

N2015.11.84

Scherer, Sandra

MASTER FILE

From: Kruse Kemp <kruisekemp@hotmail.com>
Sent: Saturday, November 28, 2015 7:39 AM
To: PSC_UtilityComment
Subject: Public Comment Submittal...

Dear PSC,

Why do you believe your more qualified than the FRA? With only three major railroads, why don't you prudently create room for a staff of inspectors if so concerned about the safety of MT? Are there things that concerning right now?

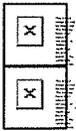
Regulating a now struggling industry will be a challenge, especially when there is little to no incentive to use MT transportation right now.

We need the state to support our businesses and encourage trade, infrastructure and development NOT take the easy road of increased regulation.

Please encourage supporting our economy.

Kruise B. Kemp

Increased Montana rail traffic boosts need for state inspection



Nov 27, 2015, 10:30 PM By ROGER KOOPMAN



Federal power grabs have been quite common in the past several decades, with the end result in most cases being sloppy policy outcomes that states are left to clean up. Too often the consequence of the federal government seizing traditional state authority is a regulatory landscape that is flat-out dangerous. Such is the case with railroad safety.

Rail safety has come back into policymakers' focus in a big way, and it is only natural that legislators, editorial boards, and others are asking who in state government is responsible for safety. The unfortunate reality is: no one. If, for example, you're concerned about the regulated speed and types of cars required to haul Bakken crude, you'll need to call the Federal Railroad Administration in Washington D.C. Congress and the courts have essentially stripped the states of all jurisdiction in these areas.

State role reduced

When analyzing rail safety programs across the United States, it's important to note that the responsibility for inspection of tracks and equipment did, at one time, reside at the state level. In fact, the Montana Public Service Commission was originally established as the Board of Railroad Commissioners, charged with enforcing both economic and safety regulations related to railroads. However, those days are long gone, and PSC legal efforts to recover lost authority have been unsuccessful.

Advertisement: Story Continues Below

With a series of laws passed by Congress, the traditional rail safety functions have been consolidated at the federal level, enforced primarily by the FRA, and the inspectors they employ across the country. The states' role is entirely "optional," and has been reduced to little more than functioning as deputies for the FRA, with almost no federal funding. In other words, the states can choose to enforce federal laws, but they must do so on their own dime.

A recent analysis conducted by the state Legislative Audit Division took the position that the state of Montana isn't enforcing federal law as much as it could in the all-important area of rail safety. The audit concluded that, with the increased transportation of oil by rail in recent years, owing, in part, to failed efforts at increased pipeline capacity, it is becoming essential that policymakers find ways to further reduce the potential for tragic accidents, a goal that the Montana Public Service Commission fully embraces.

No money for inspectors

Ironically, while the Legislative Audit Division suggests that the PSC hire more rail safety inspectors, the Legislature cut 1.5 positions out of the PSC's budget during the last legislative session.

Although some would like to claim that the PSC's lack of resources to enforce federal rail safety regulations is "passing the buck," that is simply not the case. While private rail companies like BNSF, Montana RailLink, and Union Pacific perform weekly inspections of tracks and equipment, it is important to have an independent group of inspectors to ensure the highest degree of safety possible. That is why we have participated in the federal government's optional rail safety program since 1999, employing twice as many inspectors as North Dakota, which only recently entered the program, drawing high praise for hiring their one inspector.

Make no mistake, we at the PSC are anxious to increase our role in rail safety enforcement if the Legislature sees fit to provide us with the dollars to do so. Either that, or legislators should tell us who among our amazingly dedicated staff we should terminate to make room for the new inspectors whom we currently cannot pay.

Scherer, Sandra

N2015.11.84

From: chuck hatler <gnhistory07@live.com>
Sent: Friday, January 8, 2016 12:34 PM
To: PSC_UtilityComment
Subject: Public Comment Submittal...

File A Comment

This form is for electronic public comments which pertain specifically to a pending PSC proceeding, notice of which allows for public participation through written comments. This form is not to be used for inquiries, complaints, or other general communications not specifically pertaining to such proceeding. This form is not to be used by persons who have obtained party status in a PSC proceeding. If you are a party to a pending PSC proceeding, participation by you is available as provided in the procedural order governing that proceeding.

Please Note:

The PSC has no jurisdiction over: rural electric and telephone co-operatives; cellular phone service; interstate phone service; telemarketing practices; cable TV; internet service; municipally-owned utilities; propane vendors; motor carriers (except carriers of passengers, household goods and garbage); and damage claims.

Your Name: CHARLES HATLER

Docket: Do you know the Docket Number? [Yes
 Docket Number: N2015.11.84

Case Name or Utility/Carrier Affected:
 Rail Safety

Address: []
 []
 City: []
 State: [[select state]
 Zip Code: []

Contact Information

E-mail: Gnhistory07@live.com
 Telephone #: 816-792-9620

Comment information

Subject: Rail Safety Hearing, Jan. 20
 Comments:

Thank you to the PSC for looking into the issue of Rail Safety in the great State of Montana.

As both a native Montanan and a retired (BNSF) rail manager, I bring pertinent and relevant information to you.

Your Press Release makes this particular statement of goals:
 Doing rules on local safety concerns of blocked railroad crossings in accordance with state codes.

That goal can be interpreted widely and I currently am not sure which direction the State is considering going.

However, I would like to remind you that Federal Preemption, as covered by the Interstate Commerce Clause of the United States Constitution, as interpreted by the Supreme Court of the United States, and as covered by rules and laws defined by the Congress of the United States, the Federal Railroad Administration and other federal laws, rules, and findings prohibit cities, counties and states from attempting to interfere in the regulation of the railroad industry in any manner that would interfere with Interstate Commerce.

Specifically, if the State is considering rules, regulations and laws covering the "blocking of railroad crossings for XX amount of time" then I would request that you consult with your legal counsel before going in that direction, as the state has no say in this matter.

If you should need additional information on Federal Preemption, let me know and I will point your staff in the appropriate direction.

Thank you for all that you do in your daily duties for the citizens of the state of Montana.

Charles Hatler

Ranf, Barbara A.

From: Ranf, Barbara A.
Sent: Tuesday, January 12, 2016 8:52 AM
To: 'PSC_UtilityComment@mt.gov'; Langston, Jeremiah
Subject: BNSF Railway comments to docket N2015.11.84
Attachments: BNSFcommentsPSC-N2015.11.84.pdf

RECEIVED

JAN 12 2016

MONT. P.S. COMMISSION

Attached is a PDF of comments to the Railroad Safety docket N2015.11.84 that I am submitting on behalf of BNSF Railway Company. I will hand deliver the original to your office today. We will also have BNSF representatives at the roundtable on January 20th.

Please let me know if you have questions or need any additional information.

Barbara Ranf
BNSF Railway Company
State Government Affairs - Idaho & Montana
800 North Last Chance Gulch, Suite 101
Helena, MT 59601-3351

406 443-2102 or BNSF 8-256-4047

IN THE MATTER of the Public Service

REGULATORY DIVISION

Commission's Investigation into Railroad Safety

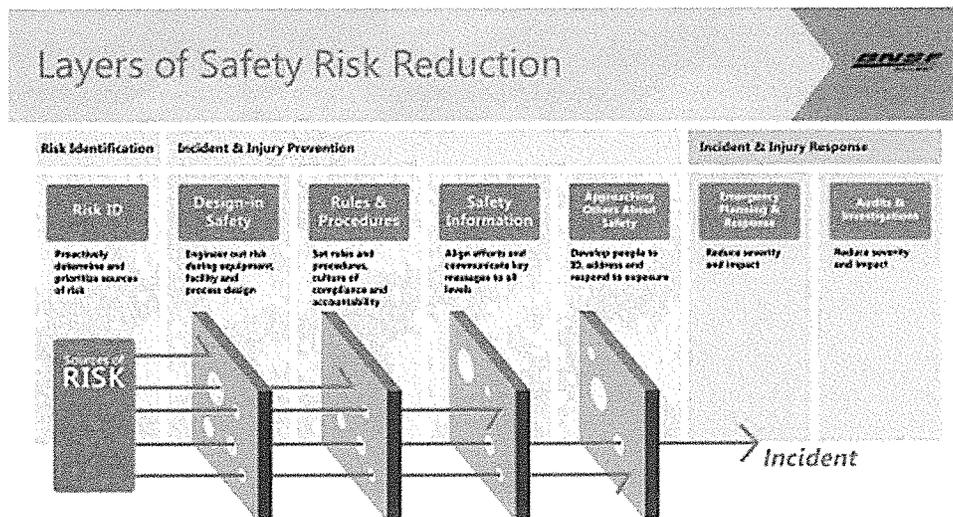
DOCKET NO. N2015.11.84

BNSF RAILROAD COMPANY COMMENTS IN THE MATTER OF THE MONTANA PUBLIC SERVICE COMMISSION'S INVESTIGATION INTO RAILROAD SAFETY

BNSF Railway Company respectfully submits the following information in response to the December 8, 2015 Notice of Roundtable and Request for Comments in Docket No. N2015.11.84. Our response provides an overview of BNSF's rail safety programs, as well as our engagement with federal, state and local entities. We ask the Commission to consider these comments as you examine potential additional state rail safety initiatives.

Rail Safety Risk Assessment

As detailed below, BNSF begins everything we do with an assessment of risk and a multi-layered system to reduce risk for our employees and the communities we serve. If the Commission determines that it will conduct a rail safety risk assessment, BNSF respectfully requests an opportunity to participate in the assessment and to provide additional information regarding ongoing efforts to improve safety.



About BNSF

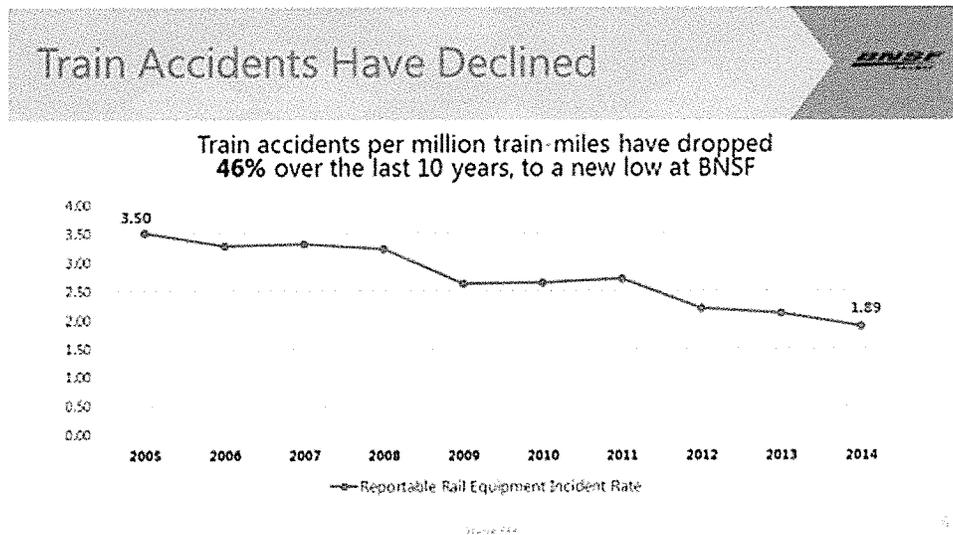
BNSF Railway has 32,500 route-miles of track in 28 states and also operates in three Canadian provinces. We employ approximately 47,000 employees who operate about 1,500 freight trains per day. Across our network, we move one-fourth of the nation's rail freight.

BNSF's Safety Vision

Safety is the primary consideration in everything we do at BNSF. As a leader in railroad safety, we recognize that a safe and secure railroad network is essential to our nation's future and important to the more than five thousand communities that we serve. Our approach to safety starts with the belief that every accident is preventable. We have a broad-based risk-reduction program for all traffic to ensure that shipments are handled safely.

Operating free of accidents and injuries has long been part of BNSF's vision; our focus has been on preventing accidents in the first place. The rail industry as a whole is also very safe and has reduced employee injury rates, train accident rates and grade-crossing collision rates by 80 percent or more since 1980. In 2014, BNSF achieved the best-ever safety results and has shown continuous improvement in safety over the past decade with all types of accidents declining 40 percent or more since 2005.

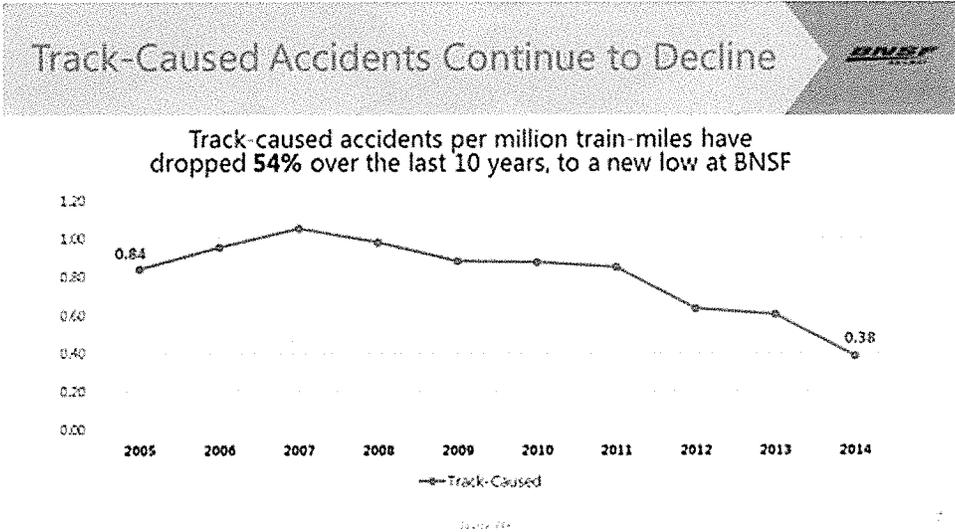
Investment in rail infrastructure, development of a Safety Culture of Commitment by all BNSF employees, and technology are all critical elements of our approach to overall risk reduction.



BNSF's Risk Reduction Program

BNSF has a broad-based, multi-level risk reduction program to reduce incident risk on our railroad. This multi-layered risk reduction program is designed to ensure that all commodities are handled in a safe and damage-free manner.

Record Capital Investments – Investment in the rail network is key to reducing risk and preventing accidents. Record capital investments are being made in the railroad to help create a safer and more reliable physical plant. During the last three years BNSF has invested more than \$450 million to maintain and expand our rail network in Montana. BNSF's more than \$50 billion in capital investments since 2000 has made our entire railroad network as reliable and durable as possible. Our capital expenditures include strategic investments in expanding track, yards, and terminals; renewing track; developing technology; and purchasing new locomotives. In 2015 alone, BNSF invested \$6 billion in support of its rail maintenance and expansion programs. Nearly 50 percent of our 2015 capital plan was spent on replacing and maintaining existing infrastructure: things like replacing and upgrading rails, ties and ballast and maintaining bridges. These substantial investments reflect our Company's strong and long-term commitment to a safe and reliable rail network.



Employee Training and Compliance – BNSF's employees share our safety vision and are provided detailed technical and rules training to help achieve that vision. BNSF uses a robust compliance oversight process, including both direct and remote operations testing, to monitor rules compliance.

Approaching Others About Safety is our largest employee safety program ever and is creating fundamental improvements in our safety culture. In thousands of conversations every day, employees are looking for ways to minimize risk and eliminate injuries for themselves and their work teams. We initiated the program three years ago, and today employees have embraced Approaching Others as integral to the way we operate the railroad. Each individual comes to work willing and empowered to approach any co-worker to recognize safe and unsafe behaviors.

The Safety Culture of Commitment at BNSF has contributed to a 40% decline in human factor-caused accidents during the last ten years and employee injury rates have declined more than 45%.

Track Infrastructure Defect Inspections – BNSF has 44 full-time track inspectors working in Montana. BNSF inspects track and bridges more frequently than required by the Federal Railroad Administration to help ensure they are safe. These inspections include routine visual inspections by track inspectors and inspections with specially equipped rail cars that use ultrasonic and other advanced technology to look for flaws in the rail and to test track geometry.

Track Inspection Programs

- Most key routes on BNSF are inspected four times per week, and for shale crude it is 2.5 times the inspection frequency required by the Federal Railroad Administration.
- BNSF's busiest main lines are inspected daily.
- Track inspections on BNSF main lines occur by hy-rail vehicle. In addition to the normal hy-rail inspections, on-foot inspections of all turn-outs on the main lines and yard tracks are required at least monthly. Supervisors are also required to make regular train rides over their assigned territories.
- Track inspectors record track conditions and update data following each inspection. The FRA has access to this data.

Bridge Inspections

- Inspections of all bridge structures are performed twice per year and are utilized to identify required maintenance and to ensure there are no major structural deficiencies. One of those inspections is also performed with the presence of a supervisor. Currently BNSF has 5 bridge inspectors covering Montana and will have 6 by the end of January.
- BNSF's bridge inspectors and engineering staff are also supported by consultants and contractors in our efforts to inspect and maintain BNSF bridges.
- Bridges that are identified as top candidates for major work or replacement as a result of those undergo an additional special inspection by a structural engineer.
- The key to the longevity of any structure is proper maintenance and repair. And railroads, such as BNSF, spend a higher percentage of revenue maintaining, replacing, and expanding its infrastructure than any other industry.

Rail Defect Inspections

- BNSF's track inspection program also utilizes state-of-the-art technology to help identify defects or problem areas that cannot be detected by the human eye.
- BNSF has made significant investments in inspection and detection technology to enhance the regular manual inspection process.

Rail Detectors

- BNSF's rail detectors use ultra-sonic rays to detect internal (and external) flaws in the rail. The frequency of inspections are determined by the tonnage moved over a given section of track, however, the main line routes across BNSF's system receive rail detector testing every 30 to 50 days on average.

Track Geometry Car

- BNSF's track geometry car measures major main line routes approximately three times a year. The track geometry car is a specially-equipped passenger car that measures the tracks' surface under load for gauge, cross-level, alignment and vertical acceleration. A computerized print out of the trackage indicates where the measured flaws exist in the track. This information is immediately communicated to field personnel to ensure that the defects are addressed.

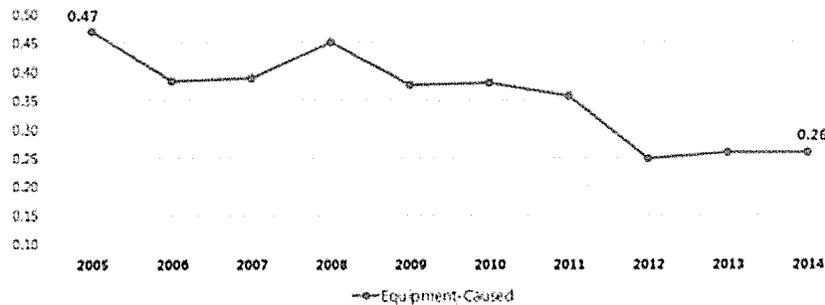
Equipment Defect Inspections – BNSF has an extensive network of detectors on our rail lines that monitor each passing railcar for stresses on the wheels or other components to help prevent equipment failures before they occur.

- Wheel Impact Load Detector - Measures forces applied to the rail to evaluate wheel surface defects. Decreasing the number of high impact wheels can help prevent derailments and also extend the useful life of rail.
- Warm Bearing Detection System - Monitors for excess heat coming from wheel bearings. Identifying internal bearing defects early prevents potential derailments and helps extend wheel life.
- Hot / Cold Wheel Detector & Technology Drive Train Inspection - Measures wheel tread temperature to identify sticking or inoperative brakes; and applied handbrakes.
- Acoustic Bearing Detector - Utilizes a microphone array to evaluate and identify internal journal bearing flaws.
- Machine Vision System - Utilizes a camera system to evaluate and identify component wear or damage of wheels, brakes, and draft gear and truck components. The early warning this technology provides enables BNSF to repair trucks before safety issues occur.
- Truck Performance Detector - Measures forces applied to the rail to evaluate each truck's ride performance. Early warning of truck performance issues enable BNSF to perform repairs before safety issues occur and extends the life of the equipment.

Equipment-Caused Accidents Have Declined



Equipment-caused accidents per million train-miles have dropped **45%** over the last 10 years at BNSF



Source: FRA records, Dec. 31, 2014

Partnering with Our Communities

BNSF works closely with state and local leaders and emergency responders across our network to ensure that communities understand how railroads operate and are prepared in the event of an accident.

- **Routing.** As a common carrier, railroads are required by law to transport hazardous materials. Railroads use a sophisticated statistical routing tool designed to determine rail routes that pose the least overall safety and security risk for the transportation of certain hazardous materials. This tool, developed by the Federal Railroad Administration (FRA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), the Transportation Security Administration (TSA) and the Federal Emergency Management Agency (FEMA) uses 27 risk factors — including hazmat volume, trip length, population density along the route, and emergency response capability to assess the safety and security of rail routes.
- **Information Sharing.** BNSF utilizes four important methods for communication of hazardous material information to local and state responders:
 - **Train Lists** - for every train that is transporting a hazardous material BNSF train crews will have a train list that provides the location of the hazardous materials in the train, the DOT hazardous materials description of those materials and emergency response information. During an emergency, BNSF train crews will make this document available to first responders.
 - **ASKRAIL** - The AskRail app is a safety tool that provides first responders immediate access to accurate, timely data about what type of hazardous materials a railcar is carrying so they can make an informed decision about how

to respond to a rail emergency. AskRail is a backup resource if information from the train conductor or train consist is not available. First responders can request this app through www.bnsf.com

- **Hazmat Traffic Flows** - BNSF provides local authorities, upon request, with a list of the hazardous materials, including crude oil, transported through their communities. Railroads also equip train dispatchers and crews with information about hazmat on individual trains and detailed emergency response information specific to those materials.
- **SECURETRAK** - Is a BNSF program that has been offered to the Montana Fusion Center that provides a graphical display near real time location of all trains in Montana that contain hazardous materials with the ability to obtain a list of the type and sequence of the hazardous materials in a train.
- **Emergency Response Training.** Each year, thousands of emergency responders and railroad and shipper employees receive specialized training through individual railroad efforts and industry programs. The Security and Emergency Response Training Center (SERTC) at the AAR's Transportation Technology Center has trained more than 50,000 transportation, emergency response, chemical, government agency and emergency response employees and contractors from all over the world to safely handle accidents involving tank cars carrying hazardous materials. Railroads also support industry partnership such as TRANSCAER® (Transportation Community Awareness and Emergency Response). TRANSCAER® is a voluntary national outreach effort that focuses on assisting communities to prepare for and respond to a possible hazardous material transportation incident. Another program is Chemtrec (Chemical Transportation Emergency Center). Chemtrec is a 24/7 resource for emergency responders that provides access to critical resources, such as chemical product, medical and toxicology experts, to assist in mitigation of incidents involving hazardous materials. Railroads train more than 20,000 emergency responders each year through their own efforts and through industry partnerships. In 2015, BNSF Railway has provided Railroad Hazardous Material Emergency Response Training to over 10,250 First Responders from communities throughout the BNSF network.
 - In the last 5 years, BNSF has provided emergency response and safety training to more than 725 Montana first responders from communities including Whitefish, Glendive, Baker, Forsyth, Miles City, Glasgow, Shelby, Great Falls, Cut Bank, East Glacier, Browning, Havre, Helena, Missoula, Laurel, Libby, Culbertson, Wolf Point, Malta, Sand Coulee, and Billings.
 - BNSF has met and discussed emergency response and safety procedures with local fire, police chiefs and community members as well as various agencies and community groups including Whitefish, Great Falls, Billings/Laurel, Miles City,

Flathead County, the Montana State Emergency Response Commission, Montana Department of Environmental Quality, the Confederated Salish & Kootenai Tribes, the Great Northern Environmental Stewardship Area (GNESA), the Flathead Basin Commission, Glacier National Park, and the United States Forest Service.

- In 2015, BNSF sponsored and/or participated in various spill exercises/boom deployments including exercises on Montana's Missouri, Yellowstone and Flathead Rivers, a three day equipment drill and table top exercise with the Montana Department of Environmental Quality, National Park Service, US Forest Service, and Flathead County DES and a two day equipment drill and table top exercise with FEMA, the Blackfeet Tribe, National Park Service, US Forest Service, US EPA and MT DES.
- **Community Response Planning.** Railroads actively participate in state emergency planning committees and state agency conferences on emergency response. They also help communities develop and evaluate their own emergency response plans. These activities include representatives from local fire and health departments, education institutions, industry organizations, transportation departments and the public.
 - BNSF and Montana Rail Link have developed and updated Geographic Response Plans to support emergency response in key Montana watersheds including the Flathead River Basin, the Kootenai River, the Yellowstone River, and Clark Fork River. These plans are developed in conjunction with key stakeholders including, where applicable, the Montana Department of Transportation, the Montana Department of Fish, Wildlife & Parks, Glacier National Park, and the United States Forest Service.
- **Equipment Availability and Staging.** Railroads invest in equipment – including foam trailers – used to train emergency response personnel and respond to accidents involving hazardous materials. This equipment is strategically located at 60 locations throughout our network to ensure that it can arrive quickly at the scene of an accident.
 - Since 2013, BNSF has purchased and staged 12 spill containment trailers at key locations along BNSF's Montana rail lines. BNSF has a fleet of 27 Fire Fighting foam trailers staged throughout our network. Since 2014, BNSF has purchased and staged 2 fire trailers which are positioned in MT. BNSF also participates in various equipment sharing cooperatives including the Northern Montana Oil Spill Coop and the Montana/Wyoming Oil Spill Cooperative.
- **Accident Response and Remediation.** In the rare case of a train accident, railroads swiftly implement their emergency response plans and work closely with first responders to help minimize casualties and property damage caused by the accident. They help provide services for any misplaced families to try to limit inconvenience and

displacement. Typically, railroads reimburse local emergency response agencies for the cost of materials expended for accident response and environmental remediation.

- BNSF has more than 250 trained hazmat responders and equipment at 60 locations on our network who are supported by a network of contract emergency and environmental responders. These responders are trained and outfitted to handle the response to small non-accident releases as well as major releases. Locations in Montana include Billings, Chester, Glendive, Great Falls, Havre, Helena, and Whitefish. We have also provided a computer-based emergency response training program on hazardous materials to every fire department within 2 miles of our rail lines.

Specific Crude Oil Safety Measures Implemented by Railroads (2014 & 2015). As part of BNSF's commitment to safety, we have always handled some commodities with extra precautions to further reduce risk. For more than two decades BNSF and the rail industry have operated specially identified "Key Trains," which carry certain hazardous materials, with more restrictive operating procedures than required by federal regulation. Key Train operating procedures and practices are ingrained into BNSF's day-to-day operations, and include lower speed limits (50 mph unless further restricted by lower speed limits on the track) and stricter rules for trackside warning device notifications and emergency brake applications.

On August 2, 2013 the FRA issued an Emergency Order and Safety Advisory regarding the movements of flammable liquids, which includes crude oil and ethanol. In addition to the measures called for in the Advisory, BNSF and the rail industry implemented a number of additional voluntary measures to reduce risk. Some of these voluntary measures were implemented in cooperation with the federal government and others were implemented as an industry or, in some cases, solely by BNSF to provide an additional layer of review to reinforce existing safety rules

Increased Track Inspections

- At least one additional internal rail inspection each year above Federal Railroad Administration (FRA) requirements on crude oil routes **Effective: March 25, 2014**
- At least two Geometry Car inspections each year on crude oil routes **Effective: March 25, 2014**
- **BNSF-SPECIFIC ACTION:** increasing rail detection testing frequencies along critical waterways (BNSF currently at 2x FRA frequency; going to 2.5x with this change) **Effective: April 1, 2015**

Increased Trackside Safety Technology

- Additional Hot Bearing Detectors (HBD) on crude oil routes (max 40 mile spacing) **Effective: July 1, 2014**
- **BNSF-SPECIFIC ACTION:** HBD spacing of 10 miles on crude routes that parallel critical waterways

- **BNSF-SPECIFIC ACTION:** Key Train stopped by HBD must set-out the indicated car
- **BNSF-SPECIFIC ACTION:** KEY trains with Level II Wheel Impact Load Detector (WILD) defect (120 – 140 Kilopound (Kips)) will be handled as a LEVEL I defect (immediate set-out). **Effective: March 25, 2015**

Rail Risk-Based Traffic Routing Technology

Use of Rail Corridor Risk Management System (RCRMS) to determine the most safe and secure routes for crude trains of 20 or more loaded cars **Effective: July 1, 2014**

Lower Speeds

- Implemented nationwide speed restriction: 50 mph for all Key Trains (20 or more cars hazmat; one car Toxic Inhalation Hazard/Poisonous Inhalation Hazard (TIH/PIH)) **Effective: July 1, 2014**
- Municipal speed restriction: 40 mph for crude oil trains with Department of Transportation (DOT-111) tank cars moving through High Threat Urban Areas (HTUA) **Effective: July 1, 2014**
- **BNSF-SPECIFIC ACTION:** 35 mph for all shale crude oil trains through municipalities of 100k or larger **Effective: March 25, 2015**

Key Train Operating Practice Restrictions

- During a ‘train meet’ a Key Train will hold the main track whenever practicable
- A Key Train experiencing an Emergency Brake application requires inspection of the entire train before proceeding

Unattended Trains

- Crude oil trains left unattended require specific job safety briefing between train crew and train dispatcher
- Locomotive Cab Securement: Key Trains left unattended have reverser removed and cab doors locked

Blocked Railroad Crossings and Crossing Safety. Trains operate 24 hours a day, seven days a week, making it hard to predict when one will be traveling through a certain crossing. We try to limit the amount of time any crossing is blocked on a mainline track. Our customers depend on our service being reliable, affordable and timely which means keeping our trains moving. Unfortunately trains sometimes experience conditions that force them to stop. Those conditions may be related to equipment, track or weather conditions. In those cases, BNSF works to correct the condition and to resume the safe movement of trains.

In recent years, BNSF has invested an average of \$95 million annually on grade-crossing maintenance, improvements and safety programs. Our initiatives include community education

and awareness, train crew education and testing, crossing closures, new safety technology, vegetation control, and track and signal inspection and maintenance.

Our capital expenditures include strategic investments in expanding track, yards, and terminals. These investments have significantly improved operations and fluidity on the BNSF network. The addition of 200 miles of double track on the network, new sidings, and extended sidings reduce the number of times and the duration that trains must stop at crossings. As of December 18, 2015, train velocity on the network was 30% better than the December 2014 average, and the number of trains held was down 70% from December 2014. Recently completed expansion projects include:

- 55 miles of double track between Glasgow, MT and Minot, ND
- New sidings at Terry, Big Horn and Yellowstone (Forsyth subdivision)
- Extended sidings at Hodges and Beaver Hill (Dickinson subdivision); Rosebud, Blatchford, and Hysham (Forsyth subdivision)
- Yard track expansions at Glendive and Forsyth

Dated this 13th day of January 2016

BNSF Railway Company

By: 

Barbara Ranf

Executive Director State Government Affairs

BNSF Railway Company

Scherer, Sandra

N2015.11.84

From: Jim Lewis <jlewis@mtrail.com>
Sent: Tuesday, January 12, 2016 9:02 AM
To: PSC_UtilityComment
Subject: Public Comment Submittal...
Attachments: Public Service Commission Investigation into Railway Safety Docket No. N2015.1.84
Montana Rail Link Public Comment.pdf

Hello,

Please find attached Montana Rail Link comments in regards to the matter of the Public Service Commissioner's investigation into Railroad Safety, docket No. N2015.1.84.

Thank you,

Jim Lewis | Chief Sales/Marketing & Information Officer
Montana Rail Link, Inc.
101 International Drive PO Box 16390 | Missoula, MT 59808
(406) 523-1400 | (406) 529-4758 cell | www.montanarail.com



IN THE MATTER of the Public Service
Commissioner's Investigation into Railroad Safety

REGULATORY DIVISION
DOCKET NO. N2015.1.84

About MRL

Based in Missoula, MT, Montana Rail Link (MRL) is a class II regional railroad that operates over 900 route miles of track in Montana and Idaho and employs nearly 1,200 dedicated professionals. MRL operates 82 locomotives, 1,100 railcars and in 2014 shipped 390,000 carloads. MRL services over 150 local Montana businesses and moves their product to domestic and international markets on a daily basis. We are committed to providing transportation services that result in long-term growth and prosperity for our company, customers and employees. We live by our values of fairness, integrity, respect, safety and trust. MRL prides ourselves on being a good neighbor in the communities we serve. As a BNSF partner, our shipments help feed, clothe, supply and power American and international homes and businesses every day.

Quick Facts

- 937 route miles from Jones Junction, near Billings, MT to Sandpoint, ID
- 1,200 employees
- Annual Payroll & Profit Sharing: \$80 Million
- Average annual wage: \$75,000
- Property Tax Paid: \$9 Million
- Number of Montana customers served: 150
- Montana goods/services purchased on annual basis: \$70 Million
- 2015 Capital budget: \$60 Million
- 2014 annual Traffic: 390,000 carloads
- 2014 average number of trains per day
- Traffic Mix:
 - 70% - industrial products, grain and intermodal
 - 29% - coal
 - less than 1% - crude

Safety Overview

Industry Trends

- From 1980 through YTD 2015, U.S. train accident rates have dropped 83%; employee injury rate fell 94% and grade crossing collision rates have dropped 86%. See exhibit A for additional information regarding industry trends.
- American railroads today have lower employee injury rates than most other major industries, including trucking, inland water transportation, airlines, agriculture, mining, manufacturing and construction. Railroads employee injury rates are even lower than food stores.

Montana Rail Link Safety Record

- MRL's injury frequency rate is currently 1.26. Per OSHA, in 2014, other industry's injury frequency rates were:
 - Private industries: 3.2
 - Natural Resources and mining: 3.8
 - Construction: 3.6
 - Manufacturing: 4.0
 - Trade, Transportation and utilities: 3.6
 - All RRs (including class I's) average = 1.79

	<u>Class I's YTD 2015</u>	<u>2014</u>
BNSF	0.95	1.00
UP	0.93	1.06
CP	3.17	2.26
CN	1.84	1.99
NS	1.05	1.22
CSX	0.82	0.98
<u>KCS</u>	<u>2.11</u>	<u>1.56</u>
Avg	1.55	1.43

Regional and Shortline RRs over 500K manhours 2014

Alaska RR	6.89
Belt RR	1.37
Consolidated Rail Corp	2.06
Florida E Coast	2.36
Indiana Harbor Belt	2.46
Paducah & Louisville	1.39
<u>Union RR</u>	<u>0.92</u>
Avg	2.49

- MRL's train accident rate through September is 1.45 accidents per million train miles (5 reportable accidents). This is a 60% decrease from 2014. The Federal Railroad Administration (FRA) accident reporting threshold is \$10,500.
- Average train accident rate for other Class II railroads with over 1M train-miles during the same period, was 8.56 per million ton miles.
- See exhibit B for additional information regarding Montana Rail Link trends for train accidents and injury rates.

MRL Safety Program

- All Employees receive new hire safety training including classroom and on-the-job training
- All operating employees must pass rules exams and efficiency testing
- Operating employees are recertified every 2 years (FRA regulations call for every 3 years)
- Each shift begins with a job briefing and safety meeting that includes the 'safety rule of the day'
- Additional job briefings are held throughout the day
- Safety Committees – employee committees that meet monthly
- Operating, maintenance and mechanical employees are subject to observed and unobserved testing
- Safety Report Card: Every week our injury and accident rates are distributed to all employees

Virtually every aspect of rail operations is subject to oversight by the FRA. MRL is subject to stringent FRA regulation regarding track and equipment inspections; employee certification; operating speeds and signal systems. FRA safety inspectors travel our network evaluating rail facilities and operations. Railroads are also subject to safety oversight by a number of other federal agencies; including the Occupational Safety & Health Administration (OSHA), the Pipeline & Hazardous Materials Safety Administration (PHMSA) and the department of Homeland Security (DHS).

First Responder Training

MRL is committed to the safety of our employees, the general public and our customers. We work closely with state and local leaders and emergency responders across our network to ensure that communities understand how we operate and are prepared in the event of an incident. MRL provides community based first responder training free of charge. In 2014, MRL trained 408 first responders in communities across our network and in 2015 have trained an additional 226.

MRL has completed geographic response planning (GRP) for the Clark Fork watershed, the longest waterway adjacent to MRL right-of-way, that includes 256 miles.

Track reinvestment, maintenance and inspection

- Reinvestment: Since 1987, MRL has invested over \$1 Billion in maintenance, upgrades and equipment.
- Track inspections
 - 10 Assistant Road Masters whose primary function is to inspect track
 - Mainline track inspected minimum of twice per week
 - Increased inspections in cases of extreme cold (below 0 or above 90) or heat or unusual conditions
- Geometry car: Two or three times per year, voluntary
- Rail Detector: 5 times per year (3 times or less required by FRA)
- Wayside Detectors: 28 total detectors including; wheel impact, hot wheel, wide load and dragging equipment.

Equipment Inspection and maintenance

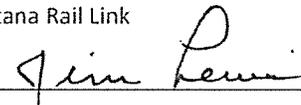
- Locomotives undergo daily, quarterly, annual and tri-annual inspections and maintenance
- Railcars are required to be visually inspected upon departure from yard
- Railcars are required to be inspected at 1,000 or 1,500 mile intervals per FRA regulations
- Regulated by FRA and AAR

Crude Shipments

- Through November 2015, MRL transported 40 loaded crude trains, which is less than 1% of our total train volume.
- MRL continues to implement new operating rules issued by the Department of Transportation (DOT) and the FRA, including an August 2013 Emergency Order and Safety Advisory and a May 2014 Emergency Order
- Railroad carriers operating trains transporting 1,000,000 gallons or more of Bakken crude oil must report certain information to each State Emergency Response Commission (SERC), including:
 - Provide a reasonable estimate of the number of trains implicated by this Order that are expected to travel per week through each county within the state
 - Identify and describe the petroleum crude oil expected to be transported
 - Provide all applicable emergency response information
 - Identify the routes over which the material will be transported
- In addition, MRL has adopted 18 voluntary measures, some of which include:
 - Notify train crews when they will meet a designated gas train or loaded unit crude oil train.
 - Designated gas or loaded unit crude oil trains will hold the main track, if a main track is available.
 - When trains meet a designated gas or loaded unit crude oil train, one train must be fully in the clear and stopped and the other must pass at restricted speed
 - Perform extra mechanical inspection on loaded crude oil trains in Missoula
 - Designated gas or crude oil trains are never parked unattended on-line
 - Reduce maximum speed from 50 MPH to 40 MPH when it is determined that ambient temperature is at or above 90 degrees or at or below 0 degrees
 - When it is determined that the temperature is at or below 10 degrees, crude oil trains will be operated over mountain passes only during daylight hours
 - Operate all MRL trains with no fewer than two qualified transportation craft positions (i.e. qualified locomotive engineers)

Dated this 12th day of January 2016

Montana Rail Link

By: 

Jim Lewis

Chief Sales/Marketing & Information Officer

Exhibit A – U.S. Railroad Safety Trends

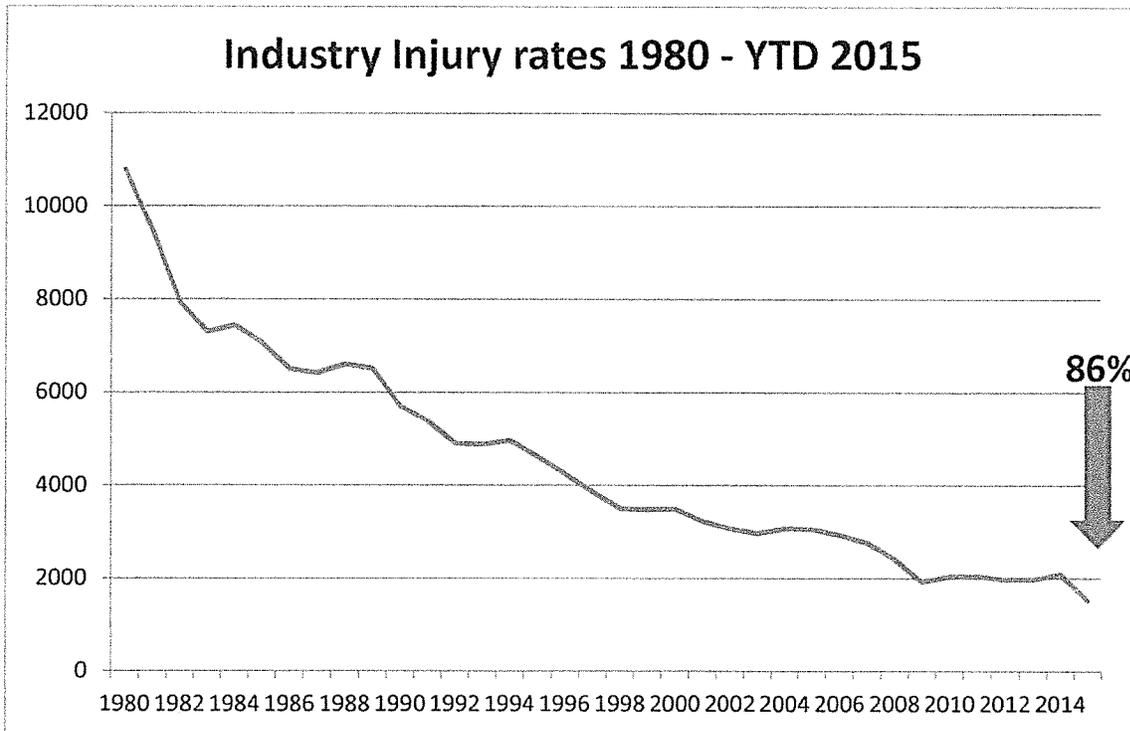
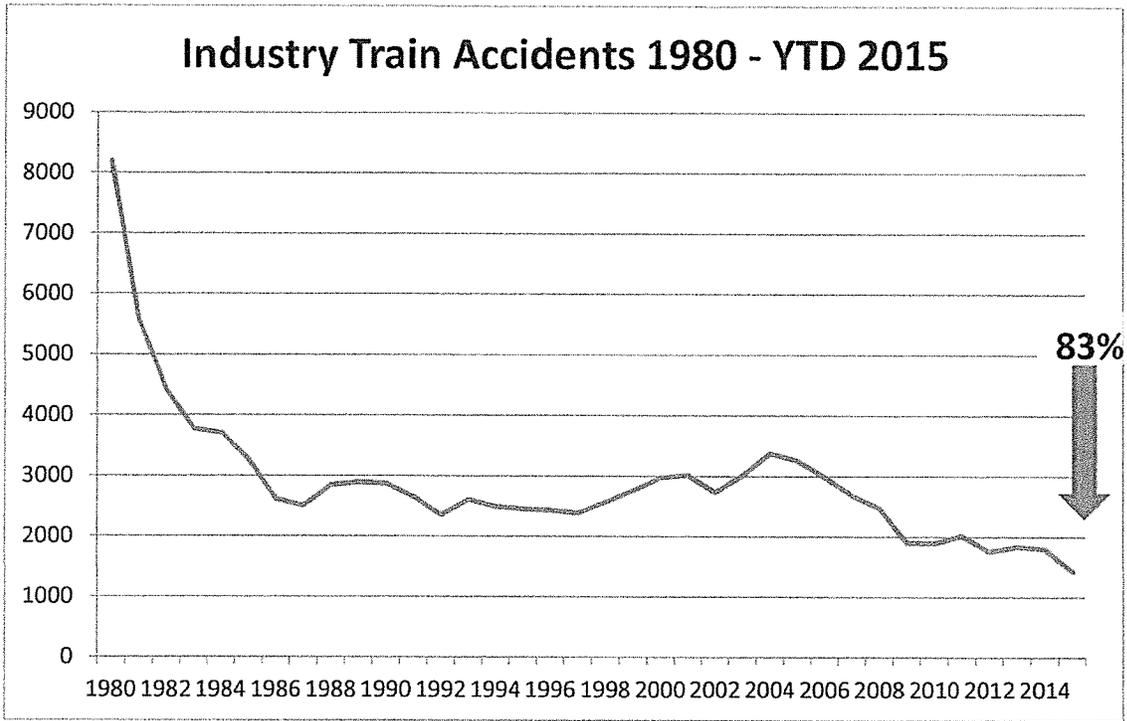
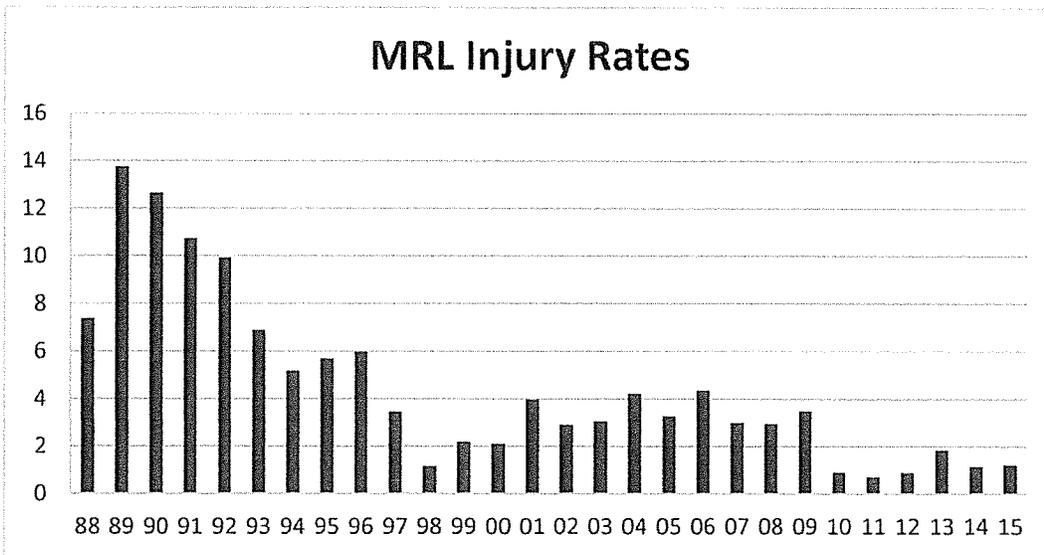
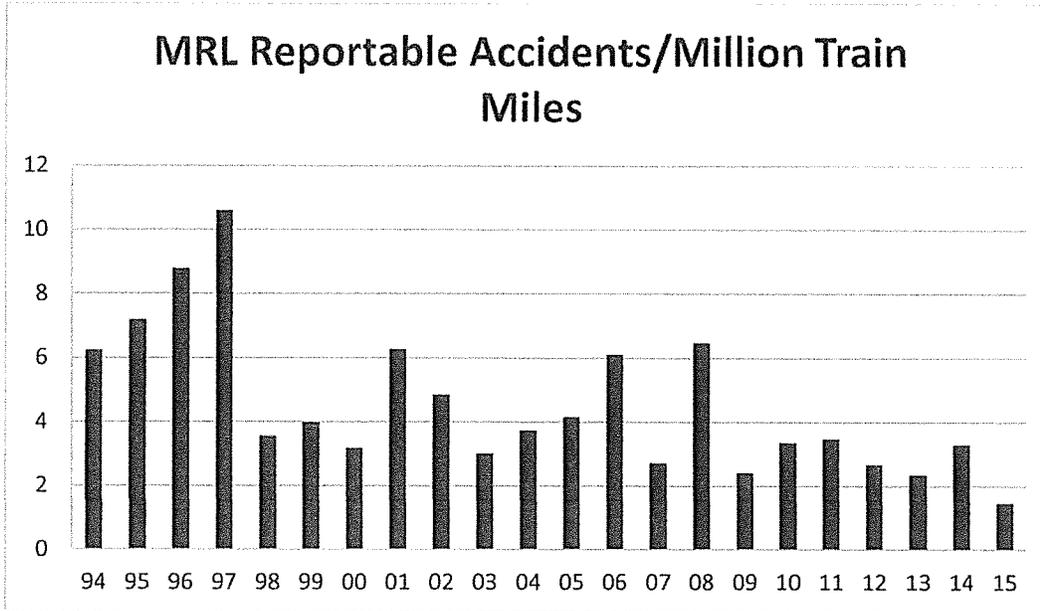


Exhibit B – Montana Rail Link Safety Trends



Scherer, Sandra

From: mary catherine dunphy <mcdunphy04@hotmail.com>
Sent: Friday, January 15, 2016 3:21 PM
To: PSC_UtilityComment
Subject: Railroad Safety Issues in Miles City, Montana

January 15, 2016

Dear Public Service Commissioners:

Last July, 2015, the Burlington Northern Santa Fe Railroad Company (BNSF) decided to increase train speeds through Miles City to 60 mph. The local high school is within 100 yards of the railroad bridge on Main Street. This is a very dangerous situation. A BNSF train going 28 mph derailed in Miles City at the 10th Street crossing in 2005, which is within 100 yards of the Miles City Emergency Operating Center and the Custer County Courthouse. Fortunately, at that time there were no injuries primarily because only coal cars were involved. A BNSF representative was quoted in one of the Montana newspapers saying "we dodged at bullet." However, it would have been a very different story if oil tankers were involved in that incident.

There have been 10 oil train explosions in 2014 and 2015 -- many involving upgraded oil tank cars. New tank oil rail cars rupture at 12 mph. "Safer" DOT 117 oil tank cars are only puncture proof at speeds up to 12 mph.

So, far attempts to get the trains slowed down have been unsuccessful. Senator Tester wrote BNSF expressing concern and their response was that the tracks have been upgraded and meet legal requirements. But trains derail for many reasons. By the way, Senator Tester received a \$35,000 campaign contribution from the railroads in 2012; Senator Daines got \$25,000 from BNSF and Congressman Daines got \$17,000. (Source: Opensecrets.org)

I'm told that the nearest BNSF rail disaster response team is located in Havre, Montana and is 6 hours away from Miles City.

I think BNSF should place a rail disaster response team in Miles City. It may be expensive but since the railroads have money to spend on political contributions, they also should have the money to ensure the safety of citizens of rural communities. The Miles City Fire Department would not be able to handle a disaster of the magnitude of exploding oil tanker rail cars. It would be a major catastrophe in Miles City. I know the new head of the Federal Railroad Administration has expressing concerns about this issue as it affects many communities around the United States.

The trains are required to slow in communities of 100,000 or more people. However, the citizens of rural Montana are not being afforded the same safety protections that citizens of larger communities are being shown. This is not equal protection under the law.

In 2014 rail and pipeline safety legislation was passed by the Minnesota Legislature and signed by Gov. Mark Dayton. The new law includes increased oversight of railroad companies, requires more railway inspections and provides for better emergency response training and preparedness in communities across Minnesota. Perhaps Montana could do something similar. Here is a link to the new law in Minnesota:

2 3
<https://dps.mn.gov/divisions/hsem/planning-preparedness/Documents/minnesota-rail-safety-pipeline-safety-fact-sheet.pdf>

MINNESOTA DEPARTMENT OF PUBLIC SAFETY Minnesota Rail and ...

dps.mn.gov

MINNESOTA DEPARTMENT OF PUBLIC SAFETY Minnesota Rail and Pipeline Safety Regulations Rail and pipeline safety legislation was passed by the Minnesota Legislature and ...

I sincerely hope the Public Service Commission in Montana will be able to do something to ensure the safety of those Montanans who live near rail lines -- especially the people in rural communities.

Thank you for your attention to this important safety concern.

Mary Catherine Dunphy
P.O. Box 292
Miles City, MT 59301
Phone: 406-853-4550

MASTER FILE

N2015.11.84

Scherer, Sandra

From: Deborah Hanson <hans_deb@hotmail.com>
Sent: Friday, January 15, 2016 5:01 PM
To: PSC_UtilityComment
Subject: Public Comment Submittal re: Railroad Safety Roundtable

I am a resident of Miles City. My husband and I reside two short blocks from the railroad tracks as they go through the City and downtown. There was a derailment in 2005 of a coal train at the crossing 2 blocks from our house on 10th Street. Right now, BNSF has replaced track and maintains its right to travel at 60 mph when it deems it can right through the center of our town. This seems most unsafe to those of us that experience this everyday.

We are most interested in the state assessing and improving our rail safety in this state.

With the increase in rail traffic due to the Bakken oil plus the coal, freight, and commodity trains, we need to gather information on the number of trains, the types of cargo, the risk assessment of the various cargos, the risk to our many communities in Montana through which the trains travel.

The state of Minnesota Dept. of Public Safety has been implementing plans to oversee railroad companies, require more railway inspections and providing for better emergency response training and preparedness in communities across the state. This is a great tool for the PSC to use in its deliberations.

Most importantly, more inspections of track/rail operations and a serious discussion of Emergency Response plans and training for all the communities affected plus an assessment on the railroad companies to fund emergency response should be discussed. Right now, our town does not have the manpower, the equipment to deal with a real rail disaster, especially a Bakken oil train derailment/explosion. We are told the nearest Emergency Response team is in Havre. Not an option.

I wish I could attend but request that the above be given a high priority.

Sincerely,

Deborah Hanson
1002 Pleasant
Miles City, MT 59301
406/232-2134

MASTER FILE



DB KENNER
Chairman

Brotherhood of Locomotive Engineers and Trainmen
Montana State Legislative Board

A Division of The Rail Conference – International Brotherhood of Teamsters

PO Box 522, Forsyth, Montana 59327
Phone: 406-351-1943 Email: kennerdb@yahoo.com

RECEIVED

JAN 19 2016

MONT. P.S. COMMISSION

January 12, 2016

Public Service Commission
PO Box 202601
Helena, MT 59620

RE: Docket No. N2015.11.84

Dear Commission Members

This is in response to your letter dated December 8, 2015 regarding the investigative docket concerning railroad safety. Thank you for including this office in your endeavors regarding railroad safety. Until we have more information about what the commission's intentions are with the listed proposals we do not feel that we can submit any specific written comments at this time. We would like to make the commission aware that since we represent the crew members that operate the locomotives and trains in the state of Montana, we request that we be included on any committees that are established regarding railroad safety. As operating crew members we are always the first on the scene of any incident involving a train. We look forward to attending the roundtable discussion.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Kenner', written over a horizontal line.

Daniel B Kenner
Chairman

RECEIVED

JAN 19 2016

MONT. P.S. COMMISSION

January 15, 2016

By U.S. Mail CMRRR #7014 2120 0001 0438 3695 & Electronic FilingEric Sell, Communications Director
Montana Public Service Commission
PO Box 20260
Helena, MT 59620Re: *Docket No. N2015.11.84: Montana PSC Evaluation of Railroad Safety Program*

Dear Mr. Sell,

Union Pacific Railroad Company (“Union Pacific”),¹ submits the following comments in response to the Montana Public Service Commission’s (“MPSC’s”) request for comments regarding railroad safety programs in Montana. Safety is Union Pacific’s top priority, and Union Pacific supports MPSC’s goals to ensure safe and secure transportation by rail. Union Pacific encourages MPSC to take steps to develop and improve a rail safety plan for Montana and to ensure that emergency responders are trained to respond effectively to rail accidents. However, Union Pacific cautions MPSC against taking actions that would conflict with federal law. In particular, Union Pacific believes that MPSC should not attempt to regulate blocked crossings, which, as Union Pacific will discuss below, is an area of regulation that is within the purview of the federal government.

Union Pacific’s First Priority is Safety

Union Pacific’s goal has always been to ensure that all materials—including hazardous materials—arrive at their destination without incident. Indeed, shipping crude oil and other hazardous materials by rail is extremely safe, with shipments delivered without incident 99.997% of the time. That safety record is a testament to Union Pacific’s deep commitment to safety improvements and innovation, which includes voluntary safety measures, first responder training, and state-of-the-art community outreach programs.

¹ Union Pacific is one of America’s leading transportation companies, linking twenty-three states in the western two-thirds of the country and serving the fastest-growing U.S. population centers. Union Pacific provides competitive routes from all major West Coast and Gulf Coast ports to eastern gateways. Union Pacific also connects with Canada’s rail systems and is the only railroad serving all six major gateways to Mexico. Union Pacific’s diverse business mix includes Agricultural Products, Automotive, Chemicals, Coal, Industrial Products and Intermodal. This business diversity allows Union Pacific to serve customers in new and growing markets.



Voluntary Safety Measures: In 2015, Union Pacific and other major railroads voluntarily committed to and implemented the following actions regarding trains with twenty or more cars of crude oil:

- Using the same routing tools that are used to identify secure routing for toxic-by-inhalation commodities to these crude oil trains;
- Reducing the speed of these trains to 40 mph through High Threat Urban Areas (“HTUAs”);
- Equipping these trains with distributed power (“DP”) or two-way End Of Train (“EOT”) devices that improve train control and braking speed;
- Increasing track inspections and installing wayside detectors on routes used by these trains;
- Reinforcing its Emergency Response Resource Inventory by developing, providing, and funding emergency response training for all interested first responders; and
- Working with affected communities as requested.

First Responder Training: Union Pacific is also committed to assuring that first responders have the information and training needed to respond to any incident, no matter how unlikely. Since 2003, Union Pacific has trained about 38,000 public responders and 7,500 private responders. This year, we are giving 1,500 first-responders specialized crude oil training, and are providing hazardous materials training to thousands of first-responders annually. Our emergency preparedness initiatives extend beyond just training. For example, Union Pacific maintains a 24-hour emergency hotline (1-888-UPRR-COP) so that communities can quickly communicate with us in the event of a derailment or hazardous materials release.

Providing Security Sensitive Commodity Flow Information to Local Authorities: Furthermore, as described in AAR Circular OT-55-N, the industry will assist in implementing TRANSCAER®, a system-wide community outreach program to improve community awareness, emergency planning and incident response for the transportation of hazardous materials. As part of that program, upon written request, Union Pacific provides bona fide emergency response agencies or planning groups with specific commodity flow information covering at a minimum the top twenty-five hazardous commodities transported through the community. To access this commercially and security sensitive information, local authorities must agree to restrict the information only to bona fide emergency response planning and response organizations.

Union Pacific Encourages the MPSC to Take Steps to Improve Rail Safety in Montana

Union Pacific supports the Legislative Auditor’s recommendations that the MPSC conduct rail safety risk assessments and that it actively engage with emergency services across the state to ensure that Montana has an effective rail safety program. In particular, Union Pacific encourages

MPSC to take steps to improve emergency response capabilities and to train first responders to respond effectively to rail incidents.

As described above, Union Pacific is committed to providing first responders with the training necessary to respond effectively to derailments.² Emergency response training benefits the responders themselves and the communities they serve by ensuring that, in the unlikely event of an incident, those who are first on the scene have the tools to assess and address the situation effectively. For example, Union Pacific recently hosted a three-day training at the Association of American Railroad's Transportation Technology Center near Pueblo, Colorado on crude-by-rail emergency response. Emergency response personnel from 17 different states were in attendance. Class members participated in a simulated crude oil fire, which helped students understand how the railroad would work with them in an emergency, and how to work safely while on railroad property. These trainings provide attendees with hands-on experience in assessing tank car damage, making certain on-site repairs, controlling the release of crude oil from damaged rail cars, and crude oil fire suppression techniques. Union Pacific paid for all attendee's expenses, with no cost to communities or organization. Union Pacific would welcome the opportunity to work with MPSC to provide emergency response training to emergency responders in Montana.

Federal Law Preempts Most State Regulation of Blocked Crossings

In its letter to the Legislative Auditor, MPSC notes that two federal statutes, the Federal Railroad Safety Act of 1970 ("FRSA") and the Interstate Commerce Commission Termination Act of 1995 ("ICCTA") prescribe vast federal responsibility for railroad regulation. MPSC is correct. Congress' assertion of federal authority over the railroad industry has been recognized as "among the most pervasive and comprehensive of federal regulatory schemes." *Chicago & Nw. Transp. Co. v. Kalo Brick & Tile Co.*, 450 U.S. 311, 318 (1981). State regulations that conflict with this comprehensive federal regulatory scheme are preempted by federal law. In particular, states' attempts to regulate blocked crossings have repeatedly been found to be preempted by both FRSA and ICCTA. Union Pacific offers the following background information to assist MPSC to understand the limitations imposed upon state action in the area of blocked crossings.

FRSA: In FRSA, Congress directed that "[l]aws, regulations, and orders related to railroad safety and laws, regulations, and orders related to railroad security shall be nationally uniform to the extent practicable." 49 U.S.C. § 20106(a)(1). To accomplish that objective, Congress provided that a State may no longer "adopt or continue in force a law, regulation, or order related to railroad safety" once the "Secretary of Transportation . . . prescribes a regulation or issues an order covering the subject matter of the State requirement." *Id.* § 20106(a)(2).³ In practice this

² Union Pacific also offers safety briefings to organizations and communities on various issues upon request. See, e.g., http://www.up.com/aboutup/community/safety/presentation_request/index.htm.

³ The statute provides an exception for requirements "necessary to eliminate or reduce an essentially local safety or security hazard," 49 U.S.C. § 20106(a)(2)(A), but the risk of a spill in Montana "is not one that is fundamentally different from those of other locales" and therefore does not come within the exception. See *Union Pacific R.R. v. Cal. Pub. Util. Comm'n*, 346 F.3d 851, 862 (9th Cir. 2003).

means that once the federal government has enacted railroad safety regulations on a particular topic, states are prohibited from regulating in that area. Courts have found that various state efforts to impose regulations on railroad blocked crossings are preempted by FRSA. *See Village of Mundelein v. Wisc. Cent. R.R.*, 882 N.E.2d 544, 553 (Ill. 2008) (federal regulations “substantially subsume[] the subject matter of movement of trains at grade crossings”); *see also CSX Transp., Inc. v. City of Plymouth*, 283 F.3d 812, 817 (6th Cir. 2002); *CSX Transp., Inc. v. City of Mitchell*, 105 F.Supp.2d 949, 952 (S.D. Ind. 1999); *Krentz v. Consolidated Rail Corp.*, 910 A.2d 20, 35-36 (Pa. 2006); *City of Seattle v. Burlington N. R.R.*, 41 P.3d 1169, 1175 (Wash. 2002).

ICCTA: Congress conferred exclusive jurisdiction over licensing and economic regulation of interstate railroad operations on the Surface Transportation Board (“STB”). The express preemption clause in ICCTA declares that the STB’s jurisdiction over transportation by rail carriers “is exclusive.” 49 U.S.C. § 10501(b). The purpose of this preemption provision is to protect the railroad industry from a patchwork of state regulations that would subject a railroad to a different set of rules every time it crossed a state line. *See CSX Transp., Inc.—Pet. for Declaratory Order*, 2005 WL 584026, at *9 (STB served Mar. 14, 2005). The federal courts have repeatedly recognized that these provisions broadly preempt state laws regulating transportation operations. *See, e.g., City of Auburn v. United States*, 154 F.3d 1025, 1031 (9th Cir. 1998) (describing language of § 10521(b)(2) as “broad” and giving Board “exclusive jurisdiction over . . . operation . . . of rail lines”); *CSX Transp., Inc. v. Ga. Pub. Serv. Comm’n*, 944 F.Supp. 1573, 1581 (N.D. Ga. 1996) (“It is difficult to imagine a broader statement of Congress’s intent to preempt state regulatory authority over railroad operations.”). ICCTA’s preemptive effect extends to state laws regulating how long trains may block highway/rail grade crossings. *See Friberg v. Kansas City So. Ry.*, 267 F.3d 439, 444 (5th Cir. 2001) (holding that Texas Anti-Blocking Statute was preempted because it affected operating decisions “such as those pertaining to train length, speed, or scheduling”); *Maynard v. CSX Transp., Inc.*, 360 F. Supp. 2d 836, 842 (E.D. Ky. 2004) (holding that ICCTA preempted nuisance claim that railroad operated side track in a way that unreasonably blocked access to plaintiffs’ property).

The reach of federal regulation in this area is broad and prohibits states and localities from infringing upon the movement of trains through at-grade crossings. MPSC was correct when it cautioned the Legislative Auditor that federal regulation of the rail industry was expansive. Union Pacific urges the MPSC not to exceed the limits of its authority by regulating blocked crossings.

Conclusion

Union Pacific is committed to ensuring the safe transport of all commodities across its network and welcomes the opportunity to work collaboratively with MPSC to assure that Montana first responders and local communities have the information they need to respond to any rail incident.

Mr. Eric Sell
January 15, 2016
Page 5 of 5

We urge MPSC to tread carefully around the issue of blocked crossing regulation, recognizing the strong federal laws that preempt most state efforts to regulate railroad crossings across the country. We appreciate the opportunity to comment on the issues raised by the MPSC in anticipation of its evaluation of Montana's rail safety program.

Regards,

UNION PACIFIC RAILROAD COMPANY

A handwritten signature in cursive script that reads "Melissa B. Hagan". The signature is written in black ink and is positioned above the printed name.

Melissa B. Hagan

cc: Nathan Anderson

1-20-16
PSC Rail Safety Hearing

My name is Cate Campbell. I live near Missoula, Montana and am a retired railroad brakeman.

There exists an interesting relationship between waterways and railroads. They both occupy the landscape's valleys. Waterways are there because of physics and rail lines because of economics. This inevitable pairing has built-in pitfalls when it comes to rail shipments of hazardous materials. The proposed route for more oil trains across Montana puts our prized rivers and riparian zones in the cross hairs of a serious train derailment.

Consider an overlooked hazard in these shipments: worn and broken rails. Defective rails have caused numerous wrecks, some of which include explosive materials like Bakken oil. In July of 2015, near Culbertson, MT, 22 cars of a 106-car BNSF train derailed spilling 35,000 gallons of oil. In the last 2 years, of 31 crashes involving crude or ethanol, 17 resulted from track problems.

I worked as a brakeman for Burlington Northern Railroad for 16 years in the 70s and 80s when there was less rail traffic and no exploding trains. Rail integrity was inspected regularly. But the sheer number and tonnage of trains has exceeded the ability of inspectors to catch hairline fractures and widening gauges. "Wide gauge" is the single largest cause of accidents involving track defects. In the case of the Pennsylvania derailment, it was broken spikes that caused the rail to widen, even though the track had been replaced in 2012, according to Federal Railroad Administration officials.

Railhead is perhaps the highest stressed civil infrastructure due to the passage of heavily loaded wheels across a very small contact area. The stresses at the 'contact patch' cause yielding of the railhead steel in the form of detail fractures, chipping, and vertical splits.

"Petroleum crude oil unit trains transporting heavily loaded tank cars will tend to impart higher than usual forces to the track infrastructure during their operation," the railroad safety board said in a report this year. "These higher forces expose any weaknesses that may be present in the track structure, making the track more susceptible to failure." As temperatures drop, steel rails progressively shrink, amplifying the potential for any existing defect to cause a failure, FRA safety experts said in interviews. Frozen ballast, the crushed rock that forms the rail bed, also causes rail to suffer greater shocks under the load of heavy trains.

Rick Inclima, safety director at the Brotherhood of Maintenance of Way Employees, said that oil trains could be creating unique stresses on the track. "You can certainly get some rhythmic forces in oil trains that you might not see on a mixed freight train with cars of different sizes, weights and commodities," he said.

Federal focus on oil shipment safety has included upgrading tank car integrity and lowering speeds. But broken rail accounts for 1/3 of all rail accidents, for example, the Mount Carbon, WV, CSX derailment spilling 378,000 gallons of crude oil. At that time the Federal Railroad Administration's chief, Sarah Feinberg, said, "What this broken rail incident shows us is that we need to insert ourselves and put some pretty high standards in place. It's important to remind folks that the rail and track issues are important too. We have a zero-tolerance policy on crude routes because the stakes are so high for the communities that live along those tracks." She went on to say, "We try to look at absolutely every place where we can affect and improve safety. Track is generally the place that we're focusing at the moment and it's clearly overdue. Rail head wear is one place in particular that we feel needs to be addressed as soon as possible." But according to the director of safety for the union that represents track inspectors, "there was certainly a lot of pushback and a lot of political pressure put on the FRA not to adopt regulations for rail wear."

P.O. Box 16962
Missoula, MT
59808

frogburg.cate@gmail.com