Before the
United States House of Representatives
Committee on Transportation and Infrastructure
Hearing on
H.R. 6707,
the "Taking Responsible Action for Community Safety Act"
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Testimony of
John P. Tolman, Vice President and National Legislative Representative
Brotherhood of Locomotive Engineers and Trainmen
A Division of the Teamsters Rail Conference

Good morning, Chairman Oberstar, Ranking Member Mica, and members of the Committee. I'm John Tolman, Vice President and National Legislative Representative of the Brotherhood of Locomotive Engineers and Trainmen, which is a Division of the Teamsters Rail Conference. On behalf of approximately 59,000 BLET members and 38,000 members of Rail Conference affiliate Brotherhood of Maintenance of Way Employes Division, I want to thank you for holding today's hearing and inviting us to address you.

I would first like to take the opportunity to thank the Chairman for introducing H.R. 6707. Chairman Oberstar, for many years, you have been a tireless advocate for a sensible national transportation policy which includes both freight and passenger rail. I believe that your efforts, combined with the skyrocketing price of fuel, may finally change the course of our nation. For too long, we have been dependent on other modes of transportation while allowing our nation's railroad infrastructure to crumble. As we have seen recently, record numbers of people are using passenger rail on a daily basis and more freight is moving by rail. This is hopefully a trend which will continue.

The subject of today's hearing — the impact of railroad transactions on the public interest and public safety — is important in light of these recent developments and several controversial transactions which are currently pending before the Surface Transportation Board.

The legislation that you have proposed requires the STB to address the public interest in railroad transactions and we are fully supportive of this. Current law, as contained in the Staggers Act, does not provide the STB with the authority to disapprove mergers or consolidations of a Class I railroad with a Class II or a Class III railroad if it finds the transaction is not consistent with the public interest or if it finds that the transaction's adverse impacts on safety and on the affected communities outweigh the transportation benefits of the transaction.

Growing sentiment regarding the safe transportation of hazardous materials and spent nuclear fuel, along with opposition to various mergers and acquisitions was the impetus for this legislation. We live in an era where there is a "not in my backyard" aversion to such transactions, which often causes these them to become politicized.

The two transactions which best illustrate the problem are Canadian National's purchase of the Elgin, Joliet and Eastern Railway and the Department of Energy's proposed Caliente Line to the Yucca Mountain repository.

CN wants to buy EJ&E for $300 million and use the line, which runs in an arc around the Chicago region, to reroute some freight traffic from lines in Chicago and inner suburbs. STB is hosting eight meetings on the proposed sale through Sept. 11. Despite pressure from CN to accelerate the approval process, the board will issue a final ruling between Dec. 1 and Jan 31.

According to an article in the *Chicago Tribune* (August 12, 2008 online edition), many suburban officials fear the number of such lengthy trains will increase if a plan to divert transcontinental freight traffic from densely populated areas through their less dense communities is approved. Suburban leaders fear their towns will be perched on a railroad superhighway if the Canadian National Railway is successful in its bid to purchase the Elgin, Joliet and Eastern Railway. They worry that 20 to 40 of these super-size trains will roll through their communities each day.

The BLET has not received enough information about this transaction to fully judge its impact on our members. However, we feel that it could cause job losses among our members and also problems with our collective bargaining agreements. However, CN has repeatedly ignored our requests to meet regarding these issues.

U.S. Department of Energy plans to ship by railroad some 77,000 tons of high-level nuclear waste to a proposed repository at Yucca Mountain, 90 miles northwest of Las Vegas. The 300-mile Caliente Line would connect an existing Union Pacific Railroad line near Caliente to a proposed geologic repository at Yucca Mountain. The DOE could use the proposed line to transport spent nuclear fuel and high-level radioactive waste to the geologic repository, where the materials would be disposed. The DOE also would provide common-carrier rail service to communities along the line.

The BLET has a number of issues with the proposed plans to ship nuclear waste to Yucca Mountain, which we have expressed in various venues throughout the years. We believe that this will have negative impacts on the safety of our members and the communities through which they run trains. Rail workers do not receive proper training to handle spent fuel and do not receive the same exposure protections given to other workers exposed to nuclear radiation. Specifically, DOE has no program to track rail workers' potential exposure to radiation from the shipments.

Unquestionably, both of these transactions directly impact the safety of the surrounding communities, as well, causing fear and anxiety among their residents. However, while crafting and adjusting national transportation policy is a legislative matter, executing that policy should not take place in an overly politicized environment. Nor can it take place in a vacuum. The concerns of localities impacted by rail transactions should be heard, considered, and — where appropriate — addressed. The appropriate body for this input is the STB, which has regulatory authority over rail transactions.

The BLET supports H.R. 6707 because it provides a mechanism to hear legitimate local concerns and also to deal with the unreasonable fears which often arise through lack of information and community input. H.R. 6707 allows the Board to approve transactions which it finds consistent with the public interest, while giving the Board the option to not approve a transaction if it finds that the transaction's adverse impacts on safety and on the affected communities outweigh the transportation benefits of the transaction. The Board also may impose conditions governing a transaction, including conditions to mitigate the effects of the transaction on local communities.

We feel this legislation would not overly burden the railroads with greater regulation but would provide a mechanism for communities to express their concerns about the safety of their citizens in an appropriate manner. And it would do so in an orderly fashion.

Again, I would like to thank you for the opportunity to testify and commend you for the introduction of this legislation.