



TESTIMONY OF

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BEFORE THE

**U.S. SENATE COMMITTEE ON
COMMERCE, SCIENCE AND TRANSPORTATION**

HEARING ON

**IMPROVING RAIL SAFETY IN RESPONSE TO THE
EAST PALESTINE DERAILMENT**

MARCH 22, 2023

Good morning, Chairwoman Cantwell, Ranking Member Cruz, and Members of the Committee. Thank you for allowing me the opportunity to testify.

My name is Clyde Whitaker, and I am the Ohio State Legislative Director for SMART Transportation Division which represents approximately 3,000 railroad workers in the crafts of conductor, locomotive engineer, yardmaster, and trainperson. One of my primary roles is to protect, improve, and ensure the safety of our members.

On July 11, 2022, I filed a complaint with the Federal Railroad Administration (FRA) regarding an unsafe practice that was occurring on Norfolk Southern (NS). Despite existing operating rules to the contrary, NS was giving instructions to crews to disregard wayside detector failures and to keep their trains moving. This meant that the trains were not being inspected as intended, and that the crews were not able to ascertain the integrity of their trains.

The driving force behind this decision, and many others like it, is a business model otherwise known as Precision Scheduled Railroading (PSR). PSR, at its core, prioritizes maximizing the profit a railroad makes above every other goal, include safety. PSR has made the Class I railroads more than \$160 billion in profit since 2015 while at the same-time causing the greatest degradation of safety in modern day railroading. As we have all seen in East Palestine, this cut-your-way-to-profit model is not sustainable and it is very, very dangerous. And while the NTSB may not be able to identify it by name in their report, I assure you, without hesitation, that it is the greatest contributing factor, not only in this derailment but in all of the others that have occurred before it and since. Since 2015, the Class I railroads have cut over 30% of their workforce or over 45,000 jobs. NS has cut 40% of their workforce since 2015. These worker cuts have directly led to the safety problems we see today in our freight rail system.

Let me give you one concrete example of PSR's corrosive effect on safety in rail yards all across America. The carriers are sacrificing safety inspections to expedite the movement of trains. Carmen that used to have 3 minutes to inspect a rail car now have no more than one minute. NS is no different. No longer is identifying defects the goal of inspections. Instead, the goal is to minimize the time it takes to perform them or the elimination of them altogether so the trains keep moving. Compound this with the fact that the railroads are on a determined course to grow these trains to astronomical lengths and you have a predictable outcome, and that outcome is East Palestine.

In the name of PSR, the railroads, if left to their own devices, will continue cost cutting no matter the safety cost. As we sit here today, the railroads are attempting to eliminate the conductor from the cab of the locomotive. They want you to believe that technology is capable of replacing

the role of the conductor, and that the conductor would be better served in a remote, ground-based role. Nothing can be further from the truth. No technology is going to safely replace the role of the conductor in the cab of a locomotive.

In East Palestine when the train finally came to a stop, the technology stopped with it. Its job was done. But when the train came to a stop, the engineer, the conductor, and his trainee immediately sprang into action. The conductor immediately began a walking inspection, wherein he was quickly able to identify a major accident had occurred, that fire was present, and that danger was imminent. In doing so, he relayed potential life-saving information to the engineer so that the engineer could notify the dispatcher to get emergency services in motion. Then the conductor, realizing the presence of fire presented the potential for movement of the train – which would have exacerbated the situation immensely – set manual brakes on the cars to prevent any unwanted movement of the train, and then separated the locomotives from the train so that they themselves, including the engineer could get to safety. None of that could have happened in a timely fashion with a one-person crew. It's safe to say that if the railroads had their way and there wasn't a conductor on board that locomotive, East Palestine would have been far worse than the tragedy that occurred.

The railroads will talk your ear off about how much they care about safety. Go ask any rail worker right now how much the railroad is emphasizing safety to them. The answer is none. That tells you everything you need to know. It is also easy to spin the numbers as the railroads are doing right now. The truth is clear though, the safety records of most of the Class I railroads are getting worse, not better. That includes Norfolk Southern. While the total number of derailments may be down, it is because they are operating fewer trains. If you look at the rate of train incidents on a per train mile basis, you see a completely different story. In December 2022, when the GAO reported on Norfolk Southern's accident rate, it found the Company had hit a 10-year high in 2021 with the Company's accident rate at its highest from 2019-2021. In fact, the Company's federal train accident rate has increased for each of the last four years. Similarly, the nation's seven Class 1 freight railroads suffered two derailments for every million miles traveled in 2022, compared to the 1.71 derailments per million miles in 2013, an increase of 17%.

This increase in derailments is what happens when you cut 30% of your workforce in less than a decade, reduce training or outsource work across every rail craft, and run longer, heavier trains that are harder to control. This is what PSR looks like. The railroads find every way they can cut costs so they can make an extra dollar. No matter the cost to safety. And communities like East Palestine are forsaken in the process.

What should scare you even more is that the practices, rules and procedures that were in place when these derailments occurred are still in place today. This tells me that the frequency of derailments that we are experiencing in this country is not going to stop anytime soon, and, in fact, may only end up getting worse. The railroads simply refuse to change themselves. You can tell because they are actively opposing the bipartisan rail safety legislation proposed by Senators Vance and Brown.

We need meaningful change. States - both Democratic and Republican - are stepping up and passing rail safety legislation. Many of them, including Republican states like Arizona and Wisconsin, have passed two-person crew requirements. Just last week, the Republican-led Ohio State House passed a two-person crew requirement. Two-person crew is a common sense safety measure that most Americans support regardless of political party. The only entity opposing it is the rail industry because it will prevent them from cutting costs and making even more money.

We desperately need Congress's help to reverse the dangerous trends in the railroad industry. We need to prevent other communities from suffering the same, preventable tragedy that East Palestine suffered. The Rail Safety Act of 2023 goes a long way toward doing just that and I urge Congress and this Committee to move this legislation forward.

Thank you for allowing me the opportunity to testify here today, and I look forward to your questions.

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