

STATEMENT OF: JOSEPH A. TROMBETTO
DATE: 5/10/77
RELATIVE TO: Alleged illegal activities of company officials and the use of Penn Erection Company equipment on Conrail property.

had a 100 ton Holmes Crane on "stand-by" at the Conway Shops. During this period of time the Penn Erection Holmes Crane never moved out of the Conway Yard area, even when there was a derailment where another Penn Erection 100 ton Holmes Crane was brought in to do the work. The crane that was on "stand-by" was used very little and whenever it was used it never moved from Conway Yard. Now that I have checked my records I see that the 100 ton Holmes Crane belonging to Penn Erection Company did leave the yard and worked at New Brighton Yard and East Liverpool, where we worked on a derailment. This is the only day it left the yard. My records also indicate that the 100 ton Holmes Crane which is owned by Penn Erection Company came back onto Conrail property on 1/31/77 and remained until 2/10/77. This crane stayed on our property even after the Conrail 50 ton Holmes Crane was repaired and able to operate.

Mr. Trombetto, on what date did the 100 ton Holmes Crane belonging to Penn Erection Company move out of Conway Yard and work at New Brighton and East Liverpool?

It was 1/13/77.

Mr. Trombetto, you mentioned in your statement above that the 100 ton crane belonging to Penn Erection was kept at the Conway Shop on stand-by, even after the Conrail 50 ton crane was available for service; can you tell me who made this decision and why?

This decision was made by Mr. Zattola and his reasoning was that we should keep the Penn Erection equipment on the property until we iron out the bugs on the Conrail equipment.

Mr. Trombetto, can you tell me how long it took Mr. Zattola to "iron out the bugs" on the Conrail 50 ton Holmes Crane?

According to my records our (Conrail) Holmes Crane was available on 2/6/77. The Penn Erection Company 100 ton Holmes Crane remained on the property for five unnecessary days.

Mr. Trombetto, were you at the wreck in Vanport, Pennsylvania on 1/21/77?

No, I was sick during that period.

STATEMENT OF: JOSEPH A. TROMBETTO
DATE: 5/10/77
RELATIVE TO: Alleged illegal activities of company officials and the use of Penn Erection Company equipment on Conrail property.

Mr. Trombetto, do you know who owns Penn Erection Company or who has a controlling interest in the company?

I have no idea.

Mr. Trombetto, could the Penn Erection Company 100 ton crane, which was placed on a "stand-by" in the Conway Yard, been used to handle some of the derailments outside of the yard?

Yes.

Mr. Trombetto, do you know who called Penn Erection to the scene of a derailment?

Usually Maxie Solomon.

Mr. Trombetto, have you had any conversations with employees of the Penn Erection Company, either at derailments or at the Conway Shop area?

They haven't said it to me directly but I know that they were harassing Dick Lewis (Wreck Master) about Conrail buying their company new equipment while the railroad workers had to contend with the obsolete equipment.

Mr. Trombetto, were you one of the authors of the annoymous letter to Vice-President (Operations) R. B. Hasselman, concerning the alleged illegal activities of company officials and the use of Penn Erection equipment on Conrail property?

Yes, I was. I was under the impression that the letter was going to be on union letter-head and signed by the President of the union. I never thought it was going to be an annoymous letter; I wouldn't have been afraid to sign it.

Mr. Trombetto, can you tell me who the other members of the wreck train crew are:?

They are: R. L. Himelbough; R. J. Coleman; F. A. Salamone; S. Sassic; W. M. Burton; I. G. Slocum; R. J. Cavendor; D. E. Burton; M. M. Pucci; P. J. Mike; I. W. Waldron and A. L. Parrett.

STATEMENT OF: JOSEPH A. TROMBETTO
DATE: 5/10/77
RELATIVE TO: Alleged illegal activities of company officials and the use of Penn Erection Company equipment on Conrail property.

- 4 -

Mr. Trombetto, can you tell me how long the Petti-bone crane has been in the Conway Shop?

It's a brand new crane and was just purchased by Conrail for use within the shop. I'm not sure how long we've had the crane but its quite new. Before this new crane we were renting a 12½ ton Petti-bone crane from Penn Erection Company.

Mr. Trombetto, did you see a tool and block truck from Penn Erection Company at Conway Yard, during the periods of 1/13/77 to 1/24/77 and 1/31/77 to 2/10/77?

I never saw a tool and block truck, but I did see a pickup truck which Penn Erection employees used for transportation to and from the Conway Shops. The pickup truck was never used for railroad business and on the few occasions the crane was used the pickup truck remained at the shop.

Mr. Trombetto, have you ever brought the situation of Penn Erection to the attention of company officials, and if so who?

During the Spring of last year myself and two other union officials had a meeting with Mr. Gratz, Superintendent, Maxie Solomon, Asst. Superintendent and Master Mechanic D. R. Crane. We informed these men that it would be more practical and economical to purchase better equipment rather than let Penn Erection Company come onto the property to work derailments or for a "stand-by" basis. It appeared that our request to save the company money fell on deaf ears and Penn Erection was continually used. A couple of months after the first meeting both R. A. Lewis and myself were suppose to meet with General Manager C. Owens but someone held the meeting in his place, who it was I do not recall. We also told this man that Conrail was spending exuberant amounts of money for contractors to work derailments.

Mr. Trombetto, do you have anything further to add to this statement?

No.

/s/ J. A. TROMBETTO

STATEMENT OF: JOSEPH A. TROMBETTO
DATE: 5/10/77
RELATIVE TO: Alleged illegal activities of company officials and the use of Penn Erection Company equipment on Conrail property.

Mr. Trombetto, are the statements you have just given the truth to the best of your knowledge and belief and are you giving this statement of your own free will, with no promises or threats being made against you?

All statements were the truth to the best of my knowledge. No promises or threats have been made against me.

Mr. Trombetto, will you sign this statement?

Yes.

//

/s/ ARTHUR T. DUNN
ARTHUR T. DUNN
Inspector
System-Special Investigative Unit

/s/ JOSEPH A. TROMBETTO
JOSEPH A. TROMBETTO
Asst. Wreck Master
Conway Yard
Conway, Pennsylvania

/s/ JAMES D. ROBINSON
JAMES D. ROBINSON
Inspector
System-Special Investigative Unit

Sheraton Hotel
Pittsburgh, Pa.
May 10, 1977

Statement of: Richard A. Lewis

Given to: Inspector J. D. Robinson - S.S.I.U.
Inspector A. T. Dunn - S.S.I.U.

Time & Date: 8:01 p.m., 5/10/77

Relative to: Alleged illegal activities of company officials and the use of Penn Erection equipment on Conrail property.

STATEMENT

Mr. Lewis, for the record would you please state your full name, address, position with Conrail Corporation, place of employment and years of service?

Richard A. Lewis, RD-1, Box 7, Wall St., Rochester, Pa. Foreman Wreck-Master, Conway Car Shop, Conway, Pa., with twenty-six years service.

Mr. Lewis, are the statements you are about to give the truth to the best of your knowledge and belief and are you giving this statement of your own free will, with no promises or threats made against you?

My statement is the truth, and no promises or threats have been made against me.

Mr. Lewis, will you be willing to sign this statement upon its completion?

Yes.

Mr. Lewis, in your own words would you tell us what you know about the use of Penn Erection Company equipment on Conrail property since April of 1976?

Since Conrail has come into existence, the wreck force hasn't been east of Pittsburgh more than four times. Penn Erection has been getting 90% of the work while Conrail's wreck forces have been confined to the Conway yard. During Jan. and Feb. of 1977, Penn Erection's equipment was called for either "stand-by" duty at Conway Shop or to a derailment where they were used very little or not at all. Conrail also paid for many days that the Penn Erection equipment laid idle at the Conway Shops, the Conrail Wreck Derrick was sitting within 100 feet of the Stand-by equipment and could have been used at a cost far less than what Conrail was paying Penn Erection Company. Between 1/13/77 and 1/24/77, 100 ton Holmes Crane was assigned to "stand-by" at Conway Yard. During this same period of time additional Penn Erection equipment including 100 ton Cranes were used at derailments where Conrail

Statement of: Richard A. Lewis
Date: 5/10/77
Relative to: Alleged illegal activities of company officials and the use of Penn Erection equipment on Conrail property.

could have used the original 100 ton Crane that was placed on "stand-by" at Conway Yard. Conrail paid at least three times the price they should have for these derailments. The same situation prevailed between 1/31/77 and 2/10/77. As a matter of fact, our Holmes Crane was in good working order on a few of the days when the Penn Erection Holmes Crane was held at the Conway Shop on "stand-by". I'm sure there are records of this at Conway Shops to substantiate this.

Mr. Lewis, were you working at the derailment in Vanport, Penna. on 1/12/77?

Yes, I was.

Mr. Lewis, can you tell me who cleared the derailment and what equipment was on the scene?

The Conrail 250 ton Derrick from Conway Yard and, a 100 ton Holmes Crane from Penn Erection accompanied by a ½ ton Tool and Block Truck owned by Penn Erection Company. The 100 ton Holmes Crane owned by Penn Erection made one lift and the remainder of the derailment was cleared by the Conrail Crew.

Mr. Lewis, did you see the following equipment at the scene of the derailment in Vanport, Penna. on 1/21/77?
No. 1 583 Sideboom with operator.
No. 2 583 Sideboom with operator.
977 Cat with operator.
75 ton Crane with Crew.
Two Tractor Trailers Lo-boy with drivers.

No, I never saw them at the scene of the derailment in Vanport.

Mr. Lewis, who was the ranking Conrail Official at the derailment in Vanport, Pa., on 1/21/77?

Allen Fisher, former Terminal Superintendent Conway Yards.

Mr. Lewis, do you know who owns Penn Erection, or who has controlling interests in the company?

To the best of my knowledge, a man by the name of Harry Taylor owns Penn Erection. I do not know who has controlling interest.

Mr. Lewis, who was on the crew at the Vanport wreck on 1/21/77?

Statement of: Richard A. Lewis
Date: 5/10/77
Relative to: Alleged illegal activities of company officials and the use of Penn Erection equipment on Conrail property.

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R. L. Himelbaugh, R. J. Coleman, S. Sassic, R. J. Cavender, and P. J. Mike, these are the men I'm sure were at the wreck in Vanport, Penna. If needed, I can research my records and supply you with more names.

Mr. Lewis, do you know what Conrail official orders Penn Erection equipment onto the property to work either on a "stand-by" basis or at derailment scenes?

I don't know.

Mr. Lewis, were you one of the authors of the annoymous letter to Vice-President (Operations) Mr. R. B. Hasselman, concerning the alleged illegal activities of company officials and the use of Penn Erection Equipment on Conrail property?

Yes, I was, but I never thought the letter was going to be sent annoymously, it was supposed to be sent on our Union letterhead and signed by our union president, E. P. Kelley.

Mr. Lewis, did you see a tool and block truck from Penn Erection at Conway Yard, during the periods of 1/13/77 to 1/24/77 and 1/31/77 to 2/10/77?

No, I did not see any tool and block truck, only a pick-up truck which was used to transport Penn Erection employees.

Mr. Lewis, did you work everyday during these periods of time?

Everyday except Saturday and Sunday which are my Rest days.

Have you ever had any conversation with Penn Erection employees concerning the acquisition of new equipment by the Penn Erection Company?

Yes, several Penn Erection employees told me that Penn Central Company bought it for them, they were talking about a brand new 100 ton Holmes Crane.

Have you ever approached any Union officials or Conrail Company officials about these alleged illegal activities?

Yes I have, myself and J. A. Trombetto had a meeting with the new Divisional Superintendent, Ralph Gratz who had just come onto this

Statement of: Richard A. Lewis
Date: 5/10/77
Relative to: Alleged illegal activities of company officials and the use of Penn Erection equipment on Conrail property.

Division at that time. We discussed the use of Penn Erection personnel and equipment and, why Penn Erection was being used on derailments instead of Conrail personnel and equipment. Mr. Gratz informed us that he would look into it. I have never received a response from Mr. Gratz.

Mr. Lewis, do you have anything else to add to this statement?

About three or four years ago, when Frank Jones was Divisional Superintendent he issued a letter to the effect that Penn Erection should not be used for any derailments for Penn Central Co. I believe I may have the letter on file and will make it available when located.

Mr. Lewis, are the statements you have just given the truth to the best of your knowledge and belief and are you giving these statements of your own free will with no promises or threats being made against you?

All my statements were the truth, and no promises or threats have been made against me.

Mr. Lewis, will you sign this statement?

Yes. /s/ Richard A. Lewis

//

/s/ James D. Robinson
James D. Robinson
Inspector
System Special Investigation Unit

/s/ Richard A. Lewis
Richard A. Lewis
Wreckmaster
Conway Yard, Penna.

/s/ Arthur T. Dunn
Arthur T. Dunn
Inspector
System Special Investigative Unit

Sheraton Hotel
Pittsburgh, Pa.
May 11, 1977

Statement of: Martin E. Hoover

Given to: Inspector J. D. Robinson
Inspector A. T. Dunn

Time & Date: 3:50 P.M. May 11, 1977

Relative to: Alleged illegal activities of company officials and the use of Penn Erection equipment on Conrail property.

S T A T E M E N T

Mr. Hoover, for the record would you please state your full name, address, position with Conrail Corporation, place of employment and years of service?

Martin E. Hoover, Ridge Road, RD #1 Freedom, Penna., Foreman Conway Shop, Conway, Pa. with twenty seven years service.

Mr. Hoover, are the statements you are about to give the truth to the best of your knowledge and belief and are you giving this statement of your own free will, with no promises or threats made against you?

My statement is the truth, and no promises or threats have been made against me

Mr. Hoover, will you be willing to sign this statement upon it's completion?

Yes.

Mr. Hoover, in your own words would you tell us what you know about the use of Penn Erection Company equipment on Conrail property since April of 1976?

As my records indicate, in 1973 we were called for seven derailments at Thompson Yard where we used Penn Central's 50 Ton Holmes Crane. Each year it seems we were called less for derailments outside of the Conway yard. In 1974 we were called for derailments fourteen times at the Thompson Yard. In 1975 we were called four times at Thompson and in 1976 we were called for one (1) derailment at Thompson Yard. Since Conrail has been using Penn Erection Co., Conrail's wreck forces have been used on a limited basis. On numerous occasions our (Conrail's) Holmes Crane was in service and able to perform wreck duty, but was kept in the Conway Shop while a similar Holmes Crane owned by Penn Erection was called on to the property to perform wreck work. This

Statement of: Martin E. Hoover
Date: 5/11/77
Relative to: Alleged illegal activities of company officials and the use of Penn Erection equipment on Conrail property.

was a great expense to Conrail. I don't know why Conrail's Holmes Crane was not used, as it was in service and able to perform work.

Mr. Hoover, were you working at the derailment in Vanport, Pa. on 1/21/77?

No.

Mr. Hoover do you know who owns Penn Erection Company?

No.

Mr. Hoover, do you know what Conrail official orders Penn Erection equipment onto the Conrail property to work either on a "stand-by" basis or at derailment scenes?

Mas Solomon up to about three (3) weeks ago, now the equipment is ordered by the M of E General Foreman. In the Conway Yard it would be A. A. Zattola. I don't know what prompted the change.

Mr. Hoover, did you see a tool and block truck from Penn Erection at Conway Yard, during the periods of 1/13/77 to 1/24/77 and 1/31/77 to 2/10/77?

No, there was none there, the only thing there was a Holmes Crane and Penn Erection employees private vehicles.

Mr. Hoover, did you work every day during these periods?

Yes, every day except my relief days which were Saturday and Sunday. However, I did work some of my relief days during that period.

Mr. Hoover, were you one of the authors of the annoymous letter to Vice President (Operations) Mr. R. B. Hasselman, concerning the alleged illegal activities of company officials and the use of Penn Erection equipment on Conrail Property?

Yes I was, however, it was my understanding that the letter would be signed by the President of the Union Mr. E. P. Kelley and, written on Union letterhead paper.

Mr. Hoover, do you have anthing else you wish to add to this statement?

No.

Mr. Hoover, are the statements you have just given the truth to

Statement of: Martin E. Hoover
Date: 5/11/77
Relative to: Alleged illegal activities of company officials and the use of Penn Erection equipment on Conrail property.

the best of your knowledge and beliefs and are you giving these statements of your own free will with no promises or threats being made against you?

All my statements were the truth and no promises or threats have been made against me.

Mr. Hoover, will you sign this statement?

Yes. /s/ Martin E. Hoover

//

/s/ Arthur T. Dunn

Arthur T. Dunn
Inspector
System Special Investigative Unit

/s/ Martin E. Hoover

Martin E. Hoover
Foreman
Conway Yard, Penna.

/s/ James D. Robinson

James D. Robinson
Inspector
System Special Investigative Unit

United States Government

MEMORANDUM

Date: April 2, 1979

Reply to
Attn of: RRSA D.F. Burnette

Subject: Conrail Discretionary Track Program - Joint Facilities

To: CSA D. Harper

Attached are selected documents pertaining to the failure of Conrail to bill the Baltimore & Ohio R.R. for $977,577 relating to track work performed at the Akron-Warwick joint facility.

This information was telephoned to Mr. D.A. Massengill, Bureau of Accounts, Philadelphia, PA.

cc: RRSA G. Hoover

Date October 17, 1978

To DISTRIBUTION Location

From P.R. Neff Location 202 - 6 Penn Center

Subject RESULTS OF MEETING ON DISCRETIONARY TRACK PROGRAM - JOINT FACILITIES.

This memorandum summarizes the October 9, 1978 meeting held to discuss the Discretionary Track Program as it impacts joint facilities. The meeting was prompted by a discovery that on a single facility (Akron-Warwick joint trackage), Conrail had failed to bill at least $950,000 for discretionary track work performed since conveyance. Limited review of other facilities disclosed further unbilled amounts, and suggested pervasive control weaknesses.

Departmental representation was as follows:

Accounting Controls Task Force:	P.R. Neff J.G. Freeland T. Prince
Engineering-Maintenance of Way:	R.L. Teeter
Expenditure Accounting:	W.C. Diamond R.A. Goerss W.B. Myers
General Accounting:	R.C. Davis D.M. LeVan J.J. Rozzo H.A. Smith A.C. Weamer
Contract Administration:	R.A. Frantz R.F. West
Rehabilitation Planning & Mechanical	R.E. Frame J.J. Baffa

Procedures were agreed to which would more closely control the integrity of joint facility discretionary track project proposals, and enhance Non-Revenue Billing's ability to identify recoverable charges not coded as to billable cost center. Specifically, an understanding was reached on the following assignment of responsibilities:

E X H I B I T I

MATERIAL & LABOR EXPENSE
OWED CONRAIL BY B&O FOR DISCRETIONARY
TRACK WORK AT AKRON-WARWICK JOINT FACILITY

	L A B O R		M A T E R I A L	
WORK ORDER	UNBILLED	JOINT PORTION OWED BY B&O	UNBILLED	JOINT PORTION OWED BY B&O
AB62	36,516	26,657	23,089	16,855
AB69	1,747	1,275	-0-	-0-
AJ73	109,454	75,523	140,139	96,696
BB54	87,923	58,908	49,445	33,128
BB55	50,087	36,564	96,027	70,100
BB56	29,843	21,785	18,837	13,751
BB57	64,118	46,806	40,189	29,338
BB58	-0-	-0-	-0-	-0-
DK63	61,561	44,940	110,219	80,460
CQ26	15,062	10,995	23,210	16,943
XA10	28,463	20,778	80,502	58,766
SUBTOTAL		344,231		416,037
+GMA Additive + 45%		154,903	+ 15%	62,406
		499,134		478,443

TOTAL:	$977,577

As reported: 1 April 1976 to 31 August 1978

OPERATIONAL/CONTROL WEAKNESSES

(1) Information on projects involving joint facilities is received from the field and entered into the computer in a project ranking process without being reviewed as to its integrity. The consequent mis-identification of joint areas undermines the credibility of the ranking process and inhibits efforts to identify billable costs.

(2) There seems to be poor dissemination of joint facility information to field personnel. Potential controls at the division level are thus weakened.

(3) There seems to be a lack of awareness about the existence and scope of the Discretionary Track Rehabilitation Program. As a result, resources available in the field are not utilized to their fullest capacity.

(4) Procedures have been implemented without a thorough consideration of system-wide consequences. What may help one department achieve its immediate goals may indeed hinder the company in pursuit of larger-scale goals.

(5) Various groups have failed to communicate with other groups. While one group may feel that certain tasks are not its responsibility or that another group will take care of it, there has been very little effort at co-ordinating effort at the system level.

(6) There have been instances of field personnel failing to follow accepted practices with a resultant loss of control (and money).

STATEMENT OF DONALD R. CRAINE

May 11, 1977

STATEMENT of Donald R. Craine recorded in Room 317 at the CONRAIL station in Pittsburgh, Pennsylvania, on May 11th in the presence of:

Louis A. LaCivita, Senior Special Auditor - CONRAIL

Richard Paxton, Associate Special Auditor - CONRAIL

Transcribed by : Dicta Steno Service Inc. (jb)

STATEMENT

Don Craine

DIRECT EXAMINATION

BY: Louis A. LaCivita

This interview of Don Craine of Pittsburgh, Pennsylvania is being tape recorded in Room 317 at the CONRAIL station in Pittsburgh on May the 11th at 1:30 p.m. in the presence of Lou LaCivita, Senior Special Auditor and Richard Paxton, Associate Special Auditor of CONRAIL. It is now approximately 1:30 p.m. and if you are willing Mr. Craine, we will commence with the interview.

Q. Would you please state your full name, age and home address?

A. Donald R. Craine, age 40 years, home address 5149 Maymont Road, Merrysville, Pennsylvania, 15668.

Q. What is your social security number?

A. 189-30-3072

Q. What is your present position with the Consolidated Rail Corporation?

A. Regional Superintendent of Cars, Central Region

Q. And who is your immediate superior?

A. C. W. Owens, General Manager

Q. And would you give us a brief description of your duties and responsibilities?

A. General supervision of the car department on the Central Region.

Q. When did you assume this position?

A. December 12, 1977

Q Prior to December 12th what was your position and at what location?

A. Master mechanic, Pittsburgh Division, Pittsburgh, Pennsylvania.

Q. And what were your duties and responsibilities during the period you held the position of master mechanic?

A. General supervision of the mechanical department, Pittsburgh Division under R. E. Gratz, Division Superintendent.

Q. When did you assume the position of master mechanic?

A. Approximately five years prior to that date.

Q. And who were you reporting to during the period that you held the position of master mechanic?

A. R. E. Gratz, numerous superintendents, the most recent R. E. Gratz, Division Superintendent.

Q. Well, it's suffice to say that you reported to the Division Superintendent?

A. Correct.

Q. Now do you have any idea why we would like to interview you today?

A. Not really.

Q. It has been testified to by some higher placed union officials in front of a United States Senate Commerce Sub-committee on service transportation that CONRAIL has been flagrantly abusing work rules, agreements which give management

the right to use outside contractors and equipment where it is truely more economical and efficient to do so. Now Mr. Craine, would you give us your interpretation of these work rules and why the TWU feels that you have violated these rules?

A. The TWU wrecking agreement I think is referred to by A. S Warren of the TWU agreement, contains the regulations which govern the use of outside contractors and the provisions that will be made regarding the use of CONRAIL employees with the contractors. To the best of my knowledge, every effort has been made by the carrier to make certain that TWU men are used with these contractors in compliance with the rules. Many deviation has been handled immediately with the persons involved.

Q. It has also been noted that each time CONRAIL violates these rules by using an outside contractor we must also pay out own CONRAIL crews for sitting at home. Would you say that this is a prevelant situation in your area of jurisdiction?

A. No, it is not.

Q. As the master mechanic in the Pittsburgh Division did you have the authority to approve or have approved invoices for work that was done by outside contractors?

A. Yes, I did. I was in a line of about five individuals and it was passed from me to my superior, the superintendent, for his approval.

Q Would you tell us how the re-rail or derailment contract work is normally handled out of your office?

A. Normally a derailment occurs and the responsible staff

officers, master mechanic, division superintendent and division engineer are notified and either they, or their representative goes to the derailment site and determines what equipment is needed At this time it is the general practice and best controlled, to call the Movement Office, Pittsburgh 702, and have that individual manning the wreck desk or movement desk to make the contact, both for communication purposes and also to keep record of what equipment is ordered so that duplication is not made.

Q Now who decides whether to use out, outside contractors or company employees at these wrecks?

A. The instructions issued approximately one or two years ago stated on the Pittsburgh Division that the master mechanic or the mechanical man at the site would determine what equipment was best needed to quickly open up the railroad and most efficiently with the least amount of dollars spent.

Q. Now how does the maintenance of equipment department determine who is to handle the contract work of any given derailment or wreck in a certain geographical location?

A. The decision generally is made on what contractor or wreck train can most readily get to the scene and perform the work with the least amount of delay to the carrier trains and least expense.

Q. Now who would make the final decision as to what contractor would handle a derailment or a wrecking unit in a specific geographical location?

A. The division superintendent has, is the supervisor and overseer of all derailments.

Q. In other words, he would make the final decision as to whether to use an outside company or our own?

A. Yes, the mechanical man makes his recommendation, what he can do the job best with and this is forwarded to the superintendent, either directly or through the movement desk and he makes the final decision.

Q. Now what information is the contractor required to furnish the CONRAIL relative to the equipment used or equipment ordered by the railroad?

A. Restate the question. I don't understand it.

Q. What information does the contractor, a contractor have to furnish to CONRAIL relative to the equipment that he has at a given wreck or derailment?

A. Are you referring to a billing or invoice after a derailment?

Q. Well, during or after, what documents are available to you?

A. Oh, I understand, okay. First of all, a price list is furnished by all major contractors to the staff officers of any given division and this gives each supervisor a basic knowledge of what he should get for his dollar and at the time of derailment you can estimate approximately what the invoice should be. After the wreck has been cleaned up, a period of one or two weeks, an invoice is presented to the division

superintendent's office stating the equipment used, the man hours used, the kind of equipment used and the total bill with the usual two percent discount for their period of time. Each bill, as it arrives, is scrutinized by the general foreman who is on his territory, forwarded to the master mechanic, division superintendent and on up, the chain of command. This enables each and every party to have an opportunity to scrutinize the invoice and pick up any mistakes.

Q. Now what forms or information is supplied by your people to corrolate the invoice submitted by the contractors?

A. An MP-200 is prepared by the wreck master who is an agreement foreman. He is directly responsible for the clearing of the wreck, the supervision of the TWU people. He prepares an MP-200, a standard CONRAIL form, and that must be forwarded with the AD-9728, which is the payment form where the signatures are affixed to the invoices, for payment.

Q. Now, the MP-200, this is a form that spells out to the particular derailment?

A. The MP-200 has all information beginning with the time, train assemble, etcera, the car numbers, the disposition to be made of the car and the approximate damage to the car. At the bottom the cause of derailment, etcera.

Q. Does it contain information relative to who has done the derailing, the re-railing or the wreck work?

A. Generally notations are made at the bottom, what equipment is used, this is done to assure that the agreement

is being complied with and no violations and if any, what liability we would have.

Q. In other words, if the MP-200 is not maintained accurately there is no other way of checking, double checking to see if the outside contractor or who have you actually performed the work that we are being billed for?

A. The invoice provided by the contractor states the number of bodies and number of machines involved and the man hours involved by him, the same as the MP-200 does for the TWU people. Also another check would be the timecards and the 2510 payroll sheets which show wrecking codes and the overtime sheet maintained in the master mechanic's office would also show the number of TWU man hours involved at each wreck.

Q. What have you, what does the CONRAIL have to verify that an outside contractor has been to this location and has performed the work that we are being billed for?

A. The supervisor at the scene of the derailment, the general foreman, the master mechanic, the assistant superintendent and superintendent all on the scene at the time of derailment make notation to the time, arrival and departure, the number of machines, etcera and they are also the people who okay and approve the invoices as submitted by the contractor.

Q. Does CONRAIL employ any men who are capable of doing wrecking and re-railing work?

A. Yes, they do. TWU people who are capable of re-railing yes.

Q. Now, how many men do you have available in CONWAY for this type of an assignment?

A. I would have to check the wrecking overtime sheet. I would estimate there are possibly 30 on the wrecking overtime sheet.

Q. Does CONRAIL have or lease equipment necessary to do this work?

A. At certain times and certain derailments equipment is rented. Different derailments require different types of equipment and possibly the physical characteristics of the train would not permit a wreck train into it and, often times semi-ton cranes are used or home cranes or sidewinders, cats, etcera.

Q. But we do have some equipment that is permanently stationed or assigned to forces in CONWAY?

A. Yes, we do. We have a fifty ton home crane, a two hundred and fifty ton vary.

Q. Now, if CONRAIL employs, the personnel and has the wrecking equipment available why would you find it necessary to employ outside contractors such as Penn Erecting and Rigging Company to do this work?

A. On occasion the equipment at CONWAY could be out of service or inadequate to handle a certain type of situation. Under these conditions additional equipment would be rented.

Q. Now do you feel that the contractors that are presently on the railroad are handling the work to the best interest of CONRAIL?

A. Yes sir.

Q Do you ever feel that certain contractors might be being shown any favortism, of any nature?

A. No sir, I do not.

Q. Are you familiar with the Penn Erecting and Rigging Company of TurtleCreek, Pennsylvania?

A. Yes sir

Q. Now, could you give us an estimate of the amount of business that CONRAIL does with Penn Erecting in a year's time?

A. No, sir, not a dollar figure.

Q. Now, could you make us aware of the circumstances and the happenings leading up to the leasing of a one hundred ton crane from Penn Erecting on January 13, 1977 on a standby basis for a period of time exceeding six weeks?

A. No sir, I cannot furnish information regarding the rental of that home crane. I was off sick due to a knee injury.

Q. Well, do you, who would be aware of the circumstances surrounding this leasing of the equipment?

A. The period of time I was off disability my job was filled and covered by my assistant at that time, G. R. Dobbs, assistant master mechanic presently master mechanic at Bethlehem, Pennsylvania.

Q When did you return to work at that period?

A. Approximately March 25th, it could vary one week or another.

Q. Are you acquainted with Mr. Ed Cluck, of Penn

Erecting and Rigging?

A. Yes sir

Q. Are you acquainted with any other people at the Penn Erecting besides Cluck?

A. Dave Douglas, their wreck master. I have worked numerous times with him and, the dispatcher of equipment, Tom Sturbick.

Q. Have you ever had lunch or dinner with any of these gentlemen?

A. I had lunch two or three times with Mr Cluck, yes.

Q. Have you ever socialized with any of these gentlemen?

A. No sir

Q. Now when you did have lunch or dinner with Mr. Cluck, who else was in your company at the time?

A. Nobody, possibly there was another individual. I don't recall, it was too few times.

Q. Do you know anyone else who might have socialized with Mr. Cluck?

A. No sir, not firsthand knowledge. I might make notation that you referred to dinners. The times with Mr. Cluck were lunches not exceeding two or three dollars.

Q. Now Mr. Craine, have you ever obtained or received any gifts of any nature from anyone at Penn Erecting or anyone that performed any service with the railroad at any time?

A. I recall a bottle of liquor and a turkey from Penn Erecting, one was either Christmas or Thanksgiving. I don't recall.

Q. Have you ever received any packages at your home such as gift packages of fruit or flowers, etcera, from Penn Erecting or any other contractors that performed a service to CONRAIL?

A. No, not at my home. I did receive while in the hospital at Allegheny General Hospital, a basket of fruit from Mr. Cluck. I don't recall the room number.

Q. Would you know what the value of this box of flowers or whatever it was that he sent you was?

A. What is it, I don't know. I have no knowledge what the value was.

Q. All right, who else from the railroad would be receiving gifts of this nature from Cluck?

A. I have no knowledge who the individual or individuals would be if there were any.

Q. Did anyone else give you any gifts?

A. No sir

Q. Have you ever obtained or received any cash or money from Penn Erecting or anyone who performed services for CONRAIL?.

A. Definitely not.

Q. Have you ever obtained a loan from Penn Erecting or anyone who performed a service for CONRAIL?

A. No, definitely not

Q. Have you ever undertaken any trips that were sponsered for or paid for by Penn Erecting or anyone who performed a service for CONRAIL?

A. No sir, I have not.

Q. Have you ever received such an offer?

A. No sir, I have not.

Q. Do you have any knowledge of any employee who has received cash or money of any nature from Penn Erecting or anyone who might perform services for the railroad?

A. No, I do not.

Q. Do you have any knowledge of any employees who might have received a loan of any kind from anyone?

A. No

Q. Have you ever obtained or received any gift certificates from Penn Erecting or any company that performed a service for CONRAIL?

A. No

Q. Do you have knowledge of any employees that might have received gift certificates?

A. No, I do not.

Q. Do you have any knowledge of any employees who might have been part taking in a trip of some type with the contractor?

A No, I do not.

Q Do you have any knowledge of whatsoever of any wrong doing or improper activities about anyone in your department?

A. No

Q At any time during this interview have we at any time suggested what your answers should be?

A. No

Q. Have we given you any information or facts on what your answers were based?

A. No

Q. Has this interview been voluntary on your part?

A. Yes, it has.

Q. Has anyone made any threats of physical harm or cause to you in any manner?

A. No

Q. Have you been treated fairly during the course of this interview?

A. Definitely I have.

Q. Do you have any criticism in the manner that this interview has been conducted?

A. No

Q. If it should become necessary would you be willing to take a polygraph examination relative to your answers on the questions we have covered in this interview or any subject relative to your function in the MOV department?

A. Yes

This concludes our interview for today, May 11, 1977, the time is now 2:15 and Mr. Craine, we want to thank you for volunteering to meet with us today and for taking the time out to assist us in clarifying this situation.

(End of Side A of Tape 1)

I declare that this statement is made of my own free will without promise of hope or reward, without fear or

threat of physical harm, without coercion, favor or offer of favor, by any person or persons whomsoever.

I have read this statement consisting of 14 pages and I affirm to the truth and accuracy of the facts contained therein.

Donald R. Craine

Witness

Witness

STATEMENT OF RICHARD E. BENEDUM

STATEMENT of Richard E. Benedum, Trainmaster, Pitcairn, Pennsylvania, tape recorded in Room 317 at Penn Central Station in Pittsburgh, Pennsylvania, on July 15, 1977 in the presence of:

Paul Rearden, Chief Special Auditor - CONRAIL

Louis A. Lacivita, Senior Special Auditor - CONRAIL

Transcribed by: Dicta Steno Services, Inc. - lbm

STATEMENT

R. E. BENEDUM

DIRECT EXAMINATION

BY: Louis A. Lacivita

This interview of R. E. Benedum, Trainmaster, Pitcairn, Pennsylvania, is being tape-recorded in Room 317 at Penn Central Station in Pittsburgh, Pennsylvania, on July 15, 1977, in the presence of Paul Rearden, Chief Special Auditor, CONRAIL and Louis A. Lacivita, Senior Special Auditor, CONRAIL. It is now approximately 2 o'clock and if you are willing Mr. Benedum, we will commence with the interview. Would you state your full name, age and home address please?

A. Richard E. Benedum, Employee Number 248140, age 57; my home address is 424 Franklin Heights Drive, Monroeville, Pa. 15146.

Q. What is your Social Security Number?

A. 297-07-9150.

Q. And your CONRAIL employee number?

A. As stated above, 248140.

Q. What is your position with CONRAIL Corporation at the present time?

A. Trainmaster, Pitcairn, Youngwood area.

Q. Is this an agreement or non-agreement position?

A. Non-agreement.

Q. And who is your immediate supervisor?

A. Max Solomon.

Q. And his title?

A. His title, Assistant Superintendent located in Pittsburgh.

Q. Could you give us a brief description of your duties and responsibilities?

A. Supervise employees in Pitcairn-Youngwood area and make up a movement of trains and progressing the budget and/or the safety.

Q. Now what was your position and work location prior to coming to Pitcairn and your present position?

A. Trainmaster at Hazelton Yard at Youngstown, Ohio.

Q. Now Mr. Benedum, do you have any idea why we'd like to interview you today?

A. No, I don't.

Q. And do you feel that you need to be represented by anyone while we are interviewing you?

A. I do not.

Q. As to Trainmaster in Pitcairn, do you have the authority to approve or have approved invoices that are submitted for work done by contractors?

A. Certain contracts like pest control and this nature and the YMCA where we house employees, and we do sign, make 9728's out and forward them to Detroit for payment.

Q. Now as a Trainmaster in Pitcairn, do you have the authority to approve or have approved invoices that are submitted by vendors or suppliers?

A. No, I don't.

Q. Now would you tell us how rerail or derailment contract work is normally handled out of your office?

A. Well as a rule whenever we have a derailment, I go out and check and see what is necessary to rerail the cars and then I notify my immediate boss, Mr. Solomon, or the Movement Office 702 or 3. I tell them what I feel we need and then they in turn order the equipment, if they were going to order off-track equipment.

Q. 702 or 3, what is that?

A. That's the Supervisor of Train Operations, Mr. Ober as a rule.

Q. 702 then is his phone number?

A. Right.

Q. Now how does the Transportation Department determine who is to handle the contract work on any given derailment or wreck?

A. I assume that due to the fact that people that can get there the closest, can get there the quickest.

Q. Who would have the final decision or who would make the final decision as to what contractor would handle a derailment or a wreck in your specific area?

A. Pittsburgh Office, either Solomon or Mr. Ober's office at 702.

Q. Now at a derailment Mr. Benedum, the contractor is required to furnish certain information. Could you tell us

what this information is that he's required to furnish relative to the equipment used, the equipment ordered by CONRAIL?

A. I don't know really what he has to submit because I don't see the bills.

Q. Mr. Benedum, do you feel the contractors that are presently on the railroad are handling the work for the best interest of the railroad?

A. In most instances I would say yes.

Q. Have you ever felt that maybe some contractors were being shown any favoritism of any nature?

A. Well I'm really not in that position to know whether they're being shown any favoritism toward one contractor or another. I'm really not in that position.

Q. Are you familiar with Penn Erection Derailment Service at (UNINTELLIGIBLE) Castle Creek PA?

A. Yes I am.

Q. Do you know or are you acquainted with Mr. Ed Krutz at Penn Erection?

A. Yes I am.

Q. Can you tell us how much business CONRAIL does with Penn Erection in the Pitcairn area?

A. Like I said, I do not get the bills to see what the cost would be. The amount of business that we do at Pitcairn is just on special derailments or something like this is the only time that we have them in the Pitcairn Yard.

Q. Is there a frequency of derailments there?

A. No, there hasn't been lately here, over the past few months anyhow. Derailments have been cut down considerably

Q. Have any other contractors, have they been called for derailments in Pitcairn besides Penn Erection to your knowledge?

A. One wreck (UNINTELLIGIBLE) Penn Erection and Wuehen (UNINTELLIGIBLE) both were used at this particular derailment.

Q. And where was this at?

A. S-Z interlocking at Trafford (UNINTELLIGIBLE), Pa.

Q. Do you know the people that run Penn Erection Derailment Service?

A. You mean the people that own it or -- the only man really that I'm familiar with is Ed Krutz and he comes out to the derailments as a rule and checks to make sure that he's got enough equipment that's called to cover it.

Q. Have you ever socialized with Mr. Krutz or any of the people from?

A. I have on occasion been out with a couple for outings with the Pittsburgh Railway Club and Mr. Krutz has been there.

Q. Have you ever had lunch or dinner with Mr. Krutz?

A. No, I have not.

Q. Never had lunch with him. So then if your name were to show up on Mr. Krutz' expense account as having been to lunch or dinner with him, could this be a falsehood on Mr. Krutz' part?

A. To my knowledge I have had no lunches with Mr. Krutz.

Q. Have you ever received any gifts of any nature from any contractor, from anyone who performed any services for the railroad?

A. No, I haven't.

Q. Never received any whiskey, turkeys or wine?

A. Well, I have received a fifth of whiskey on occasion, yes.

Q. Any turkey?

A. Turkey, yes.

Q. And who did you receive these gifts from?

A. From the Diamond Cab Company in Turtle Creek (UNINTELLIGIBLE) for one. I received whiskey from him. And also the (UNINTELLIGIBLE) Department of Pitcairn brought me up a turkey and a bottle. And if I don't recall right, they said that was from Penn Erection.

Q. Do you remember when you received these gifts?

A. At Christmas time.

Q. Would that be the only time you ever received these gifts?

A. Yes.

Q. And what would you say the value of this type of a gift would be?

A. Fifteen bucks.

Q. Who else in the railroad was receiving gifts of this nature?

A. Well, the (UNINTELLIGIBLE) Department and myself and I don't know who else (UNINTELLIGIBLE) maybe some other people.

Q. Have you ever obtained or received any cash or monies from any contractor or supplier?

A. None.

Q. Have you ever obtained a loan from any contractor or any outside company that performs services for the railroad?

A. None, other than the fact that when I was on vacation I ran out of funds and I did borrow some money from Mr. Krutz, which I later paid back.

Q. Have you ever received any gift certificates from any contractor or company that performed services for the railroad?

A. None.

Q. Have you ever received any packages at your home such as gift packages, flowers or anything like that?

A. None.

Q. Do you have any knowledge of any employees that have received any cash or monies of any nature from the contractors?

A. None.

Q. Do you have any knowledge of any of our employees who have obtained or received any loans from any contractors?

A. No, I don't.

Q. Do you have any knowledge of any wrongdoing or improper activities in your department?

A. No, I do not.

Q. Do you have any knowledge of anyone now in the employ of CONRAIL who has ever had an offer or has taken a trip or

vacation with expenses paid by a contractor or vendor?

A. No, I don't.

Q. Did you personally ever see such an offer?

A. No, I have not.

Q. Have you ever undertaken any trips or vacations that were sponsored or paid for by a contractor or any company that performs services for the railroad?

A. No.

Q. All right. Now, would you fill us in on the details surrounding the trip you made to Myrtle Beach, South Carolina in March of '77?

A. Mr. Krutz called me and said there was a cancellation in a group that was going to Myrtle Beach and asked me if I wanted to go. And I said yeah, I'd like to go along. And what's the price going to be? And he said somewhere around two and a half, two fifty-some. And I said okay. He said well okay, we'll pick you up at the Allegheny Airport and we'll go down, we'll fly down and be prepared to play golf when you get there. And I said okay. And then at Allegheny Airport, we left the airport, why John Slomka (UNINTELLIGIBLE) was a cashier, he took care of all the money. When we got on the plane everybody had to give him some money. I just forget whether it was $20 or $35 or something like that. And we went down and we all we registered in at the Dunes Hotel at Myrtle Beach. And we went to play golf. And we stayed at the Dunes for four nights. And we played golf every day we was there. And I got sick,

lost my voice and everything else. And so the consequences was we played poker and so on. And I overtextended myself playing poker and I lost my golf balls and (UNINTELLIGIBLE) in the water. And at the end of the week there when I had to pay the bill I had to borrow some money from Mr. Krutz to pay the bill, which later I paid him back. And then we got the airplane we went out and played golf and then they took us to the airport flew home, and bad trip coming back home, had to go by the way of Parkersburg. We got back in the Allegheny Airport about six, seven, between six and seven o'clock Sunday night.

Q. Well who accompanied you on the trip to Myrtle Beach?

A. Well there was about twelve railroaders all together including myself. Mr. Krutz who was Penn Erection and there was employees from P&LE, Montour and B&O. All the names, I don't have all the names at my disposal at this time.

Q. How did you travel to Myrtle Beach?

A. By airplane.

Q. Was this a commercial airplane?

A. It was a chartered flight as I understand it.

Q. And you say it was supposed to cost you $250 for this?

A. They said in the neighborhood of $250.

Q. Was that to include the air fare or was that excluding air fare?

A. That was to include everything really and that would cost you roughly about $250 besides your money that you spent

down there for your own personal stuff.

Q. And who would you say sponsored the trip?

A. As I understand it now, as I say this was my first experience with this group and I knew part of them, I didn't know them all. But as I understand this is a yearly affair and Mr. (UNINTELLIGIBLE) Shomaker who put it together I guess, and he works for the Montour. And I don't know who took care of the bills as far as the airplane and this, I do not know that. We paid for our golf every day, as we went along we paid for it. And at the end of the week like I said, we paid our hotel room after we was ready to leave.

Q. Now Mr. Shomaker, you say he is from the Montour Railroad?

A. Montour Railroad.

Q. Would you say that he was the organizer of this golf outing?

A. From all appearances to me he was the organizer and he got it all together.

Q. And you paid Shomaker a total of how much money?

A. Well it varies from day to day, but when we got on the plane we paid him so much money. And every day the golf was a little bit different because every golf course we played down there their fees are a little bit different. And then at the end of the day when you come in we paid a little bit more because we paid 25¢ for each water ball and each time we went in a sand trap. We spent 25¢ and put that in a kitty and we

kept that for the end of the week. Then we all went out and ate with this money that was gathered in by this manner. And we'd get a little (UNINTELLIGIBLE) at the end of the day too for certain things, you know, we made up different things along this ball, the least number of putts and so on and so forth.

BY: Paul Rearden

Q. Dick, when you started that trip to Myrtle Beach and you arrived at the airport, you mentioned that John Shomaker, after you got on the plane, he asked for everyone to kick in $20 or $30 whatever the amount was. Did he at that time indicate to you that the money that he was asking you for was for the transportation to Myrtle Beach?

A. No, he did not.

Q. Did he at any time ever ask you to pay him any money for the cost of the air flight down to Myrtle Beach?

A. No.

Q. Then to your knowledge do you know whether or not you did or did not pay any money towards the chartering of the airplane from Pittsburgh to Myrtle Beach?

A. No, I do not.

BY: Louis A. Lacivita

Q. How big a plane was that you went down in Dick?

A. It wasn't very big. It just hold about fourteen people, that's all, including the pilots.

Q. Did you say that was an Allegheny?

A. Allegheny Airline, two, twin motors.

Q. Did you take that from Pittsburgh Airport or from McKeesport?

A. McKessport.

Q. The old Allegheny County Airport?

A. That's correct.

Q. Could this have been a privately owned plane owned by Penn Erection?

A. It possibly could have been. But I think the pilots were Allegheny Airline pilots because there was some talk about them taking a trip on their days off.

Q. Now you say you stayed at the Dunes Hotel at Myrtle Beach?

A. Right.

Q. And you were there for four days?

A. Yeah, we arrived on Wednesday and left Sunday.

Q. Now, you borrowed money from Mr. Krutz to pay for your hotel?

A. Right.

Q. And when did you repay Mr. Krutz?

A. Well it was, like I say when I came home, coming home I got sick down there and was sick after I got back home for three days. And I imagine it was a week to ten days anyhow before I paid him back.

Q. Have there ever been any other trips that you have taken paid for by contractors or vendors in the past?

A. No, none.

Q. Now who else from the railroad was taking these trips that you know of?

A. There is no one that I know of.

Q. And could you tell us what the total amount of your expenses were that you had in Myrtle Beach?

A. No, I have no record to tell you what the total was. All I know is I spent a little more money than $250.

BY: Paul Rearden

Q. Dick, would you clarify something for us. In reference to the hotel bill, if I understood you correctly you did run short of money and you did borrow or requested Mr. Krutz to pay the hotel bill. Could you clarify that for us?

A. Yeah; I was short of money to pay the hotel bill. I asked Ed if he could lend me some money and I told him I needed it to pay the hotel bill. He said well, I'm going down to pay mine, I'll just pay yours and he said you can pay me when you get back home when you get the money, pay me.

Q. And then a week or ten days after you returned home, then you repaid the money in cash to Mr.Krutz?

A. That's right.

Q. Did he give you any type or sort of receipt for that payment?

A. No.

BY: Louis A. Lacivita

Q. So you paid him in cash?

A. That's right.

Q. And you don't remember what the total amount of expenses were that you had?

A. No, I don't know what the total was. Like I say, we was paying out money every day. We was paying for our golf fees and cart fees and then we was putting the money in for the kitty that we was going to have for out on the golf course and everything, and I did not keep a record, a daily record of the money I spent.

Q. Now, let me ask you this Dick. Do you have a personal credit card?

A. Personal credit card? American Express card, yes.

Q. Couldn't you have paid your hotel bill with your American Express card?

A. I thought I could have, but then I knew that I didn't want to. And I also, I had taken Travelers Checks and I had used them. And I didn't want to use my American Express card at this time.

Q. Mr. Benedum, at any time during this interview have we suggested what your answers should be?

A. No.

Q. Has this interview been voluntary on your part?

A. Yes.

Q. Has anyone made any threats of physical harm or coerced you in any way?

A. None.

Q. And would you say you have been treated fairly

during the course of this interview?

A. Yes.

Q. Do you have criticism of the manner in which this interview has been conducted?

A. No.

Q. Is there anyone else you feel can shed a light on this subject?

A. The only person that probably could verify any of this is Mr. Krutz himself as to the nature of the money which I asked him to borrow and which he in turn said he would go out and pay it and I could reimburse him later on. Other than that, that's about the extent of it.

Q. Now if it should become necessary, would you be willing to take a polygraph examination relative to the answers to the questions we covered in this interview?

A. What's a polygraph?

Q. A lie detector test.

A. A lie detector test. I don't know why -- I don't see no reason why I wouldn't at this time.

Q. Okay then Mr. Benedum. We want to thank you for your cooperation in meeting with us today and for helping us. And we hope we haven't taken up too much of your time or inconvenienced you too much. Once again, thank you.

I declare that this statement is made of my own free will without promise of hope or reward, without fear or

threat of physical harm, without coercion, favor or offer of favor, by any person or persons whomsoever.

I have read this statement consisting of 16 pages and I affirm to the truth and accuracy of the facts contained therein.

Richard E. Benedum Aug 31, 1977
Richard E. Benedum

Louis A. La Cuata 8/31/77
Witness

Witness

STATEMENT

RON SHORT

DIRECT EXAMINATION

BY: LOUIS A. LaCIVITA

Today is May 3rd, and this is 9:30 a.m., we are in Room 317 of the Conrail Station in Pittsburgh. With me today Lou LaCivita, Senior Special Auditor is Mr. Paul Rearden, Chief Special Auditor, Consolidated Rail Corporation, and Mr. Ronald L. Short, Regional Sales Manager, Consolidated Rail Corporation. Mr. Short if you have no objections for us taping this conversation, we'll proceed.

No objections.

Q. Now for the record would you please state your full name, age and home address?

A. Ronald L. Short, Regional Sales Manager, Consolidated Rail Corporation, I reside with my family at 1944 Red Coach Road, Allison Park, Pennsylvania 15101. I am 45 years of age.

Q. Now what is your Social Security number?

A. 168-26-7091.

Q. And what is your present position with Conrail?

A. Regional Sales Manager of Pittsburgh.

Q. Who is your immediate supervisor?

A. J. B. DeCarlo, Assistant Vice President of Sales, Philadelphia.

Q. Would you give us a brief description of your duties and responsibilities?

A. As Regional Sales Manager, I am in charge of five sale's offices in the Pittsburgh region, it is my duty to solicit traffic for Conrail as well as service the accounts that we deal with

Q. Now when did you rise to this position?

A. June 8, 1976.

Q. Now prior to June 8th, 1976, what was your position and work location?

A. Division superintendent, Pittsburgh Division, headquartered in Pittsburgh, Pennsylvania.

Q. Now what were your duties and responsibilities during the period that you held the position of Division Superintendent?

A. I was in charge of all activities on the Pittsburgh Division, transportation, MVMW, etc.

Q. And who were you reporting to during that period?

A. Clifford W. Owens, general manager of central region.

Q. Now Mr. Short do you have any idea why we would like to interview you today?

A. The activities of Penn Erection Company.

Q. Now Mr. Short as the superintendent of the Pittsburgh division, could you make us aware of the procedures which have been set up for the procuring of contractual services for the company?

A. When we had a derailment and it was necessary to procur outside help, it was a practice to order this equipment through the movement office on most occasions with whoever we wanted to employ, such as Penn Erecting, Hog Hulture, some occasions Winter

and various small contractors when we just needed a bulldozer or a front end loader or something like that.

Q. Was there any criteria set up as to how you arrived at which contractor you would contact at any given time?

A. There was no set instructions as a general rule anything west of Pittsburgh, we would order Hulture out of Mansfield, Ohio, and anything in the Pittsburgh area and east of Pittsburgh area we would use Penn Erection.

Q. So what would you say would be the dividing line if any?

A. I would say Ohio, we would use Penn Erection, Ohio, excuse me, Ohio we would use Hulture and in this immediate Pittsburgh area we would use Penn Erection.

Q. So to the best of your knowledge, how long have we been doing business with Penn Erection?

A. I would estimate 1969 or 1970 when I was general superintendent of the central region they first got started in Pittsburgh.

Q. Would you have any idea of the preponderence of business that we do with these people moneywise?

A. I believe I checked out 1975 and it was a half of a million dollars approximately, don't hold me to the penny to that it is a big account.

Q. Now who had the authority to decide which contractor was going to be used at any given derailment?

A. Myself as the region superintendent, the assistant superintendent, which was Max Soldman, and the master mechanic, who was Donlald Crane.

Q. We are talking what period of time?

A. As when I was division superintendent of the Pittsburgh division, it was a general rule-of-thumb who called out other than our own people.

Q. Now, let's consider a hypothetical derailment, we have a derailment in Beaver Falls, who would be the first man on the scene?

A. The terminal superintendent at Conway and/or the track supervisor of Conway would be the first one on the scene.

Q. They would decide that we need them?

A. No they would call in as a rule-of-thumb and describe the accident and the decision would be made at that time what to call out, whether we needed the Conway wreck train only, whether we needed the Conway wreck train and two sidewinders or the Conway wreck train, two sidewinders and two front end loaders etc. etc. We would use, normally he would call in and then the decision would be made, he would not call direct, the decision was made in my headquarters.

Q. So then the party that was on the scene was the train master, the terminal superintendent what have you there, they generally speaking did not have the authority to hire or to contact any outside firm to do the wrecking for us?

A. No sir.

Q. Has there ever in your recollection been an emergency type situation where these men would take charge and contact someone without going through the switch board or whatever setup

you had in the building?

A. To the best of my knowledge no.

Q. Now as the superintendent, have you ever had the occasion to hire one of these contractors on a stand-by basis to whether they would leave their equipment on our property for say an extended period of time? And whether we used it or not?

A. No sir. Not to the best of my recollection no sir, I cannot think of any occasion. To reemphasize my answer, I can never recall using a crane on standby in my tenure as division superintendent. I am aware of the allegation which probably prompted your question because I received anonymously a copy of the Congressional minutes of Mr. Trigio's, if I am pronouncing his name right, speech, which he delivered before the sub-committee, that arrived in the mail in a manila envelope, let me answer again I did not have anything on standby.

Q. Mr. Short are you acquainted with the gentleman that runs Penn Erection Company?

A. Yes sir.

Q. How well are you acquainted with this gentleman?

A. I first met Harvey Taylor who is president of Penn Erection Company and Ed Crux who is general manager sometime in late 1969 or 1970 when I was general superintendent of the central region of Penn Central Transportation Company.

Q. How did you become acquainted with them?

A. They came to my office and requested that we take them into consideration to use as outside contractor for derailments.

Q. Well you have known these gentlemenfhen since approximately 1969. In this period of time, have you ever had the occasion to socialize with these gentlemen?

A. Yes sir.

Q. Would this, could you give us a break down of, an idea of what your socializing consisted of?

A. On occasion I would be invited to attend a Railroad Club of Pittsburgh function as a guest of Penn Erection Company, they would have other guests at these affairs and since becoming a Regional Sales Manager I have played golf with Mr. Crux on one or two occasions, don't hold me down to that, that is about it.

Q. Have you had the occasion to go on golf outings with either Crux or Taylor?

A. No sir.

Q. Have you ever spent any nights at the track with Mr. Crux?

A. No sir.

Q. In checking the expense accounts that were submitted by Mr. Crux to his company, for a short period of time, and we checked his account from the beginning of 1976 to April of 1977 which is just a little over a year, now in this short period of time, there were 74 incidents or times which included golf outings, night at the track, Traffic Club Affairs etc. that your name appeared in the expense accounts as being a guest of Mr. Crux?

A. To the best of my knowledge, I have seen Mr. Crux at

the Traffic Club, he has bought me a drink and I have reciprocated by buying him a drink, as a recall I was a guest on one occasion to what we call at the Traffic Club our Bingo Night which we bring girls and guests. I have never been to the track with Mr. Crux, I have played golf with him, at Shanon Country Club on one or two occasions when we, when I have, to the best of my recollection, probably had a guest out there myself, and we asked him to fill in. I can never recall over the past three years since I have been in Pittsburgh having lunch with him. As I have stated before, I had attended a golf outing with him at the Railroad Club as a guest when there would be other railroads involved period.

Q. Now Mr. Short according to Mr. Crux, Ed Crux I believe his name is, on May 1, 1976, he paid your club dues for you for membership in the North Park Sportsmen Club, could you fill us in on that?

A. He attempted to pay my dues, the dues was $20.00 and since I live handy to the Club, he wanted me to join the Club, well I have never been in the Club and I never, I send the, he sent me a membership card, and I sent it back, I never accepted it, and I never attended.

Q. Would you say then that Mr. Crux by putting this in his expense account was not exactly being kosher about it?

A. I have no idea, I think the membership was $20.00 and the reason why he sent it to me was my boys were interested in hunting and fishing and they had an archery range out there and

Mr. Crux, in all fairness to Mr. Crux, I feel sure that he felt that he was doing me a favor, but for $20.00 he was not doing me a favor.

Q. Now Mr. Short except for a few parties at Pittsburgh Railway Club, the Traffic Club, you never socialized with Mr. Crux?

A. Other than the Pittsburgh Railroad Club, as I previously stated, I played golf with him on one or two occasions where he would fill in or something of that nature but I never socially I have never socialized with him other than to that extent.

Q. Ahem, now how good is your memory?

A. Pretty good.

Q. On February 28, 1976, did you have dinner with Mr. and Mrs. Crux, Mr. and Mrs. Short and had dinner at Ernie's Esquire?

A. No sir.

Q. How, he claims that he spent, he bought you a ticket for the, wait no, on 2/28 from Ernie Esquire, then you went to the North Park Sportsmen Club in Pittsburgh with the Crux's?

A. I can't recall that.

Q. Have you ever had lunch at the Viking in Pittsburgh with Ed Crux?

A. Positively not.

Q. Tamberlinie's?

A. Which one?

Q. Just Tamberlinie's in Pittsburgh?

A. He might of bought me lunch at Tamberlinie's which is

on Liberty Avenue.

Q. With Jim Brown?

A. No sir.

Q. Who is Jim Brown?

A. Jim Brown, I succeeded Jim Brown as regional sales manager, Jim was sales regional sales manager in Pittsburgh.

Q. Ahem, is it possible that prior to the transistion that he might of taken you and Jim Brown out to dinner or to lunch? I have here he has entertained you and Jim Brown on three different occasions at the Holiday Inn in Green Tree?

A. Absolutely not, the only dealings which I had with Ed Crux and Jim Brown, I was responsible in initiating Ed Crux into the Pittsburgh Traffic Club, and Jim Brown was one of the sponsors and that was done at the Traffic Club.

Q. How about the, have you ever attended a 4th of July picnic?

A. Absolutely not.

Q. At the Manor Country Club?

A. Positively not.

Q. Did you ever receive any ball park tickets, ballgame tickets?

A. Absolutely not.

Q. The Venango Golf Course, have you ever attended there with Mr. Crux?

A. I have never played Venango Golf Club, they have a dining room I never had dinner there or lunch or breakfast.

Q. Have you ever heard of the Mohawk Golf Course?

A. The Mohawk Golf Course is out at New Castle, Pennsylvania and the Youngstown Division had a golf outing out there in 1976 and I can't recall the month or the date, Mr. Crux attended that but he didn't come with me, I paid my own way.

Q. And you say you never been to Ernie Esquire with Ed Crux and his wife?

A. I have been to Ernie's many a time but I can't recall being there with Ed Crux.

Q. Now where is Ernie Esquire, I have two different addresses?

A. There are three Ernie Esquires, one at Butler, one at South Hills and one in Willing West Virginia.

Q. And do you

A. I can't recall if I could I would tell you. I have been to all three of those on numerous occasions.

Q. And has Mr. Crux been in your company at any of them?

A. Not that I can recall.

Q. Is it possible that you could of met him at these country, at these clubs?

A. If I did I feel that I would recall, I can't recall, I will have to think about it, if I could I would tell you.

Q. Have you ever been in the company of Rob Gratz and Max Soliman when you were with Ed Crux?

A. On Railroad Night, on Pittsburgh Railroad Club of Pittsburgh, yes, and he might of bought us lunch if I run into

at Tamberlie's on Liberty Avenue, but I can't really be that specific about that one.

Q. Have you ever had dinner or lunch with Ralph Gratz and Ed Crux at Webster Hall?

A. No sir. I would remember that.

Q. Okay let's go back to New Year's Eve of 1976-1977, 12/31/76, did you attend a New Year's Eve party?

A. Yes sir.

Q. Where was that?

A. That was at Shanon Country Club.

Q. And were you the guest of Mr. Crux?

A. Right.

Q. This is one time that he was

A. I remember that, if I remember I would tell you, I wouldn't lie to you.

Q. How much money would you say that dinner was worth?

A. Well if my memory serves me right, the Heck's were there, Shoemaker's, myself, Gratz' , and Yuger's, so I imagine there were five or six couples there, a rule of thumb you can say $150-$200. How much was it?

Q. I have one more, two more incidents that I would like to discuss. One was on the 25th of February, 1977, you had a golf meeting on Myrtle Beach, Ron Short and two others?

A. Not I, positively.

Q. How about the Railroad Supervisor's Club annual dance? The Rochester Township Firemen's Club?

A. Not I.

Q. Did you not attend that party?

A. Positively not.

Q. Now Mr. Short have you ever been invited to the Super Bowl Party that is thrown by Ed Crux or Taylor?

A. No sir.

Q. Have you ever received any gifts from the Penn Erection Company?

A. Two years ago I got a turkey.

Q. That would be Christmas?

A. Christmas of 1976.

Q. You got a turkey? Was there anything else that same year?

A. There might of been a fifth of booze but I can't recall, I got a fifth of booze that year and I gave it to my chief clerk, I don't know whether Crux gave it to me but I know the master mechanic delivered it.

Q. That was Crane?

A. Right.

Q. He delivered the turkey?

A. Right.

Q. And the booze?

A. To the best I got a fifth of booze that day and I gave the fifth of booze to Eddie Cohare my chief clerk, and I don't know, Phil Short gave me but I wouldn't swear by it.

Q. It mustn't of been very good booze?

A. It wasn't.

Q. Aside from the turkey and the bottle of whiskey for Christmas of 1976, have you ever received any other gifts from Ed Crux?

A. No sir.

Q. Now what would be Mr. Crux's reasoning for putting your name on his expense account as often as he does if he is not actually entertaining you?

A. Mr. Crux would have to speak for himself, logically I could only come to one conclusion, that he is using me to explain some of his expenses away, and I repeat myself that is my conclusion.

Q. Now have you ever entertained the Crux, Ed Crux or the Taylors as your guest in any of these situations where we have mentioned, that they would of been your guests?

A. No sir not my guests. I invited, I had the Crux's at my home once for dinner and that was in 1976 I think, I can't recall the month, but I have never entertained them as such.

Q. Have you ever entertained the Taylors in your capacity as sale's manager?

A. No sir.

Q. Have we done any business with them as customers as they are our customers, did they ever do any freight business with us?

A. On occasion in the past, they will get equipment in via rail and I am going back to my train master's days at Pickhering in 1966. Mr. Taylor tried to lease some property off

Conrail or Penn Central I should say in 1976, I have had some dealings with them as far as leasing property which didn't go through I might add. As far as being invited out by the Crux's and Taylor's, I have no influence over them, and I have received no gratuities from them for so-called using some influence. I can only assume that they like my company period.

Q. Mr. Short outside of the couple of gifts here, the turkey and the bottle of liquor you received from Penn Erection or Ed Crux, has there been any other occasions when he has offered or has given you any gifts whatsoever?

A. No sir.

Q. Have you ever taken or been invited to on any trips of any nature, golf outings or vacation trips sponsored by Penn Erection Company?

A. Yes sir.

Q. And would you tell me what type of trips these have been?

A. Twice a year to the best of my knowledge they go Myrtle Beach and Florida, and they invite the various participating railroads in town, I have been invited to every one of these and never attended or gave any indication that I would accept.

Q. Were you personally invited by Mr. Crux himself?

A. Yes sir.

Q. And did he explain to you what type of trips these would be?

A. These would be golf outings, one the trip to Myrtle

Beach is stag, and the trip to Florida is wives.

Q. And these occurred twice annually?

A. Twice annually.

Q. One trip to each place?

A. Yea, one trip to each place per year.

Q. And you have never taken any of these trips?

A. No sir.

Q. Mr. Short would you tell us what people that you are aware that did take these trips?

A. To the best of my knowledge the regulars sort of speak were Dave Daniels of the Chesie, John Shoemaker of Montour, various people from the P & LE would go, McMeury their chief mechanical officer, John Rockland, their communical and signal man and John and I can't recall his last name now but general terminal superintendent at Gateway Yard at Youngstown .

Q. And these are P&LE people right?

A. These are P&LE people and I recall a train master of the Chesie would go and I can't recall his last name.

Q. What Conrail people have attended these outings?

A. To the best of my knowledge Dick Ventiman last year went as a train master at Pickford.

Q. He is the only one?

A. That I am aware of.

Q. The only Conrail personnel?

A. Yes sir.

Q. Why would they invite Ventiman to go on this outing?

A. They might of wanted him to fill in for me since I wouldn't go, just a supposition.

Q. Would Ventiman be in a position to do them any good as far as getting business from Conrail?

A. Not when I was superintendent.

Q. Well

A. I can't speak to what is going on today but he would have no authority to do them any good as far as ordering their equipment out to do any jobs or anything of that nature on Conrail.

Q. Is Dick Ventiman that well acquainted with the Cruz that he would invite him on this type of outing knowing that he can't do him any good?

A. Being that Dick is train master at Pickford it is possibl that he would be well acquainted with Ed Crux since their headquarters at .

Q. But is Ventiman in a position to do them any good?

A. No sir.

Q. And the outing that Mr. Ventiman attended was the Myrtle Beach trip?

A. That was the stag affair.

Q. Do you know whether or not he ever attended the Florida trip?

A. Definitely not. Definitely not to the best of my ability.

Q. And what type of transportation was used to go to these

a, to Myrtle Beach and also to Florida?

A. Company plane.

Q. Penn Erection has their own company plane?

A. Their own company plane or possibly they charter a plane, I don't really know.

Q. You don't know one way or the other whether they do or do not?

A. No.

Q. Have you ever discussed with anyone whether they do or do not own their own plane?

A. Yes sir, they own their own plane that I am aware of which is a four seater, it is the only company plane that I am aware of that they own.

Q. Have you discussed this with Mr. Crux and has he stated to you that they do own their plane?

A. Yes sir.

Q. He has?

A. Yes sir.

Q. Do you know what type of plane it is beside a four seater?

A. No sir.

Q. Do you know where they keep it based at?

A. Allegheny.

Q. Allegheny Airport?

A. Yes sir.

Q. That is in West Mifflin?

A. Right.

Q. Mr. Short to the best of your knowledge, does Penn Erection own any other type or aircraft beside the four seater that you have talked about?

A. No sir.

Q. Have you heard whether or not they do possibly own some other type of aircraft?

A. Other than the fact that Mr. Crux mentioned to me approximately two years ago they were purchasing a King Lear or Sky Jet or something of that nature.

Q. And would this type of aircraft be large enough possibly to transport a group of people to the like the Myrtle Beach trips?

A. I would certainly think so.

Q. Mr. Short do you have any knowledge of any Conrail personnel receiving any types of gifts, cash or loans from Penn Erection Company?

A. To the best of my knowledge no, the only other thing that I have heard strictly through the grapevine that Dick Ventinan when he was at Myrtle Beach borrowed some money which he paid back when he lost paying cards.

Q. Going back to these Myrtle Beach parties, outings that you were invited on, what would be the ground rules for going on these outings?

A. I never got that far to get any specifics.

Q. As an invited guest, what were you, what would you have expected from Penn Erection to pay for or not pay for?

A. That is a tough question to answer because as I previously stated that I never got into any details, I said no and that was it.

Q. What did they do just ask you if you wanted to go to Myrtle Beach?

A. Right.

Q. To play golf?

A. Right.

Q. And they would furnish you transportation or did you have to furnish transportation?

A. They didn't, never got into any specifics with me, I would have nothing to do with it.

Q. You didn't know whether they were going to pay the hotel bill, pay for the golfing, the meals, would it be safe to assume that if you were invited to go on a outing at a place like Myrtle Beach that they were going to pick up the tab?

A. I would assume that if I was going to accept an invitation to go a couple of hundred miles and play golf for a week, that I would go as an invited guest and all expenses would be paid.

Q. Have you had discussion with anyone that where they told you that this is the way the trips were handled?

A. Yes sir, I heard from other people which I can't pinpoint that they paid for the works.

Q. Would these be from people that actually did take the trips?

A. I can't recall.

Q. Mr. Short have you ever obtained any type of loan or cash or any other type of gifts from any other contrators beside Penn Erection Company?

A. No sir. Other than Mr. Berkabin or Berkabou I don't really know how to pronounce his name of Holshard took my wife and I to dinner approximately two years ago at Christophers and that was the only occasion.

Q. Then you have not received any kind of gifts from the Holshard Company?

A. No sir.

Q. Do you know of any Conrail person that has?

A. No sir.

Q. Now Mr. Short a short time ago you acknowledged that one of our people borrowed some money from Crux on one of the trips to Myrtle Beach, you say is common knowledge, do you know of any one else who, do you have any knowledge of any other employee who might of received money or cash from any contractors?

A. Not to my knowledge.

Q. Are you aware of any wrong doings or any improper activities in your old department?

A. No sir.

Q. How about your new department?

A. No sir.

Q. Has this interview been voluntary on your part?

A. Yes sir.

Q. At any time during this interview have we eversuggested what your answers should be?

A. No sir.

Q. Have you been treated fairly during the course of this interview?

A. Yes sir.

Q. Has anyone made any threats or physical harm or coerced you in any way?

A. No sir.

Q. Do you have any criticism in the manner in which this interview has been conducted?

A. Absolutely not.

Q. Is there anyone else you feel could shed light on the subject that we have covered, anyone else that we should contact?

A. Not that I can think of.

Q. If it becomes necessary would you be willing to take a polygraph examination relative to your answers on these questions?

A. Yes sir.

Q. Well Mr. Short we want to thank you for your cooperation today, and I want to thank you for coming in here.

A. He invited me out for the Bingo next week and I turned him down.

Q. We realize that we had to call you in here today while you were on vacation.

A. I was coming in any way.

Q. We appreciate your coming in and thanks again.

A. I will be in tomorrow if you can think of anything.

Q. Alright the time is now 11:15 and this is May 3rd, thank you.

STATEMENT

MAX SOLIMAN

DIRECT EXAMINATION

BY: LOUIS A. LaCIVITA

This interview of Max Solomon, assistant superintendent, Pittsburgh, is being taped recorded in Room 317, Conrail Station, Pittsburgh, Pennsylvania, on May 4th, 1978 in the presence of Paul R. Rearden, chief special auditor and Lou LaCivita, senior special auditor, Conrail. It is now approximately 11:45 a.m. Mr. Soliman if you are willing, we will commence with the interview.

I am willing.

Q. Would you please state your full name, age and home address?

A. Max Soliman, II, 180 Gamma Drive, Pittsburgh, Pa. 15238, age 44.

Q. And what is your Social Security number?

A. 190-24-2467.

Q. And what is your present position with Consolidated Rail Corporation?

A. Assistant superintendent of Pittsburgh Division.

Q. And who is your immediate superior?

A. R. E. Gratz, division superintendent.

Q. And who does Mr. Gratz report to?

A. C. W. Owens, general manager.

Q. Mr. Soliman would you give us a brief description of

your responsibilities and duties as assistant superintendent for Conrail?

A. I am responsible for the transportation department of the Pittsburgh division excluding Conway yards.

Q. And prior to April 1, 1976, what were your duties and position with Conrail?

A. Assistant superintendent of the Penn Central Transportation Company, Pittsburgh Division.

Q. In other words the same position then?

A. Basically the same with the exception that Conway was taken off me on April 1, 1976.

Q. And who did you report to at that particular time?

A. I believe it was R. L. Short, division superintendent, Pittsburgh Division.

Q. Mr. Soliman are you familiar with a contractual firm by the name of Penn Erection Company?

A. Yes.

Q. And would you tell us what your - what knowledge you have of their operations in relationship with Conrail?

A. I know the equipment which Penn Erection has available for cleaning up derailments, and I know the capacity of it, and know where it is most expeditious in cheaply used on my division.

Q. In your duties then as assistant superintendent is it part of your function to contact those people to do contractual work for Conrail?

A. Yes on a spur-of-the-moment decision.

Q. Under what circumstances would you personally perhaps contact them?

A. Derailments.

Q. Is Penn Erection used exclusively in your division?

A. No sir.

Q. What personnel would you contact with relationship to ordering equipment for use on Conrail?

A. You mean personnel of Penn Erection?

Q. Yes sir?

A. I contact Ed Krux or Tom Sterervan or Dave Douglas, that is basically the people who answer the calls for Erect calls.

Q. Mr. Soliman have you personally ever been out on derailments when Penn Erection was performing derailment clean up work for us?

A. Yes sir.

Q. And would you tell us the quality of work that they do for us?

A. The quality of work that Penn Erection does is satisfactory and the job is performed in all of the standards of the company policy and also they are usually quite swift in assisting us in opening up main tracks.

Q. Would you tell us what knowledge you have surrounding the 100 ton crane that was maintained or kept at Conway Yard for several days, as a matter of fact I think it was there approximately six weeks, would you tell us what knowledge you have surrounding that crane?

A. It was a very bad winter, the winter of 1977, and we had a tremendous snow storm right in December, early in January, I just can't recall, the division superintendent, my immediate supervisor, was at Conway, on the yard office and I was in the Conrail station in Pittsburgh and I can't recall but it was either the division superintendent or the terminal superintendent at Conway that called into me at the movement office and requested a 100 ton Holmes Crane to be sent to Conway for several yard derailments, in fact, I believe that they said that they had approximately 20 derailments in the yard at that time and our own Holmes Crane was broken down and the wreck train was out on a road wreck on the Valley Division. I was asked to make a call to Penn Wrecking to get the crane to Conway which I did immediately. I recall talking with Ed Crux and he asked me what type and how many cars we had derailed and I told him that I wasn't sure and I put him on hold and I called Conway back and they said that they had many miscellaneous derailments and that the crane would be tied up for a period of time, and I relaid the message to Mr. Crux and told him that it looked like Conway was in need of the crane for a long period of time.

Q. Then is it your understanding that the crane was used for a number of derailments in the Conway Yard throughout this period of time that it was there?

A. Yes sir, that was my understanding. In fact I am sure of that because on the division at other places I had other derailments during this period and I was unable to get any equip-

ment from Conway and I had to use other equipment from Penn Wrecking for the other derailments at other locations.

Q. Mr. Soliman are you familiar with the circumstances and the derailment that occurred at Conway Yard area, in other words Alan Avenue on January 16th, wherein two pieces of additional Penn Erection equipment was ordered to handle that derailment while the 100 ton crane was also in Conway Yard, would you tell us your knowledge of that particular derailment?

A. That particular derailment, I have a scattering knowledge of what was told to me of course, first of all let's get it straight that the Holmes Crane is a unit which travels on the railroad track itself. The purpose of a Holmes Crane is to get to an area that is not accessible by road or by side road or off track equipment as we say. I imagine what happened at Conway at that time was that the derailment was serious and from what I can remember in talking to Conway it was serious, there were many cars scattered, they were scattered bad and they were in a position that an off track 75 ton hydrulic crane would be the fastest and only way that they could ~~of~~ have been picked up because they were in pile and you just can't get a Holmes Crane into a pile and the wreck derrick as I previously stated was out on road wrecks on the Valley Division, therefore the local supervision had to order 75 ton off track crane in order to clear this derailment basically because the Conway wreck train was out and even if the Conway wreck train had been there, they would of needed supplementary cranes to clean up a major derailment at

Conway. The - at the same time if I recall I had a locomotive derailed at Island Avenue, and Island Avenue is in what we call Conway wrecking territory, in other words any wrecks or derailments in the Island Avenue territory accrue to the Conway wreck forces, so our first step is to call Conway and tell them that we have a derailment which we did and ask them for equipment and they stated that they could not give us any equipment including the Penn Erection Holmes Crane which they had tied up and therefore I had no other alternative but to call Penn Wrecking and ask them for another unit to clean up the Island Avenue derailment.

Q. Did you at that point in time personally contact Penn Erection and order the additional equipment?

A. Yes I ordered the equipment for Island Avenue.

Q. Did you personally visit the site of the derailment at any time?

A. I visited the derailment at Island Avenue yes, not at Conway.

Q. Mr. Soliman how well do you know the people at Penn Erection Company? In other words do you socialize with any of the personnel there or whatever?

A. I don't socialize with them, I seen them at Traffic Club affairs and railroad affairs. They are not personal friends of mine.

Q. Are there any one person or persons that you deal with or have meetings with or luncheons or dinners or whatever more so than others there, and if so would you name those individuals?

A. I would say that I have more contact with Ed Krack than anyone there.

Q. And what is his position with Penn Erection?

A. To be honest with you I don't know what his position really is except that he accepts all of the wreck calls and dispatches the equipment.

Q. In other words he handles the derailments?

A. He handles the derailments yes.

Q. Have you ever gone to lunch or dinner with Ed Krack?

A. I had been to dinner with Ed ~~Crux~~ Krack yes. At the Pittsburgh Traffic Club.

Q. That is the traffic club meeting?

A. Ahem.

Q. Would you have had dinner or lunch with Ed on other occasions?

A. No, I never had any lunches or dinners with Ed alone, I was there with you know, it has just been at the Traffic Club.

Q. Have you ever attended any golf outtings or things of that nature with any Erection people?

A. No I don't play golf.

Q. Mr. Soldman when you do attend the activities at the Traffic Club, have you ever attended as a guest of Penn Erection Company?

A. Yes.

Q. Would this of been a guest of Ed Krack?

A. No, it would of been I guess Penn Erection Company. Ed

gave me the invitation yes.

Q. Ed would of extended the invitation to you?

A. Right.

Q. And what did this normally entail, what type of activity are you talking about?

A. Oh the Traffic Club holds, the Pittsburgh Traffic Club holds a banquet and I was at the banquet with him along with other guests that he had there from the other railroads in the Pittsburgh area.

Q. Mr. Soliman did you attend a boat ride with the Penn Erection people on May 14, 1976?

A. No sir, I attended the boat ride but I paid for that myself, I am a member of the Railway Club of Pittsburgh.

Q. While you were on this boat ride, did you have dinner with a gang of people or ~~drunks~~ DRINKS/of or how was this affair handled?

A. As a recall they were all big tables and I sat with Marty Whitehead of the Union Railroads.

Q. While you were on this boat ride now Mr. Soliman were you the receipient of drinks or was there food that was bought for you by Ed Crux, you know how could - he spent $322 on people if they were not in his party?

A. I couldn't answer that because the cost of the ticket which I paid for included the dinner which was the food and I believe if I recall right it was one or two drinks were included in the price of the whole party but I was not at his table, I was not with him and in fact, now if I remember I had two of my

own guests there, my train master at 43rd Street and my train master at Scully.

Q. Okay let's move onto another affair, was the Holiday Dinner Dance at the Pittsburgh Field Club on 12/4, were you the guest of Penn Erection?

A. Yes.

Q. Or Gratz, not Gratz, Kautz?

A. Yes.

Q. Do you remember if there was anybody else at this party with you?

A. Yes there was, let's see Charlie Heck from the B & O, let's see, Roy Holly from the PRLE, I think Jack Barringer from the PC & Y, a guy from the Montour and I can't even think ofhis name.

Q. Would that be Mr. Shoemaker?

A. Shoemaker yes, Whittenburger from the B & O, Red Whittenburger from the B & O.

Q. There were other couples at this affair with you then?

A. Yes.

Q. I am trying to pick out the most blattant one here. Just one more I think. 16th of 1977, the spring dinner dance at the Fox Chapel Golf Club?

A. Yes I was there.

Q. Again any other couples?

A. If I recall they were the same people, Charlie Heck from the B & O, Whittenburger from the B & O, Holly from the

from the PALE, and Shoemaker from the Montour and Barringer

Q. You were all guests of Penn Erection?

A. Yes.

Q. Mr. Soldman the locations and the affairs that Mr. LaCivita has mentioned here, with the exception of the one connected with the boat ride the Railway Club Trip, the others you were a guest of Ed ~~Crux~~ Kruck is that correct?

A. As far as I know Penn Wrecking or Ed ~~Crux~~ Kruck yes.

Q. Ed ~~Crux~~ Kruck is the one you deal with is he not?

A. Yes, he is one of the ones that I deal with yes.

Q. Have you ever been the guest of any other Penn Erection people beside Ed ~~Crux~~ Kruck?

A. No but apparently he is the one that does the inviting but there are other people there, Dave Daniels, I didn't mean Dave Daniels, Dave Daniels is a B & O man that is there but there is a gentleman Dave ~~Doug Wilson~~ Douglas and Tom Stereryan does the affairs too.

Q. Well have any of the other gentlemen, anyone else beside Ed ~~Crux~~ Kruck ever extend an invitation to any of these affairs?

A. No.

Q. So Ed ~~Crux~~ Kruck is the one

A. He is the principle inviter yes.

Q. He does the public relations?

A. Public relations right yes.

Q. Outside the location and activities that have been mentioned, are there any others that you have attended and where

you were a guest of Ed Krock or Penn Erection?

A. No.

Q. Have you ever been invited to attend any type of vacation trips that might be sponsored by Penn Erection Company?

A. No.

Q. Do you know of any such trips that do take place?

A. I have heard that there have been such trips but I have never been approached to go on one.

Q. Do you know of any Conrail people that do participate in these activities?

A. No I don't think that there are any Conrail people to the best of my knowledge that have ever gone on any of those trips.

Q. Mr. Soldman do you know of any Conrail personnel at all have either accepted or been invited to take paid vacations or vacation trips that are sponsored by other contractors besides Penn Erection Company?

A. No.

Q. Have you ever heard of any information at all about that type of activity?

A. No.

Q. Mr. Soldman have you ever obtained or received any cash or money from any contractor whatsoever for any reason?

A. No.

Q. Have you received any type of gifts or for anyone who performs services for the railroad?

A. No.

Q. You never received any type of gift from Penn Erection Company?

A. No.

Q. Have you ever obtained any type of loan from any contractor that performs services for Conrail?

A. No.

Q. And I believe you stated that you have never taken any trips that were sponsored or paid for by contractors performing services for Conrail?

A. Yes sir.

Q. That you have not?

A. I have not.

Q. Mr. Soldman then if Mr. ~~Crux~~ Kauck has indicated that you did receive gifts at any given time, will you then say that this is incorrect?

A. Definitely incorrect.

Q. Have you ever been offered gifts by Mr. ~~Crux?~~ Kauck

A. Yes.

Q. And what type of gifts were they?

A. A turkey or bottle of liquor or something like that, and I explained to him that I didn't want it.

Q. And what was his reaction, what was the disposition of those gifts?

A. He took them, he never gave them to me.

Q. Under what circumstances did he offer these gifts to

you?

A. Over the telephone.

Q. And you turned him down?

A. Right.

Q. Do you know of any Conrail people that have accepted these types of gifts?

A. I have no knowledge of anyone accepting gifts.

Q. Do you have any knowledge of any employee that has received any cash or monies from contractors performing services for the railroad?

A. No I do not.

Q. Do you have knowledge of any employee who has obtained or received any type of loans from contractors performing services for the railroad?

A. No I do not.

Q. Mr. Soldman as assistant superintendent of Conrail I am sure that you are aware of the conflict of interest policy which exists to date are you not?

A. Yes sir.

Q. And I believe that policy which I have here in front of me does spell out an employee can and cannot do pretty clearly?

A. Yes sir.

Q. You do agree with that?

A. Yes I agree with it.

Q. One of the areas which I believe is covered in there

restricts employees from perhaps having an interest or any type of influence with contractors performing services for the railroad. My question is, do you have any interests, financially, in any company that is presently performing services for Conrail?

A. No.

Q. To be more specific, do you have any financial interest or other in Penn Erection Company?

A. No I do not.

Q. Have you ever had any ~~kind of~~ FINANCIAL interest in Penn Erection Company?

A. No.

Q. Have you ever, or do you have any interest financially in any of their subsidiaries?

A. No I do not.

Q. Do you know of any Conrail employees that do have a financial interest in any contractor performing services for the railroad?

A. No I have no knowledge of any Conrail people or anything contracting firm where I am here no.

Q. Mr. Soldman if necessary would you be willing to submit to a polygraphic examination relative to your answers on these questions about receiving cash, gifts, etc. that we have discussed here today?

A. Yes sir.

Q. Mr. Soldman at any time during this interview, have we, Mr. LaCivita and myself suggested what your answers should be?

A. No.

Q. Have we given you any information or facts on which your answers were based?

A. No.

Q. Has this interview been voluntary on your part?

A. Yes sir.

Q. Has anyone made any threats of physical harm or coerced you in any manner?

A. No.

Q. Have you been treated fairly during the course of this interview?

A. Yes.

Q. Do you have any criticism in the manner in which this interview has been conducted?

A. No sir I have no criticism in the manner in which this has been conducted.

Q. Do you have anything that you wish to add to this interview at this particular time?

A. Yes in looking at the Congressional papers that you had there, the allegations of this individual upsets me because as far as I am concerned he is putting a blight on my name which I do not appreciate and I would like to have the opportunity to rebut him and also to have the record straight. I am willing to give the company or you gentlemen a copy of my income tax for the past ten or fifteen years, or any other pertinent information that you would like to have about my life and my

financial situation or any other situation to stand as a record and I certainly don't appreciate an outside individual making comments about me that are viewed by my superior officers who could take this in a detrimental way to my career on the railroad. That is all I have to say.

Q. Okay Mr. Soliman we thank you very much for your time and cooperation, it is now 12:35 p.m. and we will now terminate the interview, thank you very much.

A. Thank you.

I declare that this statement is made of my own free will without promise or hope of reward, without fear or threat of physical harm, without coercion, favor or offer of favor by any person or persons whomsoever.

I have read this statement consisting of 16 pages and I affirm to the truth and accuracy of the facts contained therein.

Max Solomon

Witness

Date

STATEMENT

AL FISHER

DIRECT EXAMINATION

BY: LOUIS A. LaCIVITA

Today is May 8th, 1978, this interview of Mr. Alan C. Fisher Division Superintendent, Bethlehem, Pennsylvania, is being taped recorded in Room 1405, at 1528 Walnut Street, Philaedlphia in the presence of Paul R. Rearden, Chief Special Auditor and Louis LaCivita, Senior Special Auditor and it is now approximately 11:00 a.m. and if you are willing Mr. Fisher, we will commence with the interview?

A. I am.

Q. Do you have any objection to being taped while we are interviewing?

A. I have not.

Q. Would you please state your full name, age and bore address?

A. Alan Campbell Fisher, 321 Elm Drive, Nazareth, Pennsylvania. 18015. I think it is. My age is 24.

Q. Now what is your Social Security number?

A. 035-28-3569.

Q. Now what is your present position with Consolidated Rail Corporation?

A. I am the Divisional Superintendent of the Lehigh Division of Conrail, headquartered at Bethlehem, Pennsylvania.

Q. And then who is your immediate supervisor?

A. My immediate superior is Donald Swanson, General Manager of Atlantic Region.

Q. Now would you give us a brief description of your duties and responsibilities?

A. My responsibilities are the complete control of the operation of the Lehigh Division which runs from Manville, New Jersey to Milican, New York and it takes part of eight former railroads that made up Conrail.

Q. Now would you give us your position and your work location that you held through February, 1976 through February, 1977?

A. I was the terminal superintendent at Conway, Pennsylvania.

Q. And as the terminal superintendent what were your duties and responsibilities?

A. I had control of the operation from Jack's Run Tower to Wood Tower on the Main Line, the Bayer Branch to Yellow Creek, and all of Conway Yard.

Q. Now who were you reporting to during the period that you held the position of terminal superintendent?

A. My immediate superior was first Mr. Short and then Mr. Ralph Gratz, who was the divisional superintendent of the Pittsburgh division.

Q. Mr. Fisher have you any idea why we would like to interview you today?

A. Yes I was told it was concerning a bill from the Penn Erection Company for having a crane at Conway during the months of January and February showing standby time.

Q. Since we are going to talk about the standby time of a crane, leased from Penn Erection Company of ~~Total Quick~~ TURTLE CREEK, Pennsylvania, at Conway, January through part of February 1977, could you tell us in your own words what led up to the decision to have this crane standing by at Conway at this time?

A. Well I truthfully was not in on the decision to have the crane stand by at Conway. The ordering of wreck equipment for Conway was done by the mechanical department, the mechanical department at Conway was controlled by a general car foreman who was at that time Mr. Al ~~Satola~~ ZAITOLI and he worked directly for Don ~~Crane~~ CRANE who was the master mechanic of Pittsburgh division. Neither I nor my assistant Mr. Love to my knowledge had any say in the crane being put on standby at Conway, however we both were aware that it was there. This January and February of 1977 were was one of the worse winters for Conway that any of the people who had been there remembered. It wasn't so much that it was heavy snow, but we had extremely cold weather, coupled with high winds and we had a lot of traffic that was detoured into Conway on account of yards west of us closed down by snow and storms and during that time it was essential to keep our production going and keep the humps going and I would think that our mechanical department used this basis to justify having the crane on stand by at Conway. Coupled with the fact that we did have a very old Holmes Crane that I believe was out of service for much of the period that this crane was in the yard.

Q. Now Mr. Fisher as the terminal superintendent at Conway

was one of your duties there to ascertain that the yards were in operation at all times?

A. That is correct.

Q. And were you responsible for the acquiring of equipment in order to keep this yard in operation?

A. No I did not acquire equipment to keep it in operation but I normally was part of the committee that went out to see a derailment and at that time it was decided whether we needed a crane or a wreck train and the general car foreman would then arrange or his representative would arrange the equipment that we decided we needed at the derailment.

Q. Now did you as superintendent of Conway ever deal with any of the wrecking companies directly?

A. No sir I never did.

Q. Have you ever become acquainted with any of the companies that did the wrecking in Conway?

A. No sir I don't know anyone personally from those companies.

Q. And have you ever done any socializing with any of the people that work for any of these wrecking companies?

A. No sir.

Q. Have you ever gone to lunch with any of these people?

A. No sir.

Q. Mr. Fisher in your job as assistant or terminal superintendent at Conway rather, did you have any responsibility with respect to approving invoices for contractors?

A. I did approve some maintenance of way contractors but Idid not approve any mechanical contractors M of E contractors at all or any wrecking contractors.

Q. The equipment or the invoices covering off track or contractor's equipment with respect to derailments would go to the mechanical department is that correct?

A. That is correct, it went from our car department to the Pittsburgh Division master mechanic's office for approval.

Q. Do you have any knowledge surrounding the approval of the invoice covering the crane that was on standby from Penn Erection during the period of January and February of 1977?

A. Only that last Friday after Mr. LaCivita called me, I mentioned that I was going to make a statement Monday about this matter, and my new master mechanic came to Bethlehem for the Lehigh Division last week mentioned that he knew what it was about and that he had also had some statements because he had been the responsible party for paying the bill when the master mechanic Don ~~Crane~~ CRAINE RD had broken his leg. The bill had been received in Mr. ~~Crane~~ CRAINE Co's office while Mr. Crane was off sick with this injury and Mr. Dubbs had held up the bill for about a month because of the strange wording that it was being paid for I guess it was bill for standby time and he had researched the bill through Mr. ~~Zatola~~ ZATTOLA CO to find that the claim although it was on standby had been used in many derailments during that period at Conway.

Q. Did Mr. Dubbs subsequently approve the bill for payment

to your knowledge?

A. He said that after he held it for about a month, and researched it with Mr. Zacola, he did cover up the term standby on the bill and approved the bill yes.

Q. By cover up what do you mean?

A. He whited it out, with the what is known as goof juice or opeg, what do they call it typewriter type

Q. In other words as far as he was concerned he did determine then

A. That it was used for wrecking purposes, not for stand by purposes as such.

Q. Did he make any guesses as to the number of times that it had been moved or used during this period?

A. He told me that there was a record of some 200 cars on derailments during the period that the crane was possibly used on.

Q. And you say Mr. Dubbs is at this time sir?

A. He is presently the master mechanic of the Lehigh Division headquartered in Bethlehem.

Q. What is his first name sir?

A. George.

Q. George Dubbs? And prior to his coming to you what was his position in Pittsburgh?

A. I believe he was the assistant master mechanic in Pittsbrugh of the Pittsburgh division.

Q. Mr. Fisher what was the general feeling of the mechanical department such as the wreck master, Dick Lewis and other

individuals as far as the using of Penn Erection equipment to clean up derailments?

A. Well Mr. Lewis and the local chairman of the supervisors, Mr. Hoover, were very much against using Penn Wrecking and the only time really that they would go along and supervise the Penn crane was when our equipment was down. If our equipment was working, they, Mr. Lewis on many occasions did not take a wreck call because he knew that Penn Erection wasgoing to come out, he would not work with the crane, he felt that the operational crane that was left something to be desired and he thought it was taking work away from the mechanical departement.

Q. Now Mr. Fisher you have clarified some of the activities that were going on at Conway at the time, and I believe that you stated that you had no personal knowledge or relationship with any of the contractors who did the work at Conway, am I correct sir?

A. That is correct.

Q. Have you ever undertaken any personal or business trips that were sponsored by a contractor or a company that does business with the railroad?

A. No sir I have not.

Q. Do you have any knowledge or any employees who have undertaken trips that were sponsored or paid for by a contractor or any one else who does business with the railroad?

A. No sir.

Q. Do you have any knowledge of anyone presently in the

employ of Conrail who has had an offer of a trip or vacation to be paid for by one of the contractors?

A. The YMCA at Conway use to have working sessions I think in Canada prior to my coming to Conway and there was a scandal with the former manager of the YMCA and Conway which ended those kinds of trips for Conway people, but that had happened previous to my going to Conway, that would be about the only ones that I could remember anywhere that I have been that had trips. I seem to remember that Penn Erection, people from Penn Erection use to go on hunting trips with people from the railroad but I don't know of anyone that went on one of those trips, in the back of my mind I think they were hunting trips that Penn Erection use to sponsor but whether who paid for them I don't know, and who I don't know specifically of anyone that went on them.

Q. Did you ever personally receive such an offer for a trip?

A. No sir.

Q. Do you know Mr. Ed Crux?

A. I do remember the name, but I don't know what position he had or whether he was with a contractor.

Q. Have you ever had dinner or lunch with Mr. Crux?

A. No sir.

Q. Do you know of anyone who might socialize with this gentleman?

A. No sir I don't.

Q. Have you ever obtained or received any gifts of any

nature from any contractor or anyone who performs services for the railroad?

A. At the time I did receive a, at Christmas I think I received a turkey from the wreck master, Dick Lewis, and I never did know what contractor it might of come from or whether it was from Dick Lewis. That was the only gift that I ever received at Conway, and I had not at any otherlocation received a gift.

Q. Dick Lewis is a Conway employee is that correct?

A. That is correct he was the wreck master at Conway.

Q. And he passed this gift along to you?

A. That is correct.

Q. And did he tell you at that time it was from a contractor?

A. I don't really think he did, whether it was from a contractor, the inplication was that it may of come from a contractor yes, but I was not told specifically.

Q. Did he mention that anyone else would of been receiving the same gift?

A. No he didn't.

Q. In other words he made it seem personal to you?

A. That is correct.

Q. Would this of been December of what

A. 1976.

Q. 1976. Have you ever obtained or received any cash or monies from any contractor or anyone who performs services for the railroad?

A. Never.

Q. Have you ever received any gift certificates from any contractor?

A. No sir.

Q. Have you ever received any packages at your home such as gifts of liquor or meat, cheese etc.?

A. Yes, I believe I received a ham at one time from one of the customers, it was sent to my home, it there was no identification, it just said from a company, it did not give a person's name or anything and I don't believe that was at Conway though, that was at Toledo as I remember.

Q. You don't remember the company name?

A. No I don't, it certainly was not Penn Erection.

Q. Have you ever had to obtain a loan from any contractor or an outside company who performs services for the company?

A. No.

Q. Do you have any knowledge of any employee or employees who may have received cash or monies of any nature from a contractor?

A. No.

Q. Do you have any knowledge of any employee who might of received a loan of any kind from a contractor?

A. No.

Q. Do you have any knowledge whatsoever of any wrong doing or improper activity by any one in your department?

A. No I do not.

Q. Mr. Fisher to be a little more specific with respect

to trips sponsored by contractors, you have never taken any trips sponsored by Penn Erection Company is that correct?

A. No sir I have never.

Q. And you have never been invited by Penn Erection people to take any type of trip, vacation trip?

A. No.

Q. Mr. Fisher has this interview been voluntary on your part?

A. Yes ithas.

Q. And at any time during this interview have we suggested what your answers should be?

A. No sir.

Q. Have you been treated fairly during the course of this interview?

A. Yes sir.

Q. Has anyone made any threats of physical harm over coerced you in any way?

A. No sir.

Q. Do you have any criticism in the manner in which this interview was conducted?

A. No sir.

Q. Is there anyone else you feel could shed a light on the subject that we were discussing?

A. The only people that I know of were Mr. Zatola, Mr. Crane, and possibly Mr. Dubbs, those would be the only ones directly associated.

Q. Now if it becomes necessary, would you be willing to take a polygraphic examination relative to your answers?

A. Yes.

Q. Let the record show that the time is now 11:55 and we are bringing this interview to a conclusion and Mr. Fisher we want to thank you for your time and appreciate you came down here and interupted your busy schedule to help us in this investigation Now once again thank you.

STATEMENT OF ALBERT ZOTTOLA

STATEMENT of Albert Zottola recorded in Room 317 at the CONRAIL Station, Pittsburgh, Pennsylvania on May 11, 1978 in the presence of:

Louis A. LaCivita, Senior Special Auditor - CONRAIL

Richard G. Paxton, Associate Special Auditor - CONRAIL

Transcribed by: Dicta Steno Service Inc. (jb)

STATEMENT

Al Zottola

DIRECT EXAMINATION

BY: Louis A. LaCivita - Richard G. Paxton

This interview of Al Zottola uh, Pittsburgh, PA, is being tape recorded in Room 317 at the CONRAIL Station, Pittsburgh, Pennsylvania on May 11, 1978 in the presence of Louis A. LaCivita, Senior Special Auditor, CONRAIL, Richard G. Paxton, Associate Special Auditor of CONRAIL and it is now approximately 3:00 p m. and if you are willing Mr. Zottola, we will commence with this interview.

A. Yes, I am.

Q. Please state your full name, age and home address?

A. Albert A. Zottola, 7114 Baker Street, Pittsburgh, Pennsylvania, zip code 15206.

Q. And would you spell your last name sir?

A. Z, as in zebra, ottola.

Q. And what is your social security number?

A. 210-14-2472

Q. What is your present position with the Consolidated Rail Corporation?

A. Regional Supervisor Cars

Q. And uh, who is your immediate superior?

A. Mr. uh, D. R. Craine, Superintendent

Q. Would you give us a pre...a brief description of your duties and responsibilities?

A. My responsibilities are to oversee the shop performances and practices of the shops located in the Central Region to insure that the uh CMR procedures are followed, uh training and to make certain that all information pertaining to freight car repairs are distributed and received in locations of our responsibility.

Q. Now when did you assume this position?

A. Approximately three weeks ago.

Q. And uh, could you give us a uh, resume of your prior position?

A. Prior to this position I was terminal general foreman at Conway carshop, Conway, PA., for a period of thirty-nine months.

Q. Bringing it down to car, to conveyance date?

A Yes sir

Q. And what were your duties and responsibilities uh, as the uh, terminal general superintendent?

A. To oversee the operation of the maintenance of the equipment department, to insure that the practices were carried out in the proper manner, to protect the company's interest particularly the budgeting and oversee the operation of the MMV department.

Q. And who were you reporting to at this time sir?

A. I was reporting to at that time master mechanic Mr. D. R. Craine.

Q Now, do you have any idea why we would like to interview

you today?

A. I uh, really don't.

Q. Well it has been testified by some highly placed union officials in front of a U. S. Senate Commerce Sub-committee on service transportation that CONRAIL has been flagrantly abusing the work rules agreements which gives management the right to use outside contractors equipment where it is truly more economical and efficient to do so. Mr. Zottola, would you give us your interpretation of these work rules and why the TWU feels that you have violated these rules?

A. Uh, my knowledge of uh, the allegations uh, we at different times did use outside equipment in the Conway area, not too frequently. At no time in the area of my responsibility did we not use CONRAIL people to man the equipment.

Q. Well what is your interpretation of these work rules that, which allow CONRAIL to use outside contractors?

A. Uh, my interpretation is that we will at any time we order outside contractors to do wrecking services for CONRAIL we will man the equipment and wreck master it by CONRAIL people, employees assigned to wrecking.

Q. It has been noted that each time CONRAIL violates these rules by using an outside contractor, we must also pay our own common crews for sitting at home. Now would you say this is a prevelant situation in your area that you are stationed?

A. In the Conway area uh, I have never authorized outside employees to do wrecking while CONRAIL employees were at home.

This could have been eh, on occasion where an error was made but it wasn't a practice.

Q. Now as the terminal superintendent in Conway, ..

A. Excuse me, it was terminal general foreman.

Q. Terminal general foreman, I was trying to promote you. As the terminal general foreman in Conway, did you have the authority to approve or have approved invoices for work that was done by outside contractors?

A. Yes, I did.

Q. Are these uh, invoices as I understand them, are they paid prior to you approving them or after you have approved them?

A. When I signed the invoice apparently they were paid prior uh, my signature verified the fact that the work was performed and I would send the invoice back to the office of the master mechanic.

Q. Now would you tell us how uh, re-rail or derailment contract work is normally handled out of your office at Conway?

A. When we had a derailment and our wrecking equipment was not available and the derailment was of a, an emergency nature, that would restrict moving of cars in critical areas, uh, we would call for outside wrecking equipment. In some cases it was called by the people in Pittsburgh, transportation people and on occasion, I made several calls.

Q. Well how does uh, maintenance of equipment department determine who is to handle the contract work at any given

derailment or wreck in a certain geographical location?

A. The uh, general foreman or the uh, supervisor at mechanical at that area, would determine what equipment was needed. In Conway I would work together with the terminal superintendent or his representative and at that point uh, when the derailment was investigated we would then order whatever equipment necessary.

Q. Who would make the final decision as to what contractor will handle a derailment or wrecking in your uh, specific location?

A. It was more or less uh, practice since uh, in our location uh, I know that Penn Wrecking is located not too far from the area and uh, naturally in the interest of uh, time uh, Penn Wrecking was mainly called for the derailments in that territory.

Q. But uh, were you the final decision?

A. Uh, no sir, no sir

Q. Who would make, had the final decision?

A. The, on occasions uh, we would go to a derailment and uh the superintendent would order equipment Most of the ordering of wrecking equipment is usually handled by transportation people. However, our instructions were specific by the master mechanic that the MMV people would call for wrecking equipment needed for whatever wreck we have.

Q. What information is a contractor required to furnish to CONRAIL relative to the equipment used or the equipment ordered by the railroad?

A. The only thing uh, that I know was the uh, the equipment

present at the wreck site and my verification of what equipment was there and the signature that I put on the invoice verified this. Uh, what other equipment was ordered and by who I have no idea. Uh, the invoices that I signed to my knowledge, were correct as far as the equipment that was used by outside contractors.

Q. Well what forms, uh, what information is supplied by your people to corrolate with the invoices that are submitted by the contractor?

A. Uh, Conway, uh, we keep a log book of derailments and wrecks that are handled by Conway people. This log book has been kept for approximately three years, since I been there, and we also have what we call a wrecking list. Names of employees that varies anywhere from uh, 25 to 30, depending on uh, the availability of the calls and we would go down and order. For example, if we required a homes crane and 3 wreck people, we would call the regular wreck force first. We have approximately eight people on a wreck train or regular wreck call list. If the wreck train was being used at the time or if we had people on vacation or sickness or we had possibly one or two more derailments, we would go to this overtime wreck list.

Q. Now Mr. Zottola, uh I believe you misunderstood my question. What I want to know is what forms or what information is supplied by your people to you, people who are at the wreck scene. Do they supply you with any information, any forms for instance uh, I am familiar with an MP200. Now, are these uh, forms submitted by your wreck people to you?

A. Yes they are.

Q. So that you could corrolate this with the invoices that you receive from the uh...

A. Yes, they are.

Q. Contractor?

A. An MP200 form is prepared at derailments.

Q. But anything else? Any other documents that are prepared

A. No sir, other than the uh, possible write up of cars involved. There is forms that are used depending on whether they are system cars or form cars or insured cars. But the MP200 is the form required at wrecks.

Q. Now what information goes on an MP200?

A. Your MP200 form uh, is prepared by the wreck master and records your cars by initial and number, estimated damage including the cost of wrecking, and uh times when the wreck train was called, arrived and cleared and arrived back at the siting. However, uh, we also have an unusual occurrence report prepared by transportation that specifies the type of equipment used and the conditions and also the cause of derailment. These are daily reports that are received in the division and regional offices.

Q. In other words then uh Mr. Zottola, between the MP200, the unusual occurrence reports and the log book that uh, you kept on the desk in uh, uh, the foreman's office which uh, detailed whenever something happened and the time and place of the occurrence, between the three, you pretty well had the uh, derailment documented uh, so that you could uh, corrolate these

documents with the uh, outside contractor's invoices to verify that the work had been done?

A. Uh, yes sir, uh on the site reporting, particularly at the scene you would get your picture in addition to these forms. What equipment was used.

Q. Now does uh, CONRAIL employ any men who are capable of doing, working and rerailing work?

A. In the Conway area, we do have uh, qualified people who can uh, do wrecking work, rerailing.

Q How many men do you, would you say that you have available in contract for this type of an assignment?

A. At Conway, uh, our regular force of assigned positions we have approximately eight men, including, we have an extra wreck list. When our regular people are out we would revert to the list by blocks, indicating who would be next out or receive the next call for a derailment.

Q. Now does Con, CONRAIL have or does it lease the uh, equipment necessary to do this wrecking work?

A. At Conway, we have a 250 ton steam vary. We also have a 50 ton homes crane. We also have a regular truck with blocking and rerailing equipment for minor derailments This is the equipment we have presently at Conway.

Q. Now if CONRAIL employs the personnel and has wrecking equipment available, why have you found it necessary to employ outside contractors such as Penn Erection and Rigging Company to do this type of work?

A. In my experience uh, there are incidents and uh, certain derailments where a wreck train may not be able to perform the wrecking equipment because of the area. I believe your terrain, type of derailment, location, are all factors in what equipment is necessary

Q Now when uh, the outside contractor, in this case, Penn Erection, arrives at the scene of a derailment or a wreck with certain amount of equipment, the personnel that are there to do the work, are they our people or are they uh, CONRAIL people or Penn Erection people?

A. In my experience when I ordered either outside equipment or CONRAIL equipment, we had CONRAIL employees manning this equipment.

Q. Even though it is equipment that belongs to an outside contractor?

A. That's correct.

Q In other words then sir, there is no truth to the allegation that uh, uh, CONRAIL people are home sitting while CON... outside contractors are doing the work?

A. In the Conway area I haven't experienced this No sir.

Q. Do you feel that the contractors that are presently on the railroad and are handling the work, are doing this to the best interest of CONRAIL?

A. I believe so.

Q. Do you ever feel that certain contractors might be uh, being shown any favortism of any nature?

A. I have no knowledge of this.

Q. Are you familiar with the Penn Erection and Rigging Company of Turtle Creek, Pennsylvania?

A. Uh, to some extent I uh, know some of the people from uh when they were at the scene on wrecks that I was present.

Q. Could you give us an estimate of the amount of business that CONRAIL does with Penn Erection uh, during a year's time?

A. Uh, no sir, I really couldn't answer that question.

Q. Now, uh could you make us aware of the circumstances or the happenings leading up to the leasing of a 100 ton crane from Penn Erection uh, on January 13, 1977 uh, on a standby basis for a period exceeding six weeks?

A. Uh, the uh, situation at Conway during this period you describe was very critical due to the severe weather conditions, and the amount of wrecks and derailments occurring in the area. In my opinion, it was very necessary during this period to have a 100 ton crane available and working in the area. We have a 50 ton homes crane which most of the time would go to a derailment and break down. We do not have a complete record of the times that it was out of service but there are times when it was out of service for a period of three or four hours. There had been times when it was dispatched to a scene of a derailment and broke down before it arrived. We have had many problems with our 50 ton homes. Uh, during the period that you stated I believe the 100 ton homes was very beneficial to us.

Q. Uh, during this period of from January 13th on, was this

100 ton crane utilized for any wrecking or rerail duties?

A. Yes sir

Q. Uh, are there any documents that are available that will substantiate these movements?

A. We have our MP200, we have our call book which records incidents of derailment and type of equipment used and also the unusual occurrence report prepared by uh, transportation.

Q Who maintains these records?

A. Uh, these records, uh, the uh, wreck call received at the Conway is maintained at the carshop, your MP200's, copies are maintained at the carshop and distributed to our superiors. The unusual occurrence report is a division and regional report. We do not receive this at Conway however, we have access to it.

Q. Uh, some time earlier we mentioned a report called a CT75. This is a uh, accident report?

A. Yes sir, it is.

Q. Does this uh, uh document uh, have uh record of uh, an outside contractor being called to the derailment scene or the accident scene?

A. Not to my knowledge. (off record) We do have at CT75 in cases of derailments the transportation people prepare it for their use which we have access to. In the circumstances normally they would describe the cars and times and damage and also equipment used.

Q. And who maintains this CT75?

A. Uh, the train accident report, CT75, would be maintained

at transportation offices.

Q. Now what can you tell us about a derailment that occurred on January 21st of 1977 at 5:00 p.m. in Vanport, Pennsylvania?

(off record)

A. On this particular day we had a series of wrecks and derailments. I knew about it however, I was not present. I believe Mr. Dubbs, the assistant master mechanic and uh, Mr. Sayers the general foreman at Conway, were present at the wreck site.

Q. Well, you were familiar with the uh, activities uh, leading to the derailment? The causes what have you?

A. Yes sir, I received a report of it

Q. Now did you uh, receive a report uh, indicating uh, whether Penn Erecting had participated in any way in this derailment?

A. I knew they were called however, I was not at the scene.

Q. You knew they were called. Did you know whether they had done any work or not?

A. I couldn't answer that because I was not there however, I do understand that they did perform services.

Q. Are there any documents that would substantiate whether they performed any services or not?

(off record)

A. My conversations with the assistant master mechanic Dubbs and my general foreman Sayers, they briefed me on the activities, cause and uh, gave me information of the derailment

at Vanport.

Q. Mr. Zottola, are you acquainted with Mr. Ed Cluck of Penn Erecting and Rigging?

A. Uh, yes sir, I am.

Q. Are you acquainted with any of the other people at Penn Erecting besides Cluck?

A. I don't know their names, uh, I know one by Red and uh, there is another gentleman, Dave uh, I know one or two but I really don't know their names.

Q. Have you ever socialized with any of these gentlemen?

A. Uh, no sir.

Q. Have you ever had lunch or dinner with any of these gentlemen?

A. I can recall one incident where I had lunch with Mr. Cluck and I believe it was questioned who would pay and he paid, which was within a $2.00 range.

Q. Who else was in your company at this time?

A. Uh, at that time I believe Mr. Craine.

Q. Do you know of anyone else who might have socialized with Mr. Cluck?

A. No sir I am not from that area and uh, I have no idea. I could not answer that.

Q. Have you ever obtained or received any gifts of any nature from anyone at Penn Erecting or anyone that performs any services for the railroad?

A. The only thing that I can recall to my knowledge was a

bottle of wiskey I think during the holiday season. That's the only thing I ever received.

Q. And this was from Penn Erecting?

A. It was from uh, Mr. Cluck.

Q. Have you ever received any packages at your home, such as gift packages of fruit or flowers or anything from Penn Erecting or anyone that performs services for CONRAIL?

A Definitely not.

Q. Have you ever received or ever obtained any cash or monies from Penn Erecting or anyone who performs services for CONRAIL?

A. No sir

Q. Have you ever obtained a loan from Penn Erecting or anyone who performs services for CONRAIL?

A. No sir

Q. Have you ever undertaken any trips that were sponsered or paid for by Penn Erecting or anyone who performs services for CONRAIL?

A. No sir

Q. Have you ever received such an offer?

A. No sir

Q Do you have any knowledge of any employee who has received cash or monies of any nature from Penn Erecting?

A. I have no knowledge of this.

Q. Do you have any knowledge of any employees who has received any loans of any kind from Penn Erecting?

A. No sir

Q. Well, have you ever obtained or received any gift certificates from Penn Erecting?

A. No sir

Q. Do you have any knowledge of any employee who might have received a gift certificate?

A. No sir

Q. Do you have any knowledge of any employees who might have gone on a trip sponsered by Penn Erecting?

A. No sir, not to my knowledge.

Q. Do you have any knowledge whatsoever of any wrong doing or improper activities by anyone in your department?

A. No sir, I, not to my knowledge.

Q. At any time during this interview have we suggested what your answers should be?

A. No sir

Q. Have we given you any information or facts on which your answers were based?

A. Definitely not.

Q. Has this interview been voluntary on your part?

A. Yes, it has.

Q. Has anyone made any threats of physical harm or coerced you in any manner?

A. No sir

Q. Have you been treated fairly during the course of this interview?

A. Yes I have.

Q. Do you have any criticism in the manner that this interview was conducted?

A. No I do not.

Q. If it should become necessary would you be willing to take a polygraph examination relative to your answers on the questions we have covered in this interview?

A. Uh, yes sir.

This concludes our interview today May the 11th, the time is now six o'clock. Mr. Zottola, we want to thank you for volunteering to meet with us and for taking the time out to assist us in clarifying this situation. Once again, thank you.

A. You are welcome.

(End of Side B)

I declare that this statement is made of my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor, by any person or persons whomsoever.

I have read this statement consisting of 16 pages and I affirm to the truth and accuracy of the facts contained therein.

Albert Zottola

_____
Witness

_____
Witness

STATEMENT OF MARTIN HOOVER

STATEMENT OF Martin Hoover, recorded in the master mechanic's office at the Conway carshops in Conway, Pennsylvania on May 17, 1978 in the presence of:

Louis A. LaCivita, Senior Special Auditor

Paul R. Rearden, Chief Special Auditor

Transcribed by: Dicta Steno Service Inc. (jb)

STATEMENT

Martin U. Hoover

DIRECT EXAMINATION

BY: Louis A. LaCivita and Paul R. Rearden

This interview of Martin U. Hoover, uh, at Conway, Pennsylvania is being tape recorded in the master mechanic's office at the Conway carshops in the presence of Paul Rearden, Chief Special Auditor, CONRAIL and Louis LaCivita, Senior Special Auditor of CONRAIL. It is now approximately 12:30 p.m. and uh, May 17th and if you are willing Mr. Hoover, we will commence with this interview.

A. Yeah

Q. Would you please state your full name, your age and home address?

A. Martin Hoover, 49 years old, I live at Ridge Road, R.D. 1, Freedom, Pennsylvania.

Q. Now what is your social security number?

A. 195-22-2871

Q. Now Mr. Hoover what is your present position with the Consolidated Rail Corporation?

A. I am a foreman in the Conway Carshop.

Q. And who is your immediate superior?

A. R. C. Scochick

Q. And uh, as your position as uh, car foreman are you considered an agreement or a non-agreement personnel?

A. Agreement

Q. Now, do you feel you should be represented while you speak with us today?

A. No

Q. Now, could you give us a brief description of your duties and responsibilities?

A. Well, I am a foreman at the Conway carshop. I work at the office. I write up all heavy repairs, and check the billings, write up the wheels, order (inaudible) material, write up all derailments, heavy repair calls and perform cars.

Q. Now, how long had you been employed in this capacity?

A. Well, this job about four years.

Q. Now, during the period of January uh 1, 1977 un through uh March of 1977, were you employed in this capacity as the foreman?

A. Yes

Q. Do the wreck forces come under your jursidiction?

A. Uh yes, uh I answer wreck calls when the regular and the relief wreck master are busy or not available.

Q. Now during the period of January and February 1977, uh who were you reporting to?

A. A. A. Zottola was the terminal foreman at Conway then.

Q. And he was your immediate superior?

A. Yeah, he was the terminal foreman at Conway carshop.

Q. Mr. Hoover, on February 22, 1977, an anonymous letter was sent to Mr. uh, Mr. Hassleman, Vice-President of Operations in Con.. in Philadelphia and uh, from the uh, tone of the letter there was more than one person that was uh involved in the writing? Were you one of the authors of this letter?

A. Yes

Q. Could you um, fill us in uh, a little bit on the details of how it got uh, sent to uh, Mr. Hassleman anonymously?

A. Well, the general chairman of the ARSA committee in the carshop uh, prepared the letter and it was suppose to be presented to uh, Mr. Hassleman through the union and it was suppose to have been signed by the then president, E. P. Kelly. Mr. Kelly just sent the letter and didn't retype it or sign it. Uh, like I said, there was a committee of the foremen, the union committee's foreman, the letter was drafted by the committee on things that we thought that Hassleman or the company should know about and in the interest of making it a better company and uh, also the interest of the ARSA to keep our jobs run right, we wanted it stopped and use CONRAIL people on wrecking so that our people would be working instead of eventually ending up on the street.

BY: Second Interviewer

Q. Mr. Hoover, did the main point, the main point of the letter was the, concerning the use of Penn Erection Company for the CONRAIL derailments. Is that basically correct?

A. Well, it's the main, Penn Erection does most of the... (telephone ringing)...Penn Erection is used mostly around here on all derailments, when an outside contractor is used. Uh, when it gets into major derailments, while they bring in Holsman. So, Penn Erection would be the people that we figured was doing our work and whether we had our own wreck trains and Conway yards, the wreck train would sit there and our homes crane was broke down and the company didn't extradite the repairs to it so it

can be put back in service speedy or what they did to it. It just seemed like Penn Erection was sitting here and we had to work for them instead of using their own equipment.

Q. Mr. Hoover, did you also, as you previously been interviewed concerning this letter that went to Mr. Hassleman?

A. Yes, I uh gave a statement to u Mr. Dunn, is that Arthur Dunn?

Q. Is this a copy of the statement that you give, that you gave to Mr. Dunn concerning the letter that went to Mr. Hassleman?

A. It...

Q. The statement is dated uh May 11, 1977?

A. Yeah, this is the statement.

Q. There, this interview was conducted by the police department, is that correct?

A. Right

BY: First Interviewer

Q. Mr. Hoover, how long have we had the 50 ton homes crane ' uh, that is the subject of your letter to Mr. Hassleman?

A. Uh, the homes crane is about, as of uh, April 1, 1978 it was I think it was eight years old, and it was in an eight year lease from Excelsio so it was eight...we got it new so it was eight years prior to April 1, 1978 and it would make it 1970.

Q. Now, mm mm, as a wreck master and as a man who is knowledgable in this type of equipment, would you say that a 50 ton homes crane is sufficient to handle the work that ordinarily would be done in Conway?

A. Well, the majority of the jobs and in fact, the jobs that were done by the uh, Penn Erection during the period of time you are talking about, were all 50 ton jobs. I mean there was no strain jobs that uh, our homes crane couldn't have done.

Q. Now uh, what would you say that the eight years would do to a crane of that size, for the type of work that you do? Do you think that it should be replaced before the eight years is up or uh, do you think that it should last longer than eight years?

A. Uh, well, the term of the lease is too long because the crane was worn out for at least two and a half, three years. If it would have been a five year lease the company would have got, would have got their money out of it and uh, had a new crane in here three years ago and we wouldn't have been, this would have never happened. We would have had a set of cranes in here twenty-four hours a day.

Q. Well, the period of January 1977 through February of 1977 when uh, Penn Erection uh, had leased us a 100 ton crane on a standby basis, what would you ah, say the condition of our crane was at that time?

A. Our crane was broke down twice in that period In fact it was broke down the first part of that period that homes crane was here and then it was repaired and the actual fitness of our crane was probably in poor condition. Our crane has been in poor condition for the last year and a half to two years. Like I say, it seemed like it was worn out and every time you would try to use it and uh, do a heavy job or a job that, strenuous job, why it was, it would always breakdown.

Q. Now uh, in this period of time, was uh this crane ever removed from Conway to uh, another location for repairs?

A. The Conway homes crane?

Q. Yes?

A. Well, the Conway homes crane was uh, one time was broke down and they took it over to the maintenance department which is part of the engine house building over there and uh, it was worked on over there. I think the both times it was over there, that's where they repair it so that they could get it inside the building.

Q. Mm mm, in other words, any time it was broke down the repairs was also done right here in Conway yards. It wasn't taken to another location to be worked on?

A. Not in those two or three incidents it was broke down in that period of time. Other times they had it towed out to different garages or drove it to different garages.

Q. And how were these repairs handled? Were they uh, repaired by our people or did the Excelsio send people out here to work on it? Or, how was it done?

A. It was done by the CONRAIL employees.

Q. Excelsio, then did they supply the parts and material or did they uh, have anything to do with the repairs of the crane?

A. To my knowledge, the company always bought the parts eh, that was needed. Eh, I never, the parts never come past my desk or, I never handled them. It was always handled through the maintenance department which to my knowledge, they always bought

them at the auto part store, locally.

Q. Mm mm, now you were the foreman and you were in charge of this homes crane, is that, is that right?

A. On different opportunities or occasions.

Q. Well, did you ever make your uh, uh, complaints or your uh, uh, what shall we call them, uh, ...(off record) Did you ever make your complaints about the poor condition of the equipment known to your superiors?

A. Yes on different occasions the homes crane, in fact every time it comes in or there is any defects we report it to the non-agreement person on duty and then we reported it to the general foreman the first opportunity we run into or else it was reported to the assistant on duty.

Q. And, did you let these people know that the crane needed replacing, that it was no longer capable of doing the job here?

A. Yes, the company officials, the local officials and uh, the Pittsburgh area officials were notified through the union and also through all three of the wreck masters that uh, the equipment was worn out and in bad need of replacement.

Q. What was uh, their reasoning for uh, not replacing this piece of equipment?

A Well, they said that capital expenditures, it wasn't in the books. They had something that was more important to buy and uh, as soon as uh, a, they had the money why, they would buy one. Which in the meeting yesterday with Mr. Owens why, he said that the capital expenditure asked Conway, with a 100 ton homes crane and it would be due here in three months.

Q. Now this is almost two years later?

A. Well yes, from January of 1977 through July or September of 1978.

Q. Now since February 22nd when this letter was written to Mr. Hassleman you have had the same crane here all this time. Am I correct?

A. The homes crane?

Q. Yes?

A. Yeah, we always had the same.

Q. And have you had the same type of trouble with this crane as you had prior to the writing of this letter?

A. Well, both times that it was broke down was the gears were defective or transmission was defective on it. Transmission had not been working 100% or even 50% of the time. The crane was patched up more or less to keep it operating. It's never been 100% in working order since prior to that time and even since that time.

Q. Since, in other words, even though this letter was with Mr. Hassleman and the police department interviewed you people and they did reports, you still had to work with the same piece of equipment?

A. Yes

Q. And you have had problems with it right along?

A. Well, there's problems with it, yeah, because why not? It was delapidated.

BY: Second Interviewer

Q. Mr. Hoover, getting back to the Penn Erection crane, 100 ton crane, which was kept on a standby basis here in January and February of 1977, uh, would you tell us uh, your knowledge as to what prompted the crane to be put on that kind of a standby? In other words, why was it put on standby basis?

A. I don't know why they would keep it on standby basis here because we are only two hours away from Turtle Creek with their crane and our crane was broke down when they first ordered it And, they could have, the jobs the crane was needed for they could have brought it in from Turtle Creek any time they needed it. They could have eh, shuffled it back and forth. Why they would ever bring it down there and sit for the twenty-four hour day period I don't know.

Q. Do you know who ordered the crane to be put on a standby basis?

A. Max Solomon was eh, suppose to be the one that ordered it.

Q. And he's what, division superintendent?

A. He's eh, assistant division superintendent, right?

Q. Mr. Hoover during the time that the Penn Erection crane was on standby service during January and February of 1977, was this crane utilized to handle derailments in the Conway yard area?

A. Yes, sparingly when eh, they had a derailment that needed a crane, why they used the crane. But other times they used the block truck or it it was a big job they used the wreck train or a couple of times they called in other Penn Erecting equipment to do the jobs.

Q. What percentage, percentage of the time that the crane was on standby would you say it was utilized?

A. Well, about one-third of the time it was, they sent it to the derailment site. About one-third of the time it was here in Conway and about half of that it was actually needed, it was the crane's lifting belt.

Q. So, a portion of the time that the Penn Erecting 100 ton crane was used uh, we could have used CONRAIL equipment to clear the derailment. Would that be basically correct?

A. Right

Q. Now, did Penn Erection keep eh, personnel on duty at all times with that piece of equipment?

A. Yes, eh, they had two men there at all times on the crane.

Q. And did you ever personally go out on a derailment in the yard eh, area with the 100 ton crane being utilized during this period of time?

A. Yes

Q. Was the 100 ton crane which was on standby ever sent out of the Conway yard's immediate area? In other words, was it sent to some point outside of the Conway yard, to handle a derailment during the January and February period?

A. I think a few times it was sent out, a couple of times but I was never, yeah, I was on it once, we went to Beaver Falls. We did a job down in Beaver Falls to lift a car.

Q. This was the same period that this was kept on standby basis?

A. Right

Q. Now in the statement which you give to, which you gave to Mr. uh, Mr. Robertson and Dunn, which is dated May 11, 1977, you state that in answer to a question of, to whether or not you saw a two and block truck from Penn Erection at Conway's yard during the period of January 13, 1977 to January 24, 1977, and from January 31, 1977 to February 10, 1977, your answer was that there was none there. The only thing there was a homes crane and Penn Erection's employees private vehicles. In other words, you did not at any time see a two and block truck that went along with the crane, is that correct?

A. That's right, anything besides the homes crane that was used in the Conway in that period of time was our block truck or our, somebody's personal trucks.

BY: First Interviewer

Q. By somebody who do you mean sir?

A. Well, I, on different occasions, why I drove my personal truck to derailments and to eh, carry matieral or carry blocks.

Q. Mm mm, was there any type of a truck or vehicle that accompanied this crane that belonged to Penn Erection? Did they have another vehicle besides the crane there?

A. Eh, the only thing that was here was a white pick-up truck that eh, people drove back and forth to come from their homes, personal homes, the way they told me.

Q. In other words, this white pick-up truck you had no way of knowing whether it was a, uh, personally owned by the people who worked in the crane or whether it was a company vehicle?

A. No, there was no identification on it belonging to anybody.

Q. Was there any equipment in the back of the pick-up truck? Any wooden blocks, tools or anything in there that uh, would give it some resemblance of it being a company vehicle? Or was it empty?

A. There was, it had nothing, nothing of value in it. For wrecking or, if it had a few blocks in, there was nothing, not very much was in the bed.

Q. Now, as, when, you are the foreman at the derailment or at the wreck, do you initiate the paper work that covers the wreck? I am referring now to the MP200's or whatever is initiated paper work that's initiated?

A. Yeah, that's a responsibility of the foreman in charge of the wreck master, to make out the 200's and report to carshops or lease, or whatever.

Q. Mm mm, how about the wreck log that is uh, kept on the foreman's desk. Is this part of the foreman's responsibilities?

A. No, that belongs to the assistant general foreman or the general foreman, non-agreement people keep that book.

Q. Mm mm, but the MP200 is kept by the foreman of the wreck?

A. Right

Q. Now, what information goes on an MP 200?

A. Well, to start out we are suppose to put the place that... (off record)

A. Well, the MP200 you fill out, you start out by putting the place and the time called and the time you get ready to leave,

the time you departed the home location, the time you arrived at the scene and there is a space for the cars or engine, you have got to give damage to them and eh, the time you get back and there is, where you are told when use of outside contractor, what you use with them a crane or a bulldozer or what and then you go back to the place and you put down the time that you arrived home. You figure out ah, the cost of the damage and the cost of the ah, hours of uh, the cost of the money that it took the wreck crew to re-rail the cars and get back home.

Q. This MP200 it, it's suppose to have uh, a provision or you are suppose to include as part of the information, any outside equipment that's used in order to do the wrecking?

A. That's right, they are suppose to, they started out probably in July or August of 1977 they come out with that.

Q. Prior to that you didn't...

A. Prior to that they didn't say anything about putting anything down. You just filled out what is. It's not written on the MP-200 what, the old MP-200, what you put on there and now in January of this year they started another MP-200 where it has a place for type of equipment used. As of that period of time they didn't.

Q. At any time during this interview have we suggested what your answers should be?

A. No

Q. Have we given you any information or facts on which your answers were based?

A. No

Q. Was this interview voluntary on your part?

A. Yes

Q. Has anyone (tape goes off)

A. No

Q. Have you been treated fairly (tape goes off)...?

A. Yes

Q. Do you have any criticism in the manner that this interview has been conducted?

A. No

Now, this concludes our interview today, May 17, 1977, the time is now 1:35 and Mr. Hoover, we want to thank you for volunteering to assist us in clarifying this situation. Once again, thank you.

A. You are welcome.

(End of Side A - Tape 1)

I declare that this statement is made of my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor by any person or persons whomsoever.

I have read this statement consisting of 14 pages and I affirm to the truth and accuracy of the facts contained therein.

Martin Hoover

Witness

Witness

Louis A. LaCivita: (speaking)
This interview of Don Sayres is being recorded in the Master Mechanic's office at Conway Car Shop in Conway in the presence of Paul Rearden, Chief Special Auditor, Consolidated Rail Corporation and Lou LaCivita, Senior Special Auditor, Conrail. It is now approximately 3:00 P.M. on May 17, 1978. And if you're willing, Mr. Sayres, we will commence with the interview.

A. Yes, okay.

Q. Please state your full name, your age and home address.

A. Donald L. Sayres, R.D. #2, Thompson Run Road, Beaver FAlls; age 45, General Foreman-Conway Car Shop.

Q. Now what is your social security number?

A. 184-24-5840.

Q. And your present position at, with Conrail is?

A. General Foreman.

Q. Who's your immediate superior?

A. At the present time, Robert Kuchic.

Q. Could you give us a brief description of your duties and responsibilities as General Foreman?

A. In charge of operations of car inspection, car repairs, set off the derailments.

Q. Now, during the period of January 1, 1977 through February, 1977, what was your position and work location?

A. My position was General Foreman, Conway Car Shop.

Q. In other words, the same position you're holding now...

A. I'm holding now.

Q. And your responsibilities included derailments and wrecks?

A. Right.

Q. Mr. Sayres, are you familiar with the, ah, incidents and happenings that led up to the leasing of the 100 ton cranes from Penn Erection to be used on standby, positioned here in Conway, January 1977?

A. Yes sir.

Q. Could you fill us in on why that crane was here and what it was doing?

A. At the particular time, our 50 ton Holmes was held out-of-service due to repairs and they had a Penn Holmes down here to standby in case of derailments in the yard and main line.

Q. Well, our 50 ton crane, was this out-of-service the entire six week period the Holmes crane was here?

A. Approximately that long.

Q. Paul Rearden: Mr. Sayres, during the time that the Conway or Conrail's crane was out-of-service, did you maintain any records of that out-of-service time dates?

A. Yes I did, sir.

Q. And do you have such a record available to us?

A. I have a book that I kept all records in, but going through these here pages, I notice that the copies of the pages of the bulk of all Penn equipment is missing.

Q. Is that the record we had previously examined prior to this interview?

A. Yes sir.

Q. And as you have indicated before, a portion of that record has been removed? Is that correct?

A. Yes sir.

Q. And the portion that has been removed is, or did contain the period in question which is January and February, 1977, is that not correct?

A. Yes sir.

Q. And where did you keep this record at on file?

A. This record was kept in my drawer in my desk in my office.

Q. And, could this be accessible to other employees here in Conway?

A. I imagine at times when I'm not in my office, there's people that have access to my office.

Q. When is the last time that you remember checking in connection with the Penn Erection cranes that was on standby here? When was the last time you checked that record, or had reason to examine that record?

A. The last time I checked it was sometime, ah, shortly

after February or maybe in the neighborhood of March of '77, when our Holmes was out-of-service, I wanted to make sure I maintain an accurate record of when Penn Erection actually came down here and stood by and what time our Holmes crane went back in service, and when we released the Holmes crane back to Penn Erection.

Q. And at that time, the record was in tact, is that correct?

A. Yes sir.

Q. To your knowledge, has any other employees requested that book from you to examine it for any reason?

A. No sir.

Q. Mr. Sayres, do you have any knowledge as to, er, the reason why this record would be, would have been removed from this book?

A. I have no knowledge of it right now.

Q. Mr. Sayres, does any other employee maintain a record of the out-of-service time for that Conrail crane?

A. Ah, the Maintenance Department could keep a record of it and the General Foreman in charge there is Tom Somers (? spelling).

Q. Tom Somers?

A. Yeah.

Q. And he would make some sort of record as to when this crane was out-of-service?

A. That's right.

Q. Louis LaCivita: Again, Mr. Sayres, we'd like to talk to you about a derailment that occurred on January 21, in 1977 and this derailment happened in Van Port, Pa., which I understand is several miles away from here. Were you on location at the time of this accident?

A. Yes, I was on duty at this time of the derailment and (inaudible) and I went down to investigate the derailment at Van Port.

Q. And who did you notify of what equipment would be needed to clear the derailment?

A. I called my office here and I can't recall who was on duty at the particular time....

Q. Hmmn....

A. and I told men to make preparations for the wreck trains.

Q. How many cars were involved in this derailment?

A. There were three cars involved in this derailment?

Q. And what was the situation in regards to the main line?

A. It was solid, eh, one main lines was solid, no. 2 was open.

Q. Now after you notified your office here, how long was it before some sort of equipment showed up at the site of the derailment and what was it that showed up?

A. About an hour, an hour and a half later our wreck train showed up, then I can't remember what time it

was, sometime after I arrived, maybe two and a half or three hours, maybe a little longer than that. Ah, a Holmes crane from Penn Erection arrived on the scene.

Q. Hmmn, hmmn. Well, was there any other equipment with the Holmes crane, with Penn Erection's equipment?

A. To the best of my knowledge, no.

Q. How many people were there with the Holmes crane?

A. The Holmes crane, I can't recall but I think it was three or four people there.

Q. Hmmn, hmmn. Was there a pickup truck with tool, block and tool truck or whatever it is, this,eh, the added piece of equipment that follows the Holmes crane with?

A. I believe that's the (inaudible) pickup truck there.

Q. And this is, is what's known as a block and tool, tool and block pickup truck?

A. Yes sir.

Q. You did see one at the.....scene of the accident?

A. Yes sir.

Q. Did you see any sideboom tractors or caterpillars?

A. No sir, I didn't see one and I had no knowledge of one to be coming.

Q. How far from the highway, from an access road, would you say the derailment happened?

A. Well, ah, I want to answer your question, but from the highway, from the roadway down to the derailment, there's a pretty big, pretty steep hill.

Q. Hmmn, hmmn.
A. I just don't know how to answer it from your end of it.
Q. If ah, if a piece of equipment came in from Conway that was not on rail, it would have to come by highway, is there some sort of an access road that would take it down to the scene of the accident?
A. Not, (inaudible)not nearly, all the other side.
Q. Is there a service road that leads to the scene of the accident?
A. There's a roadway that I'm a little familiar with, you said, they'd have to come down, eh, on railroad ties or on railroad to get to the scene of the derailment.
Q. Now, how did you arrive at the scene of the accident?
A. Ah, well, a roadway I'd climb down, down that steep hill.
Q. In other words, from the highway where the road, you had to walk certain distances to get down there?
A. Yes sir.
Q. Now, is it possible there was other equipment that had arrived at the scene and the equipment meets the derailment at the actual derailment and had to be turned back?
A. It's very very possible, but I don't know.
Q. Now who was, who would be superior to you at the scene?
A. It was Mr. Alan Fisher, Terminal Superintendent at Conway Yards (unintelligible)you could ask. And some-

time after I got there, Mr. Dubbs, the Superintendent of Master Mechanics, he arrived at the scene.

Q. In the event of a derailment of this sort, who takes charge of the actual rerailing and actual cleaning up operations, is it the Transportation Department who would handle it....

A. We do it.....

Q. You do the actual work?

A. Right.

Q. But who gives the orders?

A. Transportation.

Q. I see. Is the Transportation Department primarily, is their main function to order material, ah, equipment?

A. Ah, we, ah, we're suppose to maintain those orders but Transportation gives the orders.

Q. In other words Mr. Sayres, who makes the final decision as to what equipment is going to be used to clean up a derailment?

A. Transportation.

Q. Now Mr. Sayres, is, I had to ask you the last question, we had a little interruption from a car going by, going through (unintelligible). I'd like to repeat the question. Who makes the final decision as to what equipment will be used at the scene of the derailment?

A. Transportation.

Q. Transportation!

Q. Paul Rearden: Mr. Sayres, as the Penn Erection cranes was at the Van Port derailment, what sort of service did they perform at the time you were there?

A. They performed in assisting us in rerailing the west or the third car.

Q. And when you say the third car, are you talking about the very last car that was to be rerailed?

A. The very last car that was to be rerailed, right.

Q. And was the Penn Erection cranes there at the conclusion of the cleanup then?

A. To the best of my knowledge, yes sir.

Q. And do you recall approximately at what time the rerailing was completed?

A. I believe, I'm not certain, somewhere about ten or ten thirty, if I'm not mistaken.

Q. And at that time then, the wreck train and the Penn Erection crane would have departed the derailment site, would that be basically correct?

A. After they would have picked up all their equipment, yes.

Q. Were you part of the committee that determined the cause of the derailment?

A. Yes sir.

Q. Do you recall what the actual cause of the derailment was?

A. (unintelligible).

Q. Would that have been one of the cars that derailed?
A. Yes sir.
Q. And Mr. Sayres, just to clarify one thing, the only Penn Erection equipment that you saw at the Van Port derailment was the crane that was used to rerail the third car, is that correct?
A. That's correct.
Q. And you did not have any discussion with either Mr. Dubbs or Mr. Fisher about any other equipment having been ordered from Penn Erection outside of one crane?
A. No sir.
Q. Mr. Sayres, getting back to the crane, Penn Erection crane that was on standby during January and February of '77, was this crane used from time to time on derailments in the area?
A. Yes sir, I have.
Q. In other words, it did not sit there completely idle at all times, it was used on derailments?
A. Yes sir.
Q. And would it have been utilized when Conrail's crane was out-of-service?
A. Yes sir.
Q. Do you know what prompted the Penn Erection crane being put on standby here at Conway?
A. We also have one other piece of equipment on standby in case a wreck train goes out and keeps the yard

from being idle in case we have a derailment on the hops. There was a particular time when we had seven derailments and they wanted one on standby to assist us in every they can.

Q. Do you know who ordered or requested the Penn Erection crane be put on standby?

A. No, I don't.

Q. And during that time that it was on standby, did you at any time observe what we have referred to as a tool and block truck parked or utilized with a crane from time to time?

A. Lots of times, I've seen a vehicle here while they were on standby.

Q. Mr. Sayres, if Conrail then was billed for a tool and block truck during the time that this, the Penn Erection 100 ton crane was on standby in January and February of 1977, would you say then possibly that bill is incorrect due to the fact, you, yourself did not see personally see or observe a tool and block truck on continuous duty with the crane?

A. Well, I really can't say if it's incorrect but being I didn't see any vehicle, I know from time to time, I've seen them here.

Q. But to your knowledge, a so-called tool and block truck was not on continuous duty as the crane was, would that be correct?

A. To my knowledge, it was not.

Q. But you did see a vehicle being used to transport Penn Erection employees back and forth, probably to and from their headquarters, is that correct?

A. That's correct.

Q. Louis A. LaCivita: Mr. Sayres, at any time during this interview, have we suggested what your answers should be?

A. No, you never suggested my answers.

Q. Have we given you any information or facts on which your answers are based?

A. No.

Q. Has this interview been voluntary on your part?

A. Yes sir.

Q. Has anyone made any threats of physical harm or coerced you in any way?

A. No sir.

Q. Have you've been treated fairly in the course of this interview?

A. Yes sir.

Q. Do you have any criticism in the manner that this interview has been conducted?

A. No sir.

Q. Ah, Mr. Sayres, this concludes our interview today, May 17, 1977, the time is now 3:45. And we want to thank you for volunteering to meet with us today and

taking the time out to assist in clarifying this situation. Once again, thank you.

I declare that this interview is being conducted of my own free will without promise of hope of reward, without fear or threat of physical harm, without coercion, favor or offer of favor by any person or persons whomsoever.

I have read this statement consisting of 13 pages and I affirm to the truth and accuracy of the facts contained therein.

DATE:_____ _____
Donald L. Sayres

STATEMENT OF RICHARD A. LEWIS

STATEMENT of Richard A Lewis recorded at the carshop in Conway, Pennsylvania, on May 18, 1978 in the presence of:

Louis A. LaCivita, Senior Special Auditor

Paul R. Rearden, Chief Special Auditor

Transcribed by: Dicta Steno Service Inc. (jb)

STATEMENT

R. A. Lewis

DIRECT EXAMINATION:

BY: Louis A. LaCivita - Paul R. Rearden

This interview of Mr. R. A. Lewis, wreck master at CONWAY carshop is being tape recorded at the carshop in Conway, Pennsylvania on May 18, 1978 in the presence of Paul Rearden, Chief Special Auditor, Consolidated Rail Corporation and Lou LaCivita, Senior Special Auditor, the Consolidated Rail Corporation. It is now approximately 11:30 a.m. in the morning and, if you are willing Mr Lewis, we will commence with the interview.

A. Yes, I am ready to proceed with the interview.

Q. Would you please state your full name, age and home address?

A. Richard A Lewis, 45 years of age, R. D 1, Box 7, Wall Street, Rochester, Pennsylvania, 15074.

Q. What is your social security number?

A. Uh, 195-24-4984

Q. What is your present position with the Consolidated Rail Corporation?

A. Wreck master, Conway, Pennsylvania

Q. And, as a wreck master, who is your immediate superior?

A. Right at the present time Mr. A C. Scokey.

Q What is his...

A. Title is terminal general foreman, Conway, Pa.

Q. Now, Mr. Lewis, how long have you held the position of wreck master?

A. Uh, as a regular wreck master since 1969 and then as a relief wreck master on and off from 1966 and 1967.

Q. And would you give us a brief description of your duties and responsibilities?

A. Uh, in a wrecking operation I am in charge of all the wreck forces for the CONRAIL for Conway, Pa., and the operation of either the 250 ton (inaudible) or the 90 ton homes crane.

Q. Is your position uh, an agreement or non-agreement?

A. My position is agreement.

Q. Oh, do you feel that you would like to have someone representing you while we are conducting this interview?

A. Not right at the present time for the interview

Q. Thank you. Now uh, from January 1, 1977 through February 1977 were you acting uh in the capacity of a wreck master in the Conway area?

A. I was.

Q. Which is your regular...

A. Regular assignment.

Q. And what are your regular tours of duty?

A. Regular tour of duty when not wrecking is 7:00 a.m. to 3:00 p.m. in the Conway carshop. Wrecking is called anytime (Someone else is interviewing at this time)

Q. Mr. Lewis, are you aware of the letter that was directed to Mr. Hassleman, Vice-president of Operations concerning uh, alleged irregularities here in Conway yard in connection with Penn Erection Company?

A I am.

Q. And, would you tell me what your knowledge is of that letter?

A. The, I helped compose the letter and it was turned over to my union president who was suppose to re-evaluate it and send it to and sign it under our local union and forward it to Mr. Hassleman. And Mr. Kelly in the meantime, he composed a letter of his own and signed, was going to sign it and send it which he never did, and sent the letter that I helped compose in to Mr. Hassleman anonymously.

Q. The president of the union was?

A. Eugene Kelly

(First interviewer)

Q. Is Mr. Kelly still president of the union?

A. Mr. Kelly is no longer president he is now the financial secretary of our local.

(off record)

A. I would, I better retract something. I would like to make a correction on a mistatement that Mr. Kelly, I could not say sent the letter anonymously. I have to say someone sent it anonymously and he had it in his possession the last I seen of it

(Second Interviewer)

Q. Now, as a result of that letter being directed to Mr Hassleman did the police department, Conrail Police Department, conduct an investigation and were you interviewed

in connection with that letter?

A. I was. I was interviewed by Mr. Dunn and a Mr. Robertson.

Q. And did you give Mr. Robertson and Mr. Dunn a written statement at that time?

A. I gave him a writm, written statement and I have never received a copy of that statement myself.

Q. Mr. Lewis, I am going to show you a statement which is dated May 10, 1977 uh, which indicates it was taken from you by Mr. Robertson and Mr. Dunn. Uh, could you examine this and uh, identify it as to the one that you did give Mr. Robertson and Mr. Dunn?

A. I will.

Off record.

A. Yes, it is the statement I made to Mr. Dunn and Mr. Robertson.

Q. You may look Mr. Lewis on page 1 of your statement which is dated May 10, 1977 and the last paragraph of that page you talk about a Penn Erection crane which was on standby at CONWAY yard during the period of Feb. January 13, 1977 through 1, January 24, 1977. Would you, would you tell us what your knowledge is of that crane and why it was on a standby service?

A. Well, to the best of my knowledge our 50 ton homes crane was out of service and being repaired and someone or somebody called Penn Erection's 100 ton homes in for standby to replace our 50 ton homes crane while it was being repaired.

Q. Now, there is indication that this crane was, Penn Erection crane was on a standby approximately six weeks. Uh, during that period of time, was CONRAIL's crane out of service most of the time or...

A. No, it wasn't. It was only out of service off and on uh, sometimes a week or five days at a time. I think in the month of January which is in question the crane I think, we figured out it was down something like 21 days

Q. Twenty-one days in the month of...

A. January.

Q January, how about February?

A.. February I can't recall. It was down but we didn't have Penn Erection in here. It probably was only down for a day or two at a time.

Q. Do you know who ordered the uh, Penn Erection crane to be put on a standby uh, basis?

A. From documents that I have seen, it had the Assistant Divisional Superintendent's name, Max Solomon's name on the documents I seen as the man making the call to Penn Erection.

Q. Now, during the time that this Penn Erection crane was on a standby, this I believe was a 100 ton crane, was it not?

A. Yes, sir. It was a 100 ton homes crane.

Q. And that was kept on a standby basis here continuously uh, twenty-four hours a day?

A. Twenty-four hours a day at Conway, within 100 or 105 foot of 110 foot of the 250 ton wreck (inaudible).

Q. And, was that crane during this period of time, used from time to time on different derailments here in the yard area?

A. Yes, I believe it was used a few times on derailments in the yard.

Q. Was it ever taken out of the yard and used on derailments outside of the immediate yard area, to your knowledge?

A. Uh, to the best of my knowledge I can think of one instance. I think it went up to uh, Ambridge and did a job at uh, the Ambridge team track.

Q. Now, during the time that it was on a standby basis, did you observe what is referred to as a two and block truck that was also on the standby basis?

A. Well, the only two and block truck that could possibly have been was the truck that was transporting the two men that stayed with the crane back and forth. When they relieved each other they brought a different truck. Whether it was their own trucks or company trucks I don't, I couldn't say.

Q. And, could you describe this vehicle to us?

A. Well, it was all pick-ups and it was not marked, like Penn Erection has their certain pickups painted and a lot of them state Penn Erection Emergency Derailment Service and it was none of them trucks. It was all type of personal trucks.

Q. Did, did the men you said would arrive here in a pick-up truck?

A. Right

Q. And then it would sit by and..

A And stay right here until when they went back and two other men took that truck and another truck would come in.

Q. So, if a man was sitting in the crane for eight hours he had a pick-up truck sitting there?

A. For eight hours, yeah, twenty-four hours or whatever.

Q. Now, when they actually go out and work on a derailment do they, does Penn Erection bring along what is again referred to as a two and block truck and if so, is it a different type of vehicle than what we had just been discussing?

A Yes, it is. They have now, now they have a flatbed truck with rear wheels on it that they bring with the cables and their rigger blocks and all and it follows the crane right on the rail.

Q And that would be known as a two and block truck?

A. Two and block truck, right.

Q. Now, prior, how uh, when did they start using that type of vehicle? To your knowledge?

A. Oh, to be truthful the first time I can recall it and, I can't really, it was in the summer of 1977. We had uh, we had one of the few jobs we got called East to Pittsburgh on and it was our homes crane. Knowing that we sent up a block truck to work with Penn Erection and they come up with this new flatbed. Up at Thompson yard or South Ducane down in the other part of that yard. I am not really familiar with it but it was below South Ducane.

Q. Thompson yard?

A. Yeah, going down across the river like from McKeesport, where the McKeesport bridge, I think that's the McKeesport bridge goes across?

Q. Mm mm?

A. Right down in there and they showed up with that truck. But I don't know as far as location in the railroad property I don't know what it's exactly called.

Q. Then to your knowledge the pick up truck is not actually a two and block truck down there?

A. No, not to, the best of my knowledge, it's not

Q. Now, was this pick-up truck on, on the property continuously as the Penn Erection crane was?

A. Yes it was It accompanied the crane and brought, like I said, two men would come and they would leave and then another pick-up would show with two other men Whether they was their personal vehicles or not, I couldn't say. But they was no way lettered or painted as standard Penn Erection equipment

Q. In other words, there was no markings on it to identify it as a Penn Erection equipment?

A That's right. There was no markings whatsoever

Q. All right, all right, now during this period of time January and February of 1977 in which the Penn-Erection 100 ton crane was on standby did you personally work on any derailments where the, this crane was used?

A. Yes, I did. Two or three. Well, I didn't normally answer calls. Mr. Trombetta answered most calls in that time

because it's a known fact that I do not like to work with other than railroad people. And, I did use them, they accompanied me on a couple derailments and one in particular in westend of 6 yard at Conway, Pa., and we didn't use them. They accompanied us down there and we used an egine and a block truck to pull the cars and re-rail.

Q. MR. Lewis, what would you say would be the main reason as to why this crane was put on a standby basis? During this period of time?

A. Really I can't truthfully tell you why it would be put on when the company had their own equipment sitting right here that they could have used readily. I have no idea why they might have sent a standby in here. The only reason I can give you is the fact that our 50 ton homes crane was in being repaired.

(First Interviewer)

Q. Now Mr. Lewis, in your statement to the police department, I am going to read from the uh, page two of your statement: It says, the same conditions prevailed between 1/31/77 and 2/10/77. As a matter of fact our homes crane was in good working order on a few of the days when a Penn Erection homes crane was held at the Conway shop on standby. I am sure these, I am sure there are records at this at the Conway shop to substantiate this. The records that we got at the Conway shops, we, these were made available to us by the master mechanic's office and it shows that from January 25th through February 17th the 50 ton

homes crane was restricted to yard service or not operating, operating at all due to a defective transfer case. Now, could you elaborate a little bit on this?

A. I don't recall why it was out of service. I know it was out of service quite a bit. But I can do, in this statement here. In fact I can tell you this, that I know one of the machinists brought the crane over from the power plant where it was being repaired and backed it in right along Penn Erection's crane and he told them they could leave because this one was back in service and they didn't leave until the next day.

Q. Well, who told Penn Erection they could leave?

A. This machinist. He seen them there when he backed ours in and when he came over, he brought the crane back and he said this one is working, they could leave and he was just trying to antagonize them I believe.

Q. Well, I was going to ask you. Did the machinist have the authority to release the Penn Erection people or to hire them or was..

A. No he doesn't. All I am stating this is to show the fact that I know on this one instance our homes crane was in working order at the same time Penn Erection was here.

Q. For that one particular incident?

A. For that one particular incident, right.

(Second Interviewer)

Q. Mr. Lewis, when a derailment occurs on CONRAIL, could you tell us what the procedures are for ordering the equipment

to clean up the derailment, CONRAIL equipment as well as outside contractors?

A. Well, according to that letter, I don't know when it's dated, it come out of Philadelphia o. a wrecking procedure here, maybe a year or maybe two years ago. I think the correct procedure right now under company policy is the fact that when a derailment occurs somebody from the mechanic or MMV department is suppose to go look at this derailment and they are suppose to then tell the transportation department what equipment is needed to clean the derailment up and get the railroad back in service. Now...

Q.. Now, this person the MMV person, does he specify whether it's to be CONRAIL equipment or outside equipment?

A Well, he can't ah, say. According to my, best of my knowledge is that he can say whether it's outside or whether he wants a wreck crane or outside equipment or whatever. He is suppose to get it.

Q. Mm mm.

A. But the policy here is that the transportation tells them maybe what they need and that's what they get.

Q. Well, who makes the final decision as to what equipment will be used at a given derailment?

A. Well, I couldn't say to, who gives that decision it's somebody in Pittsburgh, to the best of my knowledge. Or, maybe one of the terminal superintendents, I don't know. Who calls the equipment.

(Second interviewer)

Q. Mr. Lewis, a derailment occurred at Vanport, Pennsylvania on January 21, 1977. Did you or were you called out to work on that derailment?

A. I was.

Q. And, would you tell me what time you arrived at that derailment?

A. I arrived at that derailment at, according to my records, at 7:30 p.m.

Q. And, could you tell me what, the cars were involved or what the situation was when you arrived there, to the best of your knowledge?

A. There was three cars involved. There was two empty box cars and (inaudible) upset.

Q. And was CONRAIL wrecking equipment used to clean up that derailment?

A. Yes, we used our 250 wreck (inaudible) at the scene of that derailment along with a 100 ton homes crane from Penn Erection, was at the scene.

Q. And was the Penn Erection crane, uh at the scene of the derailment when you arrived there at 7:30 p.m.?

A. No it wasn't. It come later. I can't say exactly what amount of time but within I would say of an hour after we got there it was there.

Q. So approximately at 8:30 p m. the Penn Erection 100 ton crane did arrive...

A. It arrived with a little half-ton pick-up with rear wheels on it for a two and block truck.

Q. And did the Penn Erection 100 ton crane assist in the re-railing of the derailed cars?

A. Yes sir, they made two lifts. They lifted a truck and lifted one end of the gondola that had the pipe dumped out of it.

Q. And, do you recall approximately when the re-railing was completed?

A. Approximated time was around 12, 12:35 a.m.

Q. And was Penn Erection, the 100 ton crane, was it there at, uh, at the conclusion of the re-railing?

A. Yes, it just left, it was starting down to clear up the railroad just prior to the derailment being cleared.

Q. Mr. Lewis, would you describe the geographical location of that derailment as to in the, as to it's relationship to highways running through the area?

A. Uh, let's see, there's route 68 and route 60 comes, 60 runs, would be let's say north and south and according to the railroad, running east and west. Route 60 would be north and south and route 68 would be east and west parallel with the railroad tracks.

Q. And was this derailment, the site of it, was it easily accessible by our track equipment?

A. No, it wasn't. It was on over a cut. It was down over a bank and in order to uh, get off track equipment other than what was equipment with rail wheels, they would have had to come

in below 8400 which is situated in Vanport, there is a little crossing there and they would have had to come up bet, up between the rails and in the gage of the rail, I would say approximately one mile.

Q. And was this the way the Penn Erection's homes crane came in?

A. Penn Erection's homes crane is equipped with rail wheels and they put it on the rail at 8400 which is a spur going in to (inaudible) lumber company, they got on there I assumed this. I did not see them and it would come out on the main line and then back up again to the derailment which makes it readily accessible.

Q. Do you recall how many men or personnel was, that Penn Erection had at the derailment site?

A. I believe, I am not sure, but I believe they had four people with them.

Q. Did you see any other equipment beside the Penn Erectio 100 ton crane and the pick-up truck that you had uh, referred to?

A. No sir, I did not see any other equipment at the scene of the (inaudible) other than the 100 ton and the pick-up truck.

Q This 100 ton crane Mr. Lewis, was this the same one that was on standby at the Conway yard?

A. No sir, this was another crane. Another homes crane from Penn Erection.

Q. In other words, it came from the home yard at Turtle Creek?

A. Right, well wherever, it come it and it was not this one sitting in the parking lot.

Q. And the one that was sitting at the parking lot, what was it doing at the time?

A. To the best of my knowledge it was sitting in the parking lot unless they did something while we was down there that I have no knowledge of.

Q. Mm mm, now what was the condition of our homes crane at that period of time?

A. At that time our homes crane was out of service.

Q. On the 21st of...

A. I do believe that it was out of service on the 21st, yes.

Q. So that, so that if there were any other derailments or any other wrecking work that had to be done uh, that it was done by the homes crane, by Penn Erection's?

A. Yeah, it should have been done by this crane that was on standby in the yards because it was here.

Q. Okay, just to clarify this one particular matter sir. Would you get the log book that is kept on the foreman's desk downstairs?

A. Would I get the log book?

Q. Yeah, mm mm, the log book.

Off record.

Q. Now Mr. Lewis, this is the log book that is kept by the non-agreement people here in Conway. The general foreman keeps

this book on his desk and I believe it records each derailment or occurrence where a block truck or a homes crane or such was used And, for the date in question, January 21, 1977, this book shows that there were approximately twenty occurrences, whether they were derailments or off-centered cars, etcera, and it shows that the wreck train was called at 4:00 p.m. at mile post to Byrd which I believe is the Vanport area that's in question.

A. That is correct.

Q. Am I right?

A. That is correct, Mile Post to Byrd is Vanport.

Q. So then the wreck train was used one time that day From four o'clock in the afternoon until, what time did you come in, in...

A. According to my records we arrived back on the, back on the wreck track at Conway, Pa., four-thirty a/m.

Q. Uh, the following morning?

A. The following morning, yeah. We was, which would make twelve and a half hours to and from and doing the work at Vanport.

Q. So then if the homes crane at Penn Erection homes crane that was at the scene with you in Vanport was not the one that was on standby here in Conway, it was another one that come in from their yards?

A. Right

Q. And the book shows that there were many other occurrences after four o'clock, eleven of them and that they were handled by a homes crane, our homes crane was out of service so that this

crane that was on standby at Conway yards at the time must have handled these occurrences. Am I correct?

A. I would assume that, if that's what the book says. (Second Interviewer)

Q. Mr. Lewis, at the time you were at the Vanport derailment, did you have any discussion with any of the officials, railroad officials that were on duty there? Relative to the use of outside equipment at that time?

A. No, the only, I discussed with, about outside equipment was with Alan Fisher, who at that time was the terminal general superintendent here at Conway and he told me that they had outside equipment, Penn Erection called. What was called, he did not elaborate on or nothing and, all I seen was the 100 ton homes crane and a pick-up. As far as what was called or who called I do not know.

Q. In your statement of May 10, 1977 which you gave to Mr. Robertson and Mr. Dunn, in answer to the questions relative to, did you see a (inaudible) with an operation, a number 1 583 side (inaudible) with operator, a number 2 583 side (inaudible) with operator, a 977 Kent with operator, a 75 ton crane with crew, two tractor trailers lowboy with driver? Your answer was no, I never saw them at the scene of the derailment at Vanport. To the best of your knowledge, that is a true statement, right?

A. That is a true statement. I did not see, them at Vanport, Pa., not all that equipment, no.

Q. Now, is it possible that perhaps this equipment might have arrived at Vanport and been on the highway and been unable to get to the actual site uh, and you might not have been aware of it?

A. It's possible. I couldn't see the highway. All I could see was the bridge off of 60, off at the Ohio River but I couldn't see the equipment.

Q. The highway isn't visible from the wreck site?

A. The highway is not visible from wherever the point is that we was working at.

Q. But on the other hand, you had no indication that the equipment did arrive?

A No, I couldn't, I didn't have no indication whether it arrived or did not arrive or, all I can say is that I did not see that equipment at the scene of the derailment.

Q. Now what was, what's the names of the other crewmen the wreck train that was on duty at the time?

A. The crew that I had with me would be Paul Hemelsball, R. J. Coleman, P. J. Mike, D. E. Burton, R. J Cavander, Nick Bogitch, W. M. Burton, A. L. Burton, or A. L. Barrett I mean, excuse me. Stanley Sassick and F. A. Solomon.

Q. And uh, they were members of the wreck train at the, on that tour of duty then?

A. They were.

Q. And did they remain with you throughout the uh, entire re-railing period?

A. Yes, they did.

Q. And they also rode the wreck train back to Conway?

A. Yeah, they should have rode the wreck train to and from Conway.

Q. And what officials were at the scene of the derailment outside of Mr. Fischer?

A. My general foreman, and Don Sayers was there

Q. Were there any other officials there that you know of?

A. No, uh they were the only two that I can recall right now.

(First Interviewer)

Q. Mr. Lewis, was Mr. Peter J. Mike at the scene of the derailment in Vanport?

A. He was.

Q. Was he there the entire time that you, the 250 ton crane was there?

A. He was. He is a member of the wreck crew at Conway Pa., or an extra member and he was at this derailment, present with me. He was part of the crew at Vanport that night, dated the 21st of January.

Q. Was he with you the time that uh, you were uh, making your lift at the last car?

A. Well, he should have been. I can't, he is a member of the crew. Whether he, he should have been right there If he, could have possibly been back to a, the last lift, I don't know.

(Second Interviewer)

Q. Mr. Lewis is there anything else that you can add to the, our questions or uh, our discussion relative to the Vanport derailment?

A. No, there is not, it's just about as complete as I can. I can only say what I actually seen there.

Q. And when you previously referred to your records show that you arrived at Vanport at...(side B) Mr. Lewis, when you refer to your records you said you referred to your records and they show that you arrived at Vanport, Pa., uh, at 7:30 p.m. and returned to Conway yard at 4:30 a.m. This is a record that you personally prepared yourself and it shows not only the, that time but it shows the initials of the men of the wreck crew along with the cars that were re-, that were rerouted is that true?

A. That is correct.

Q. And would you uh, furnish us a copy of that record?

A. I will give you a copy of my personal record. I will.

Q. Okay, fine.

(First Interviewer)

Q. Mr. Lewis, at any time during this interview, have we uh, suggested what your answers should be?

A. No, you haven't.

Q. Have we given you any information or facts on which your answers were based?

A. No, you haven't.

Q. Now has this interview been voluntary on your part?

A. It has been voluntary on my part.

Q. Has anyone ah, made any threats or physical harm or cause to you in any manner?

A. No, they haven't.

Q. Have you been treated fairly during the course of this interview?

A. I believe I have.

Q. Do you have any criticism in the manner that this interview has been conducted?

A. No I don't.

Q. Do you have any knowledge of any wrong doing by anyone in your department that should be brought to our attention?

A. No I haven't. I have no knowledge of anyone doing any wrong doings.

Now Mr. Lewis, this concludes our interview today, May 18, 1978 and the time is now 12:30 p.m. and we want to thank you for volunteering to meet us today and for taking the time out to assist us in clarifying this situation. Once again, thank you.

A. You are welcome.

(End of Side B of Tape 1)

I declare that this statement is made of my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor, by

any person or persons whomsoever.

I have read this statement consisting of 22 pages and I affirm to the truth and accuracy of the facts contained therein.

Richard A. Lewis

Witness

Witness

STATEMENT OF GEORGE R. DUBBS

STATEMENT OF George R. Dubbs, recorded in Room 317 at the CONRAIL station, Pittsburgh, Pennsylvania, on May 19, 1978 in the presence of:

Louis A. LaCivita, Senior Special Auditor

Paul R. Rearden, Chief Special Auditor

Transcribed by: Dicta Steno Service Inc. (jb)

STATEMENT

George Dubbs

DIRECT EXAMINATION

BY: Louis A. LaCivita - Paul R. Rearden

Today is uh, May 19, 1978 and uh, this interview of Mr. George Dubbs...

A. Right

is being tape recorded in uh Room 317 at the CONRAIL station in Pittsburgh, Pennsylvania in the presence of Paul Rearden, Chief Special Auditor and Lou LaCivita, Senior Special Auditor. It is now approximately 9:00 a.m. and if you are willing Mr. Dubbs, Dubbs, we will commence with this interview.

A. Yes sir.

Q. Now please state your full name, age and home address and would you spell your last name please?

A. Yeah, my full name is George R. Dubbs, I live at 4932 Havannah Drive, Pittsburgh. I am 34, 35 years old. I have been with the railroad approximately 15 years.

Q. What is your social security number?

A. Eh, 172-36-7187.

Q. Now Mr. Dubbs, what is your present position with the Consolidated Rail Corporation?

A. At the present time I am master mechanic, Bethlehem, Lehigh Division.

Q. And who is your immediate superior?

A. My immediate sev, superior is Superintendent Allen Fisher on the transportation side and Ernie Amecia on the

car side Superintendent.

Q. Now, would you give us a brief description of your duties and responsibilities?

A. Well my duties as far as master mechanic is to keep the mechanical department running as efficient as possible, cover derailments, maintain a good shop situation and so forth, etcera, etcera.

Q. Now, uh when did you take over as master mechanic in Bethlehem?

A Uh, it's just about been a month, my 8300 effective the 17th of April

Q. Now prior to this, wha- was your work location?

A. I was assistant master mechanic Pittsburgh Division, working out of Pittsburgh.

Q. And as assistant master mechanic in Pittsburgh, what were your responsibilities and your duties?

A. Uh, basically the same except I had uh, four major shops in Conway, Pekeskie, Thompson and Mingo, mainly to keep those shops in order and to follow up on main line derailments, etcera, whatever.

Q. So as assistant master mechanic the uh, operation of uh Conway shops in the immediate adjacent area were part of your jurisdiction?

A. Yes sir, under the master mechanic, yes.

Q. And uh, who were you reporting to during the period uh that you were assistant master mechanic in Pittsburgh?

A. Now at that time the master mechanic was D. R. Craine, up until I think around Jan, December of 1977 then they brought another master mechanic in from the old Mahoning Division. I can't remember the name right now, Bickley, Ken Bickley and then up until a month ago, then an R. P. Sal come down and then he's the master mechanic now.

Q. Now, Mr. Dubbs, are you familiar with the uh, mmm, events leading up to the leasing of a 100 ton crane from the Penn Erection and Rigging Company, Turtle Creek, Pennsylvania to be used as standby equipment in CONRAIL from January 1, 1977 un through about the middle of February?

A. Yes, I'm familiar with it.

Q. Would you uh tell us in your own words what lead up to the decision to rent or lease this equipment?

A. Well at the time, if I can recall, I would say that was just about when I had taken over the job as assistant and the time Don Craine, the master mechanic was off with a knee operation and I was on the job. That particular time I remember was it was really bad, like more or less Conway was hauling the load. And derailments were just out of hand. Our homes crane, I can't remember the dates when, was out of service a few dates, the wreck train was out of service a few days during that period. And, the standby situation down there should never have been because if I can remember I would say close to forty to forty-five derailments during that period of time. And I know I was out with the homes crane myself on various occasions.

Q. Now you say this standby situation never should have been.

A. Should never have gone there. That was uh, very misleading.

Q. Are you, by uh this, now are you uh, you have me confused. Was the, you mean the, the no---(inaudible) or the the wording of the invoice to standby misleading or. .

A. Right, the wording should never have been on there. In fact if I remember, I can't be certain of this but I know I held the first, the original bill, the first bill that come in. I held it for approximately a month because of the standby on it. I would not sign it. And I talked to Mr. Gratz and various people and uh, I said, approximately a month before I signed the damn thing.

Q. Well uh, was the crane there for this period of time on a twenty-four hour basis?

A. It was there and if I remember, it was there with a truck and an operator, that the standby was eh, very misleading because the damn thing was working more than it was ever sitting there standby. This is what I am saying about standby. And eh, like I said I refused at first to sign the damn bill because of standby and, if I remember right and I could be wrong. But if I remember right the actual bill that I signed I think we smoked out the standby out.

Q. Mm mm, well, for the purpose of this interview, let us not quibble over the wording...

A. Oh okay, all right, fine

Q. Of the invoice. It was there.

A. Yes, this was there during the period of time stated, yes.

Q This is what we are trying to establish. That the crane was there from, for a period of approximately six weeks on a twenty-four hour basis.

A. Yes sir, it was there.

Q. And it was used?

A. Throughout the yard and other derailments.. Always in the yard.

Q. Now, was the crane used in lieu of our forces or with out forces?

A. Now, it's with our forces. There's times, I think one day if I remember, either January or February, I can't remember the date, fifteen or sixteen derailments. And, many times we had all three pieces of equipment out plus two or three block trucks. So this was in conjunction with our homes and wreck train. We never used it in lieu of it

BY: Second Interviewer

Q. Mr. Dubbs, you stated that on some occasions you, you yourself personally were out on derailments with the Penn Erection 100 ton crane which was kept on a, a continual rental basis at Conway yard. Is that correct?

A. Yes sir.

Q. Now, during that period of time, we were also billed

in addition to the crane, we were billed for what they refer to as a two and block truck. Could you describe that vehicle to us?

A. Eh, the two and block truck is eh, a pick-up truck with a tool box on the side and so forth which the operator of the crane at the time, the operator of the crane would drive, bring the truck with the homes crane, which had the tools, the cables, the blocks and so forth for the crane and that's why it is called a two and block truck. But not only that, when the homes crane was out the crew comes in the block truck with it.

Q. Now, when it was sitting unused or idle at Conway yard, was there such a truck also on duty?

A. Yes, the whole time with an operator.

Q. What color was that truck Mr. Dubbs?

A. White, if I remember, it was red and white, a standard Penn Erection color.

Q. Now in your position as assistant master mechanic at that time, did you have the responsibility of approving that invoice? For payment?

A. Yes sir, I was acting master mechanic at that time due to Don Craine's illness. I was acting master mechanic at that time.

Q. And did you have discussions with anyone relative to the approval of that invoice?

A. At the, yeah, at that time like I said, I uh, I uh, took exception to the standby on it for the amount of money, and knowing that the crane had been out more, like I said, just a standby

sitting there waiting, I had discussed it briefly with Mr. Gratz. And the final decision was, okay, well I held it approximately a month and we signed it. Eh, the 83...this 9728 bill I had just gone to Conway and the general foreman down there was being Don Sayers or Al Zattola, I am not sure, had okayed the bill and I verified it.

Q. In other words, you did not object to the eh, the uh, fact that we had the crane there. You objected to the wording of the invoice?

A. Standby yes, the standby was very misleading. I knew the crane was there. We needed it very badly and eh, the standby was very misleading and I didn't like that statement on there that's why I held it.

Q. Do you know who actually ordered the crane to be put on a standby basis?

A. Uh, most of our cranes are ordered through the Movement director. I am not sure but I think, if I remember right, the, I think the 83, 9728 showed assistant superintendent Max Solomon. If I remember. Like I said, I seen quite a few bills come across my desk at that time.

Q. And it is correct that during this period of time when the crane, which CONRAIL was billed for, as the invoice indicates on a standby basis, this crane was used on numerous occasions to handle CONRAIL derailments. Is that correct?

A. Oh yes sir. I would estimate between forty and fifty derailments during that period of time that they assisted on.

And may I add there, like I said, the homes crane was there and normally when we order a homes crane they send a, three men and an operator and two ground men for their own equipment. In this case we only had one man who was an operator. So if any time that homes was used our people did all the ground work, hookup, etcera.

Q. But as far as the invoice was concerned, as far as the charges as listed on the invoice, you did not take an exception to this. Is that correct?

A. No, no exception to the charges just the standby is the only thing I took exception to.

Q. Mr. Dubbs, during this period of time in which this Penn Erection crane was kept on a continual rental basis at Conway yard, did you receive any objections from the uh, personnel at Conway yard in connection with this uh, Penn Erection crane?

A. Yeah, on various times I had uh, discussions with the wreck master, the assistant wreck master and so forth at the location, complaining about the homes crane being there. They objected to having an outside concern's crane on the property.

Q. Mr. Dubbs, in the event where CONRAIL's home crane is out of service, uh, uh, what is the alternative to uh, providing equipment to clean up the eh, a derailment?

A. Well, if in case we have our homes down, we don't rent an outside concern homes in equivalent to what we have or better. Then we must call a wreck, a 250 ton vary with crew out at each and every derailment, which is very timely and very costly.

Q. Then, in other words, if the derailment only involved one car, and our homes crane is out of service it would require us to uh, send the uh, whole wreck train out to the site of the derailment. Would that be correct?

A. Yes sir, it would.

Q. And, what is the normal work crew of a, this wreck train?

A. Well if I recall you got a wreck master and nine men, MMV and then you would have to order a wreck train crew which I think consists of four men and they would be gone during the duration of the derailment.

Q. So in other words, the cost of handling a re-railing of one car would be quite right, would it not?

A. Yes sir. Yes sir.

Q. Eh, is that the main reason why we use a homes crane or the off-track piece of equipment rather than send the whole wreck train out?

A. Yes sir, with the agreements, with the wreck train agreements we can use our homes or uh, an outside homes crane, as long as we supply the ground forces as it was, your hook-up, your block men and this is the reason we do it. It's set up an agreement, it's time saving and money saving. That's my own opinion. For the time saving definitely because we get there and hook-up into the yard, it's just the time is you know, time is of the essence really. That's eh, really the main thing.

Q. What would you say would the, would be the main objection of the personnel at Conway to using the outside equipment?

A. Well, it's my own opinion. Mine and mine only. Eh, my feeling is that they do want the wreck train, full crew on each and every derailment that the homes cannot handle or if the homes is out of service. This is my opinion and I think this is what you are basically after. They want the wreck train to go to each and every derailment no matter how small or how big.

Q. Whether or not it's required?

A. Eh, yes sir, that's true.

Q. Mr. Dubbs, do you have any knowledge of Penn Erection employees appearing at derailments, not performing any services and where our people, CONRAIL people, do the entire cleanup work? Uh, in other words, have you ever observe this happening?

A. Eh, yes sir, I have.

Q. And what would be the reasoning behind that?

A. Well the reasoning behind, as stated in the union rules and regulations, concerning wrecking, when outside equipment is called, ordered and on the job, they are to supply an operator and their people being necessary to protect their equipment. Oilers, riggers, so forth. Now, the actual wrecking and hookup work, chain work, cable and so forth, is CONRAIL work and while the CONRAIL work is being done by our people, the Penn Erection has their crane rigged and naturally, they have nothing to do until the work, hookup and (inaudible) is required.

Q. I see, so there are occasions by uh, by agreement and by the type of work being performed that Penn Erection people could be standing by and awaiting the next step uh, from our people?

A. Yes sir, yes sir. In other words setting up for the crane. There main job is to rig and protect the crane.

Q. Mr. Dubbs, on January 21, 1977 a derailment occurred at Vanport, Pennsylvania. Did you uh, go to this derailment?

A. Yes I did.

Q And would you tell us approximately what time you arrived at the derailment?

A. Oh, it was late evening. I can't tell you the exact time. I would say eight, eight-thirty, something like that. I was a little late getting there and...

Q. And, would you describe the situation for us at the time you arrived?

A. Eh, the best I remember I know we had a couple box cars on their sides, a gondola on their side with pipe, loaded with pipe, a wreck train was ordered and if I remember right, the (inaudible) director ordered Penn Erection

Q. And, at the time you arrive[illegible] was the wreck train on the site?

A. No, it got there shortly after I got there it pulled up and back into it with the (inaudible).

Q. And was Penn Erection at the derailment when you arrived?

A. Uh, no sir, it wasn't.

Q. Do you recall approximately when they arrived?

A. No, I think it was around midnight. They had, uh I remember around two or three miles to come via railroad to get on, off route 60 there, at 84 lumber then they come down the road

on the rail but I think it was around midnight, would be about right.

Q. And what type of equipment did Penn Erection send to the derailment?

A. Well, they had the 100 ton homes come down to the derailment (inaudible).

Q. And did they have any other pieces of equipment at the site?

A. They, I understand not at the site because the equipment was inaccessible to the site but I understand and I saw the side winders. They were ordered but they could not and did not come down the derailment. But they were in the area In other words they were ordered and they showed up in the area.

Q. Now when you say side winders you are talking about...

A. It's dozers with the side lines, yes.

Q. I see. And who did you say ordered the Penn Erection equipment?

A. This would be the Movement director when the wreck occurred they called in and naturally they ordered everything. That's the wreck train and whatever, through the superintendent.

Q. So they would accept their orders or instructions to order the Penn Erection equipment from the superintendent?

A. That's been the procedure yes. The wreck, the movement director would order what they seen necessary and when the MMV which in my case would be me or the general foreman at the site, gets there and need anything more than what's ordered we

would naturally give them a call and say bring this and this.

Q. But now when you arrived there uh, the ordering of Penn Erection equipment had already been done?

A. It's been done yes, sir. It was on it's way

Q. Now you say the, the homes crane of Penn Erection's home crane, did do some work at the derailment?

A. Yes, it assisted in re-railing it. There were two box cars on the westend of the derailment, West or whatever it would be.

Q. And, would you describe the terrain at the derailment site to us in relationship to the highways running through the area?

A. All right, there was no accessible roads. To your, I would say heading north or west on the derailment or railroad, on your right side going out at Conway you would have at the derailment point about a 60 or 80 foot steep embankment at the immediately to your right. On your left, immediately to your left, you had a 30 or 40 foot embankment with the Ohio River, the river's edge. So it was inaccessible to anything but an ontrack crane or wreck train.

Q. But you did see the side winders, the side lines...

A. They were, they were ordered and out on the highway. They pulled out around 60, but they could not, they could have come down the railroad if needed. The railroad ties and so forth but they didn't bring them down.

(First Interviewer)

Q. Now who made this decision Mr. Dubbs?

A. Well, that would be myself, the wreck master, Lewis at the time was there and we figured, can we handle it with the wreck train or homes and we decided yes. All we need is a homes and wreck train which was there and we handled it with the two pieces of equipment.

Q. All right, did you discuss the possibility of bringing these side (inaudible) to the site of the derailment with Mr. Lewis?

A. Not directly, no. Like I said I asked him, we got the homes here and the wreck train. Can we handle it with these two pieces of equipment. It not, we got side winders up here, well we didn't at the time, didn't think we needed them and we didn't bring them down.

Q. Was he aware that these, this other equipment was on the highway?

A. Yes, sir. I had talked to him. And he is the wreck master and I tried to find out from him basically what we would need. Can we handle it with the equipment we got on hand or do we bring the other down.

Q. Is it possible for Mr. Lewis to uh, have seen this equipment?

A. No, no. It's approximately three or four miles by a railroad, the nearest crossing to come in. And at that time, he was with the wreck train one hundred percent and it would be impossible for him to see the trucks.

Dep. L.

Q. Who was with you uh, besides Lewis?

A. Oh, I had my general foreman, Don Sayers, at the time of Conway and Allen Fisher, he was the superintendent of transportation. I am sorry, he was the superintendent at Conway. He was with us at the time.

Q. Did these two gentlemen see that equipment?

A. I would say Don Sayers saw it. I don't know about Mr Fisher but I know Don Sayers saw it with me.

Q. Now when you say you saw it, you are at the derailment site Mr. Dubbs. Did you go back down to the area where the equipment was awaiting?

A. When we put the homes crane on I went down to the crossing to make sure it come in

Q. And this area that you are talking about, the Penn Erection homes crane got on the rail, this is where the equipment was accumulated?

A. That's where we come in for unloading, etcera. And, like I said, I was there when they put the homes on the rail and shortly after that that's when the D-9 side winders come in.

Q. And Don Sayers was with you at that time?

A. Yes, yes

Q. Who gave the order to Penn Erection to remove these side rigs and return them to their home base?

A. Oh, that would be, I couldn't answer who told them but it would be definitely through the Movement director We didn't

need them and probably I would say Mr. Fisher. He would be the man that talks with the transportation one hundred percent. So if the decision was made to send them back then that decision would be through Mr. Fisher

Q. Mr. Fisher was aware that the other pieces of equipment was there?

A. As far as I know, yes, yes. Because he was directly in the ordering part of it, the unit there.

Q. Now who was the Movement Director at the time sir?

A. Oh, Bill Hoover was the Chief Director. I can't tell you who was on duty that night. They have various crews on

Q. Mm mm, mm mm, now is the Movement Director or whoever is on duty at the time, does he make the decision as to what equipment is to be ordered for a derailment?

A. Uh, as I understand when they get the first onhand report say from the conductor, the engine men who goes around and say he's got ten on their sides or whatever, then they order the, with the wreck train, they ordered maybe the (inaudible). If it's bad enough they would order automatically the side winders or whatever. And then like I say, when the mechanical men get there, the assistant mechanic or master mechanic, then we say yes, we need this, no we don't need that. And, at our option we can cancel at any time. Or reorder anything we need.

Q. In other words, the as you refer to, uh, the consift, this is on an automatic...?

A. Right, any time the mains are blocked or any big delay

it's automatic, I guess through past experience, past derailments, they order what they deem necessary. Like I said, as the mechanical man gets there he can upgrade or cancel anything that's on the move.

Q. Okay, so then it's possible that this uh, this consift as you call it, had been ordered and enroute to Vanport before you were there, in order to cancel the call, this is it?

A. Yes, sir. Yes, sir.

Q. And then after you arrived at the scene you decided that you could not use this equipment, you had no use for it, you notified Mr. Fisher that there is no way you could use the side winder, you notified Fisher?

A. Yes, sir

Q. And Fisher in turn relayed the message to?

A. I would say right through the superintendent or the Movement director, yes sir.

Q Okay, thank you.

(Second Interviewer)

Q. Mr. Dubbs, Penn Erections' invoice #1576, dated January 31, 1977 in the amount of $6,638.47 covers a Vanport derailment which occurred on January 21, 1977. Now did you approve this invoice for payment?

A. Yes, I did.

Q. Now would you examine this invoice and tell me if you now take any exceptions to the equipment that is listed on there?

A. All right, the only thing now that I see overlooked

apparently was a 75 ton crane with crew, I did not see it. Everything else on there I can eh, eh, verify was there but the 75 ton off track I did not see.

Q. So in other words, the 100 ton crane, the rigger foreman, two riggers, a number 1583 side boon, a number 2 583 side boon, a 977 cat with operator, the other two pieces of equipment also with operator, two tractor trailers with lowboys, dispatcher, two and block truck, all those pieces of equipment was there with the exception of the, and you saw, with the exception of the 75 ton crane?

A. Yes sir.

Q. And, would you say that uh, Don Sayers was also uh, aware of these pieces of equipment being there?

A. Yes sir, he was with me.

(Second Interviewer)

Q. Mr. Dubbs, was Penn Erection equipment, the 100 ton crane, at the derailment site at the conclusion of the cleanup?

A. Yes sir

Q. In other words, they did not depart until everything was in order?

A. Right, yes sir.

Q. And was the wreck train there throughout that whole time?

A. Yes sir, it was.

Q. And the crew also?

A. Yes sir.

(First interviewer)

Q. Now Mr. Dubbs, are you acquainted with the people who run the Penn Erection Company?

A. Yeah, most of them, yes sir.

Q. Are you familiar with the general manager who represents the company on most occasions?

A. Yes sir

Q. Do you know his name?

A. Uh, if it's the same guy it would be Mr. Cluck.

Q. Ed Cluck?

A. Yes sir

Q. Uh, have you ever socialized with Mr. Cluck?

A. No sir, not that I can remember.

Q. Have you ever had any occasions where you would have had dinner or lunch with Mr. Cluck or any employees from Penn Erection?

A. No sir, not that I can remember sir

Q. Have you ever obtained or received any cash or monies from Mr. Cluck or any money from Penn Erection?

A. No, no sir.

Q. Have you obtained or received any gifts of any nature from Penn Erection?

A. Uh, I think one Christmas I got one turkey and that was the extent of it I think.

Q. Uh, do you remember when or about that was?

A. Oh, it had to be probably the Christmas of 1976

Q. Have you ever uh, received any gift certificates from Penn Erection or any company that performed services for CONRAIL?

A. No sir, no sir

Q. Have you ever undertaken any trips that were sponsered or paid for by Penn Erection or any company that performed services for the railroad?

A. No sir

Q. You know any employees, do you have any knowledge of any employees that ever received cash or any money of any nature from uh...

A. Not to my knowledge sir.

Q. Do you have any knowledge of any employees that received loans of any type from this company?

A. No sir

Q. Do you have any knowledge of any employees who obtained or received gift certificates from Penn Erection?

A. No sir, not to my knowledge.

Q. Do you have any knowledge of any employees who may have undertaken trips that were sponsered or paid for by Penn Erection?

A. No sir.

Q. Do you have any knowledge whatsoever of any wrong doing or improper activities in your department?

A. No sir, not in my department that I know of.

Q. Mr. Dubbs, at any time during this interview have we suggested what your answers should be?

A. No sir

Q. Have we given you any information or facts on which your answers were based?

A. No sir

Q. Has this interview been voluntary on your part?

(Start Tape 2)

Q. Uh, Mr. Dubbs, has anyone made any threats of physical harm or cause in any manner?

A. No sir

Q. Were you treated fairly during the course of this interview?

A. Yes sir

Q. Do you have any criticism in the manner this interview has been conducted?

A. No sir

Q. If it should become necessary would you be willing to take a polygraph examination relative to your answers on these questions or any area of, under your jurisdiction?

A. Yes sir

Q. You would be willing?

A. Yes sir.

Q. Do you have any information other than we have discussed that would be useful in our investigation?

A. No, I think we covered basically what I know about. Just two incidents.

Now Mr. Dubbs, this concludes our interview today, May the 19th, the time is now 9:45 and we want to thank you for volunteering to meet with us and to taken the time out to assist us

in clearing this situation. Thank you very much.

A. You are welcome. Thank you

(End of Side A - Tape 2)

I declare that this statement is made of my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor, by any person or persons whomsoever.

I have read this statement consisting of 22 pages and I affirm to the truth and accuracy of the facts contained therein.

George R. Dubbs

Witness

Witness