Wisconsin Central Group
An ad hoc Rail Freight Stakeholders Coalition
www.centralcorridors.com/wcg/

Lake States Shippers Association
A Classic Co-op Shippers Association
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A Comprehensive Update, Rail Projects Progress – Spring 2020

There have been significant developments, and we have made substantial progress since the LSSA Data Co-op Committee meeting at Titletown Green Bay on January 21, 2020.

Please review the following list of topics, the introduction and the updates and comments that follow. The "Topics" list provides links to the "Updates and Comments" below"

Topics:

1. CN Line Sales and Development of WisDOT's Response Assessment.
2. WI FRIIP-Intermodal Grant Awards, March 27, 2020 – Overall Project Objectives.
3. WI FRIIP-Intermodal I-90/94, Hwy 8 and Connecting Rail Line Corridors.
4. WI FRIIP-Intermodal Hwy 41/141 and Connecting Rail Line Corridors.
5. A Third WI FRIIP-Intermodal Grant – Railcars & Shorter/Short-Haul Intermodal?
6. Michigan, Minnesota, Wisconsin Coordination – Why Is this Important?
7. Minnesota DOT Has Expressed Interest and Potentially More.
8. Actionable Shipper Data – Potential New, Expanded Means of Sourcing ASD?
9. LSSA/MITech Data Co-op Project – Final Report, Potential Ongoing Utility?
10. LSSA/WCGroup – Potential Emerging Roles?

Introduction – Overall Objective.

Our overall objective continues to be: On the demand side, assemble and deploy Actionable Shipper Data, freight of all kinds, rail, truckload and intermodal of sufficient magnitude/volumes, at the freight lane level, to support railroad operations, rate and investment decisions that will result in substantial conversions from over-the-road truckload to rail and rail intermodal.[1]

We appear to be on the threshold of major progress in 2020, developing capabilities to successfully seek federal grant awards for specific rail infrastructure grants beginning in 2021.

[1] We encourage consistent use of the terms "Actionable Shipper Data" or "ASD" or "ASData"; and for purposes of required confidentiality, privacy and antitrust compliance, "Aggregated Actionable Shipper Data" or "AASD" or "AASData". ASData is that level of detail that the railroads consider essential for making operational, ratemaking, infrastructure and similar decisions.

Introduction – General Background.

This potential is very much founded upon what we have learned over years of LSSA and WCGroup collaborative efforts including the CN/WCGroup Advisory Board and working committees (circa 2012-2016) and more recently the LSSA/MITech Data Co-op Project (2017-2019), initiated through the leadership of Michigan Forest Products Council (Kevin Korpi). In Wisconsin, a major foundation rests on the efforts of Wisconsin Manufacturers and Commerce (Jason Culotta, later and ongoing, Cory Fish) ("WMC") and Wisconsin Paper Council (Jeff Landin, later and ongoing, Scott Suder) ("WPC") including efforts in the Wisconsin Legislature resulting in an expansion of the Wisconsin Rail Preservation Program with $1.5 million to be awarded in 2020-2021.

To be clear, with the objective of major conversions of over-the-road truckload ("OTR TL") freight to rail and rail intermodal, we expect return on the effort to be realized over a period of at least three to five years through 2025. Some conversions may be accomplished using existing rail capacity; however, we expect many OTR TL conversions can only occur through significant new investments in rail and related (can be shipper or third-party owned and/or operated) infrastructure.

In other words, nothing most of our participants have not heard before, except today there is real potential for delivery of tangible results. We appear to have reached a tipping point, if we work diligently to maintain the momentum.

On January 10, 2020, we met with government affairs representatives of: WMC, Cory Fish; WPC, Scott Suder; Midwest Food Producers Association, Jason Culotta; Wisconsin Transportation Development Association, Debby Jackson; and Wisconsin Counties Association, Dan Bahr. Each of them expressed the view that there is political momentum in WI favoring more active efforts to support preservation of rail service and more.

Their reflection on political momentum was consistent with comments by WisDOT at WisDOT's Freight Advisory Committee meeting November 21, 2019 (welcoming a shipper-based group to "step-up" on rail line preservation) and earlier legislation that led to creation of the "Freight Rail Infrastructure Improvement Program – Intermodal" ("FRIIP-Intermodal") which will award grants up to $1.5 million in 2020-2021 and is discussed in more detail among the topics below.

For your orientation in reviewing this Update, we recommend that you open the links to our maps – Wisconsin Upper Peninsula Rail Line Corridors and Great Lakes Forests Region – to reference as you read through the "Updates and Comments by Topic" which follow, below.

Updates and Comments by Topic.

1. **CN Line Sales and Development of WisDOT's Response Assessment**.

   a. ***Background – CN Initiated Discussion of Northern Line Sales*:** In late 2019, we learned indirectly that CN was interested in potentially selling several "out-of-service" line segments, believed to be between Park Falls and Ashland and between Rhinelander and Goodman. Since as early as 2012, WCGroup expressed to the CN and the public reservations about, and potential conditions for, Shortline Spin-Off of CN/WC Lines. By mid-2019, WCGroup had begun to move beyond focusing on branch line preservation to

advocating Northwoods Rail System Restoration, today expressed in terms of a Rail Line Corridors Perspective: (1) I-90/94, between the Twin Cities, Chicago and Chicago connections; (2) North Central Wisconsin, between Ashland and Necedah and New Lisbon, including the Hwy 8 rail line corridor, connecting with the I94/90 Rail Line Corridor; and (3) Hwy 41/141, between Lake Superior and Chicago and Chicago connections (see LSSA's Rail Line Corridors Map).

This background may, perhaps in part, account for WisDOT's apparent preference for private sector solutions rather than out right state ownership of northern rail lines as expressed at WisDOT's Freight Advisory Committee meeting November 21, 2019.

b. ***LSSA/WCGroup Support for Pending WisDOT Line Sales Assessment*:** WisDOT has engaged a team of experienced consultants to make an assessment of potential CN line sales, including three general tasks: (1) ***Inventory*** of Demand; (2) Railroad Line Sale Options, including short line operators, investors and state ownership; and (3) Highest and Best Use Recommendations.

We believe the work is in its early stages and that WisDOT may not be fully settled on details of the scope of work to be undertaken. Typically, we understand, information from stakeholders interviewed in the process and views which may be shared by the rail carriers do not become public as they may lead to negotiations that will be confidential.

We initially provided contact information for a number of shippers (first having obtained their permission) who may be contacted by WisDOT and/or its consultants as a part of the assessment process. We have also delivered some information (public information requested in regard to LSSA/MITech Data Co-op Project, recently completed) and will deliver additional background information to WisDOT and its consultant team. We intend to provide to WisDOT information regarding Surface Transportation Board Docket 34000 which governs CN's control of Wisconsin Central ("WC"). We have also agreed to assist WisDOT in contacting and encouraging participation by WCGroup and LSSA participating shippers.

c. ***Developing WisDOT Assessment Project's Scope – WI Lines Rail System Restoration*:** We have reliable, though indirect, information that WisDOT may be exploring the potential line sales having in mind some of the ***questions*** and issues that we have raised with respect to such options, for example:

1. What should be the scope of operations of the substitute or successor operations to assure viability and service responsive to shipper needs and assuring access to an effective rail network across the Region?

2. Will the successor's scope include direct connections with E&LS at Pembine? Progressive Rail near Cameron, thence connecting with Union Pacific? Union Pacific at Stevens Point, Wisconsin Rapids, Port Edwards and/or Necedah? CP at Weston, further south or as far south as New Lisbon?

3. Will shippers served by the successor have direct or virtual access (trackage rights, pricing authority, etc.) available to shippers before CN's control of WC and promised and/or mandated by STB in Docket 34000, such as Superior/Duluth, Twin Cities, Chicago, Chicago Connections and elsewhere?

4. How will the successor and CN avoid adding additional operating costs, maintaining the Docket 34000 promise of the efficiencies of single line service?

5. The list goes on …?

As early as 2012 when rumors of CN line sales or spin-offs, WCGroup clearly articulated to CN and the public, WCGroup shippers' expectations for any sales of CN WC Region – virtual single line service transparent to shippers, access to connections comparable to those WC afforded and adequate power and railcars.[2] The same theme applies to WCGroup's position articulated to CN and the Northwoods Rail Transit Commission ("NRTC") in mid-2019 regarding Northwoods Rail System Restoration/Transformation.

2. WI FRIIP-Intermodal Grant Awards, March 27, 2020 – Overall Project Objectives.

On March 27, 2020, WisDOT awarded two FRIIP- Intermodal grants of $200,000 each with a 20% matching fund requirement, for total project funds of $480,000. The two grant recipients so far are: (a) the North Central Wisconsin Rail Planning Commission ("NCWRPC") (further detail in Topic No. 3, below); and (b) East Central Wisconsin Rail Planning Commission ("ECWRPC") (further detail in Topic No. 4, below).

Each of these FRIIP-Intermodal Applicants bears the burden of producing Aggregated Actionable Shipper Data ("AASD" or "AASData") to identify quantitatively the rail service "demand side" within the scope of each of the two Projects. The railroad participants, as in the LSSA/MITech Data Co-Op Project, we believe, will provide operational details and metrics, including "what-if" potential, to provide the "supply side" analyses.

As described above in "Introduction – Overall Objective," for the Rail Line Corridors within the scope of each Project, for freight of all kinds, rail, truckload and intermodal of sufficient magnitude/volumes, at the freight lane level and sufficient to support railroad operations, rate and investment decisions and opportunities, the result will be identification of: (a) opportunities to convert significant volume of over-the-road truckloads to rail and rail intermodal, based on use of currently underutilized rail capacity; and (b) specific investments in rail and rail related infrastructure capacity that will augment such opportunities for significant additional conversion of over-the-road truckloads to rail and rail intermodal. The demand side AASData and supply side railroad operations and service metrics combined are intended to provide the foundation for application for federal grant funds for selected, identified rail and rail related infrastructure investments.

[2] On the other hand, shippers on CN Hayward / Hayward Junction segment are reported to be very satisfied with CN's lease of the line to Wisconsin Great Northern. CN retains the common carrier obligation for the line.

The timeline is to complete the Projects based on WI FRIIP-Intermodal Grant Awards and other funding from Michigan and Minnesota that may become available to respond to federal grant funding that will be announced in early 2021 and beyond.

A significant development in this State grant program is the requirement of matching funds to unlock public dollars for transportation infrastructure development. This trend mirrors the federal discretionary freight infrastructure grants which reward applicants who bring matching funds to project proposals.[3] For Wisconsin freight stakeholders this means we must make sure state transportation budgets are prepared to support Federal discretionary transportation programs and stimulus grants.

3. WI FRIIP-Intermodal I-90/94, Hwy 8 and Connecting Rail Line Corridors.

NCWRPC is the applicant. For additional detail, see FRIIP-Intermodal NCWRPC Application. and WisDOT Award Letter.

On LSSA's Rail Line Corridors Map, the NCWRPC Project corresponds to the LSSA's I-94/90, Hwy 8 and connecting Rail Line Corridors between the Twin Cities and North Central WI and Chicago and Chicago Connections.

Union Pacific, through the office of UP's Vice President Northern Region, has committed to support the NCWRPC I-90/94 and North Central Rail Line Corridors and will serve on the Project advisory committee along with shippers and possibly other carriers. In Wisconsin where its routes are less impacted by heavy flows of overseas intermodal, Union Pacific may be interested in serving as more of a "regional" rail carrier.

4. WI FRIIP-Intermodal Hwy 41/141 and Connecting Rail Line Corridors.

ECWRPC is the applicant, in partnership with New North, Port of Green Bay and Brown County and with support from other local governments and agencies. For additional detail, see FRIIP-Intermodal ECWRPC Application.

On LSSA's Rail Line Corridors Map, the ECWRPC Project corresponds to the LSSA's Hwy 41/141 Rail Line Corridors, between Lake Superior, via Green Bay, and Chicago and Chicago Connections.

CN and shortlines Wisconsin & Southern and E&LS, as indicated in the Application, will serve on the advisory committee for the ECWRPC Hwy 41/141 Project.

5. A Third WI FRIIP-Intermodal Grant – Railcars & Shorter/Short-Haul Intermodal?

Restoration of rail service in the Region probably cannot be accomplished without addressing two additional critical components: (a) A public or public-private fleet or pool of railcars for

[3] Under the Federal Railroad Administration's Consolidate Rail Infrastructure and Safety Improvements Program (a/k/a CRISI), recently, the average match has been 57%. Depending on the grant program criteria, the matching funds can come from a variety of sources, e.g., private sector and/or other public sector grant funds.

the Great Lakes Forests Region - possibly including log, box, lumber and/or intermodal cars ("Dedicated Railcar Fleet"); and (b) Shorter-haul and short-haul intermodal (e.g., akin to the Florida East Coast model) ("Shorter/Short-Haul Intermodal").

a. ***Dedicated Railcar Fleet for the Region*****:** In the later 1990s, part of Wisconsin Central's solution for boxcars suitable for the paper industry was to request the shippers to agree to above-inflation-rate increase for Wisconsin Central to invest in "paper grade" boxcars. Following CN's gaining control of Wisconsin Central in 2001, these cars were dispersed through the CN system and no longer provided a ready pool of equipment for the paper shippers who had contributed to their purchase. From 1988-2001, Wisconsin Central invested in essentially no new log cars but maintained and intensely utilized a railroad-owned fleet of over 1,000 rehabbed and rebuilt log cars to serve the Great Lakes Forests Region ("GLFR"). In 2014 and 2015, CN proposed and contributed to two TIGER grant applications, in collaboration with WCGroup and the Northwoods Rail Transit Commission, to begin replacing the aging rail-owned log car fleet with a public-owned fleet of new log cars.[4]

A public or public-private railcar fleet – log, box, bulkhead flat, and intermodal railcars – captive to the GLFR,[5] we believe, is an essential part of restoration of the rail system serving the Region.

b. ***Shorter/Short-Haul Intermodal*****:** Wisconsin Central successfully operated an intermodal service between Green Bay and Chicago (terminated upon CN's ***assumption*** of control). Schneider National of Green Bay was the largest customer of the service. Today, there exist multiple examples of successful shorter/short-haul intermodal, notable one operated by the Florida East Coast Railroad. The geographic and freight flow similarities between Florida and the Rail Line Corridors immediately west of Lake Michigan are obvious.

The opportunity in this Region is not merely short-haul intermodal but, with rail connections, relatively longer haul domestic intermodal but shorter-haul than currently typical Class I intermodal (principally overseas containers) including potential for cross-lake and other options that bypass the Chicago area.

c. ***WI FRIIP-Intermodal Application No. 3*****:** In February 2020 we initiated inquiries into seeking a third $200,000 FRIIP- Intermodal grant, with $40,000 in match, for a total Project funding of $240,000. The Third FRIIP-Intermodal Project will complement the two

[4] See 2015 TIGER Grant Application at a Glance. Both NRTC's 2014 and 2015 TIGER grant applications were given solid reviews as reported in USDOT feedback. Several reasons contributed to failure of grant awards: (a) uncertainty of matching funds from Michigan and Wisconsin; (b) absence of direct support for the applications by the Wisconsin and Michigan DOTs; and (c) TIGER grant conditions requiring investment in new equipment rather than alternatives more practical and consistent with historic practices for building and maintain log car fleets.

[5] Key to such a public fleet or pool is the operating agreement between the participating shippers and rail carriers and the public entity or public-private owners and/or third-party fleet manager. See sample topic to be included in such an Operating Agreement. The Operating Agreement likely can only be negotiated when the grant funds are in hand and will require significant legal effort on all sides of the negotiations.

Projects which have already been awarded, as described above, and will be completed in approximately the same time frame and same objectives. The scope of work will be identifying and quantifying the feasibility of shorter/short-haul intermodal and a dedicated railcar fleet to serve the Region.

Short-haul intermodal and a railcar fleet captive to the Region were significant "local characteristics" of Wisconsin Central and its success in serving the Region.[6]

6. Michigan, Minnesota, Wisconsin Coordination – Why Is this Important?

Wisconsin, Upper Peninsula of Michigan, eastern and northern Minnesota has been and needs to be part of an integrated regional system of Rail Line Corridors and part of an integrated, national rail system. The Nation's railroads are and the purpose of Congress' National Rail Transportation Policy and of the Interstate Commerce Act, for transportation and national security, is to assure an integrated and competitive National Railroad System. In contrast, for public policy purposes, the U.S. highway system is less integrated in the sense of serving many more state, county and rural needs and priorities, relatively less dependent on functioning as a integrated system than the railroads.

Rail, however, is a much more highly integrated operating system, requiring greater coordination of state policies and infrastructure investments. For successful awards, competitive federal infrastructure grant funding criteria place a premium on grant applications which reflect multi-state and multi-jurisdictional cooperation and systems coordination. And, of course, such cooperation and coordination are essential for an effective rail system serving the Region.

7. Minnesota DOT Has Expressed Interest and Potentially More.

MnDOT has recently expressed interest in the I-90/94 RLC, specifically the potential expansion of the WI FRIIP-Intermodal Project encompassing this UP route through WI. Minnesota shippers desire a shorter intermodal corridor to connect to the Pacific Southwest in essence exploring intermodal service on "The Spine Line," a/k/a I-35 Rail Line Corridor – St. Paul, Des Moines and Kansas City. Or potentially expanding intermodal service on the Union Pacific Central Corridor route connecting the Twin Cities to Omaha and beyond. These historic routes, prior to Class I consolidations provided Northern Wisconsin, Upper Peninsula, Great Lakes Forests Region forest products a superior service to the Pacific Southwest and other west coast destinations.

Re-development of this route for passenger service is called out in the 2015 update of the Minnesota State Rail Plan. Re-development for additional freight service is in our interest and could be a component of newly competitive rail service which, for parts of Wisconsin and for the Upper Peninsula would bypass Chicago, North America's worst freight bottleneck with no funding prospects to resolve this entanglement of freight and passenger congestion.

[6] CN promised and is accountable for preserving the "local characteristics" of Wisconsin Central.

8. Actionable Shipper Data – Potential New, Expanded Means of Sourcing ASD?

a. ***Background*:** At the LSSA DCC meeting 1/21/2020, discussions on the potential for a LSSA Data Co-op Project Phase II, several participants expressed frustration with another round of collecting historic ASData, adding shipper participants, in the same manner as the Phase I Project just completed. Although an alternative approach was called-out on the 1/21/2020 agenda as topic for development in a Phase II Data Co-op Project during 2020, only after the meeting were we able to develop the potential for skipping that step, short cutting a Phase II Project in favor of developing an alternative means of assembling ASData.

b. ***Breakthrough Fuel LLC, A Potential Resource Actionable Shipper Data*:** Breakthrough "sees" ASData for a double-digit percentage of the Nation's truck/rail intermodal freight and has a base of more than 6,000 motor carriers. Breakthrough deploys AASD in many applications in the regular course of its business. Although no railroads currently participate directly in Breakthrough Fuel Recovery, Breakthrough provides ***Fuel*** Recovery for the drayage and has ASData for each complete intermodal route on highway and rail. Fuel Recovery for over-the-road truck and rail intermodal is tracked via the actual route of movement of each shipment. Needless to say, the data is detailed and, as it is used for reimbursement of the motor carriers' energy consumed for each shipment for payment by the shipper, the data is totally vetted and accurate.

Breakthrough has authorized us to advise the various stakeholders that Breakthrough is undertaking an evaluation of offering its services, resources and ASData to support, and Breakthrough to serve as a resource and data custodian for, WI FRIIP-Intermodal Projects (described above) and similar projects such as WisDOT Rail Line Sale Assessment. Breakthrough clients have a substantial presence and are actively interested in access to rail, particularly intermodal, in the Wisconsin, Minnesota, Upper Michigan Region. One aspect of Breakthrough's evaluation is to determine the feasibility and logistics of adding ASData to the base gathered from shippers who are not Breakthrough clients but important for the Projects.

Because of the nature of Breakthrough's business, involving collaborative activities including many competitors, from its founding in 2004, Breakthrough has been closely attentive to, and maintains a robust program for, antitrust, confidentiality, security and privacy compliance – essential for a firm entrusted with ASData from clients, many of whom are vigorous, direct competitors, such as Wal-Mart and Target, P&G and Unilever and many more. Although Breakthrough clients whose data is provided will be consulted and request consent, we believe that Breakthrough clients have already granted the necessary authorization to Breakthrough to deploy AASData in Breakthrough's custody for these types of projects. Breakthrough's ASData for many clients dates back through all years that may be relevant for the Projects but, also, includes ASData to the present day, near real-time, and going forward on a continuously week-by-week.

9. LSSA/MITech Data Co-op Project – Final Report, Potential Ongoing Utility?

Although the LSSA Data Co-op Committee, meeting January 21, 2020, in Green Bay, appeared to express the view that we should move beyond using "historic" data for our efforts, some of those preparing to embark on the awarded WI FRIIP-Intermodal grants and WisDOT's assessment regarding CN's indicated interest in rail line sale would like access to data included in the LSSA/MITech Data Co-op Project and Report.

We have indicated that we will consult with the LSSA Data Co-op Committee, MITech and those participating in contributions of data for their view if and to what extent the assembled AASData or ASData from the Project might be shared to assist with their projects.

10. LSSA/WCGroup – Potential Emerging Roles?

a. ***ASData Confidentiality, Privacy and Antitrust Compliance*****?** LSSA/WCGroup has offered the FRIIP-Intermodal award recipients, NCWRPC and ECWRPC *et al*., and WisDOT's Line Sale Consultants ***assistance*** with ASData confidential, privacy (security) and antitrust compliance agreements for their respective Projects and related monitoring if that is of interest. The agreements will be based on the LSSA/MITech Confidentiality Agreement model.

b. ***LSSA's Potential Role As "Classic Co-op Shippers Association," Other Options*****?** The Upper Great Lakes Forests Region has a strong tradition of cooperative efforts of shippers and other stakeholders to improve the efficiency and competitiveness of freight transportation. LSSA (re-incorporated) or a similar entity may serve this purpose today. Other third-party options, of course, are also potentially available to accomplish the same purposes.

c. ***WCGroup's and Potential Role of the Regulator*****?** For the last decade and more WCGroup has advocated against any and all substantive regulatory intervention and continues to support working collaboratively with the railroads and other stakeholders as the primary means of advancing the LSSA and WCGroup missions and objectives.

WCGroup is the custodian of extensive background information and other records (largely public and some not) on the pre- and post-1980 events leading to and the formation of Wisconsin Central in 1988, creation of the Wisconsin Central System in the 1990s, and CN's acquisition and control of Wisconsin Central in 2001. Notwithstanding continuing its long-term policy of seeking to avoid regulatory intervention and skepticism about alternative or substitute operators for Wisconsin Central Lines, WCGroup and LSSA are dedicated to working collaboratively with the railroads and other stakeholders to accomplish the objective (see p.1, above).

WCGroup, however, does view such archived information and records to be directly relevant to any CN sales of Wisconsin Central lines. As the result of at least three confidential contracts entered into in the 1990s, and in effect in 2001 when the order governing CN's control of Wisconsin Central, neither the Interstate Commerce

Commission nor the Surface Transportation Board had an opportunity to effectively review the competitive impacts of the creation of the Wisconsin Central System nor CN control of Wisconsin Central.

Today, such competitive impacts are directly relevant to any sale by CN of Wisconsin Central lines. Our objective is to assure that competitive impacts are considered and addressed through collaborative efforts aimed at the use of Actionable Shipper Data to provide opportunities to convert significant volumes of over-the-road truckload freight to rail and rail intermodal throughout on Wisconsin Central Rail Line Corridors, throughout the Upper Great Lakes Forests Region and their connections **without** significant, substantive regulatory intervention.[7]

d. ***LSSA/WCGroup, Support Resource for Coordinated Public Affairs Initiatives*****?** Neither LSSA nor WCGroup engage in lobbying. Both have in the past and continue to be available (as funding permits) as resources for public affairs activities of Wisconsin Manufactures & Commerce, Michigan Forest Products Council, Wisconsin Paper Council and other stakeholders and stakeholder organizations engaged in ***advancing*** the LSSA and WCGroup missions and objectives.

Action and involvement are required now more than ever to bring infrastructure funding to Wisconsin and the Great Lakes Forests Region.

For the first time in decades public policy favors rural areas and freight projects. For example, see USDOT's program, Rural Opportunities to Use Transportation for Economic Success ("ROUTES"). ROUTES is clearing the way for rural corridor development, precisely the type of Rail Line Corridors serving our Region.

Shippers and carriers need to take action collectively to engage in prioritizing and funding freight infrastructure and competitiveness.

[7] Substantial avenues for regulatory intervention and imposition of remedies do exist. One such is the STB proceeding governing CN's control of Wisconsin Central, STB Docket FD 34000. There are also other remedies available through STB intervention. In the past WCGroup has not been shy about expressing views of its shipper participants in STB proceedings.