



Budget Request for Fiscal Year 2012

Surface Transportation Board

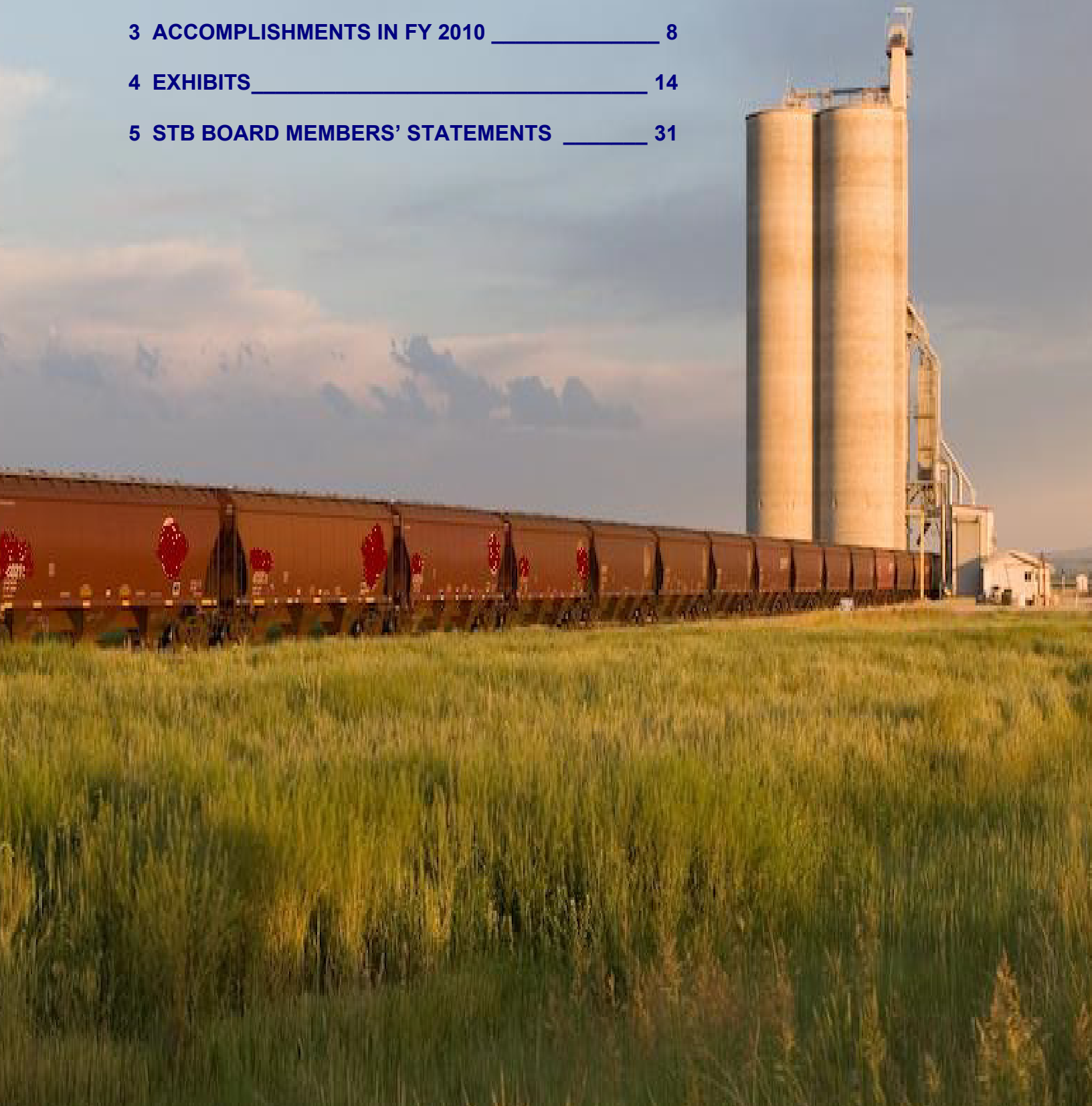


February 2011

Daniel R. Elliott III, Chairman
Charles D. Nottingham, Vice Chairman
Francis P. Mulvey, Commissioner

Table of Contents

1 OVERVIEW	1
2 FY 2012 BUDGET REQUEST	2
3 ACCOMPLISHMENTS IN FY 2010	8
4 EXHIBITS	14
5 STB BOARD MEMBERS' STATEMENTS	31



Overview

The Surface Transportation Board is charged with the economic oversight of the nation's freight rail system. The Board has regulatory jurisdiction over the reasonableness of rates that railroads charge shippers, mergers, line acquisitions, new rail-line construction, abandonments of existing rail lines, and the conversion of rail rights-of-way into hiking and biking trails.

The three-member, bipartisan Board was formed in 1996 after the Interstate Commerce Commission was eliminated and its duties divided among other agencies. While the majority of the Board's work involves freight railroads, the STB also performs certain oversight of the intercity bus industry, non-energy pipelines, household goods carriers, and rate regulation of non-contiguous domestic water transportation, such as freight shipping from the continental United States to Hawaii, Alaska, or Puerto Rico.

The Board is decisionally independent, although it is administratively housed within the U.S. Department of Transportation. Because the economics of freight rail regulation is so important to our national economy and yet so complex and interconnected, Congress has given the STB sole jurisdiction over rail mergers and

consolidations, exempting such transactions from federal antitrust laws and state and municipal laws. The STB also has exclusive authority to determine whether railroad rates and services are reasonable.

To carry out Congress' charge, the STB has assembled a small but highly experienced staff of economists, lawyers, and experts in rail, shipping, and environmental matters. While the Board issues more than 1,100 decisions and court-related matters each year, many resources are consumed by large rate cases. Much of the Board's staff time is devoted to analyzing the economic and environmental repercussions of its decisions, issuing fair decisions, and defending those decisions in court. Some rate and merger cases could be years-long processes.

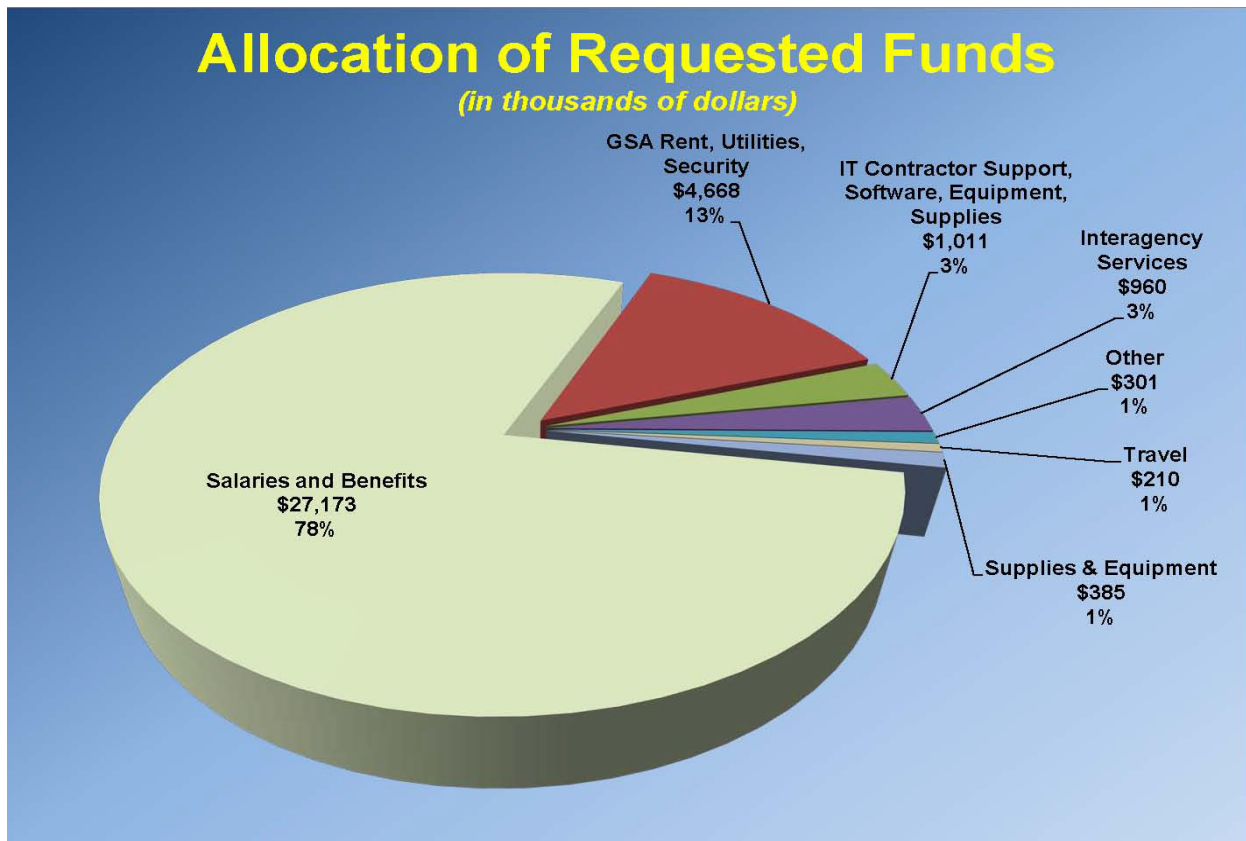
The Board's budget consists of salaries and benefits, rent, security, travel expenses, and costs associated with Congressionally mandated activities largely driven by the number and type of cases filed. In the past year, we have seen an increase in the number of large, complex rate cases. And with the continued expansion of the U.S. economy and freight rail use, the Board expects a continued increase in its caseload.

FY 2012 Budget Request

The Board is requesting \$34,708,000, an increase of \$5,368,000 over the FY 2012 Baseline Estimate, for 170 FTEs. A significant portion of this increase includes funding for 22 additional FTEs over the 148 FTEs funded in the FY 2011 Continuing Resolution Estimate. The remainder of the request reflects an increase in the agency's share of employee benefits contributions.

The increased funding for the additional 22 FTEs is to restore the FTEs required to carry out the statutory responsibilities of

the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). PRIIA authorized the STB to hire 15 people to handle our PRIIA responsibilities, but we received appropriated funds for only 6 FTEs in FY 2010. The FY 2011 Continuing Resolution Estimate reduced the funding for these FTEs. In addition to these 6 previously funded FTEs, the Board also requests funding for additional FTEs to increase the Board's mediation efforts and to enhance the Board's auditing of industry financial filings. The requested funding for



Budget Request for FY 2012

the 170 FTEs restores the Board's funded 156 FTEs as authorized in the previous Appropriations Act and provides funding for the new requested functions.

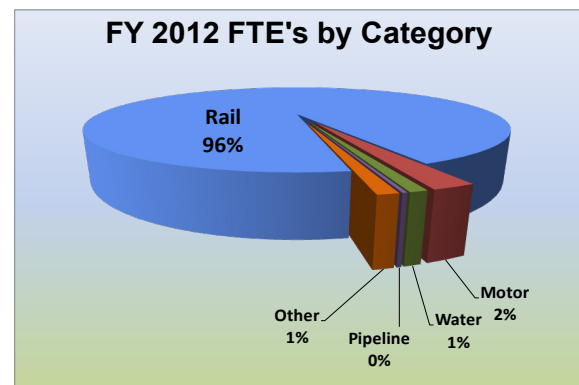
Unlike other agencies that are program-based, the STB's responsibilities are driven largely by the number of cases filed by the public in a given year. While some cases are relatively simple, such as the granting of a routine abandonment or the recordation of a lien, others, such as rate cases, can take years and much of the Board's staff time and other resources. The Board expects its caseload to increase by 10 percent in FY 2012.

In addition to time- and labor-intensive matters such as rate cases, the Board undertakes large environmental reviews of proposed new rail lines, mergers and acquisitions, and other actions that require review under the National Environmental Policy Act. Railroads require Board approval to abandon a rail line, and the STB also administers the "rail banking" program of the National Trails System Act. This program allows railroad rights-of-way approved for abandonment to be used for interim use as recreational trails.

The Board also has responsibility for certain trucking company, moving van, and non-contiguous ocean shipping company rate matters; certain intercity passenger bus company structure, financial, and operational matters; and rates and services of certain pipelines not regulated by the Federal Energy Regulatory Commission. While the workload in this area represents a

smaller percentage of the Board's efforts compared to rail, it does consume agency resources.

The Board is also undertaking several new rulemaking initiatives. For example, the Board is drafting new rules that would create a national database on rail rights-of-way that are currently used for recreational trail use but can be placed back into service for future rail use. The Board also proposed the Toxic by Inhalation Hazard Common Carrier Transportation Advisory Committee to study and suggest ways to safely move toxic cargo, such as chlorine, in a cost-effective manner.



This committee will provide the Board with independent advice and policy suggestions related to the common carrier obligation of railroads to transport toxic by inhalation hazards (TIH). The committee will specifically focus on the amount of economic responsibility for liability that railroads can reasonably ask TIH shippers to assume before the carrier will transport the cargo.

The Board also expects an increase in its responsibilities as it implements its

Budget Request for FY 2012

passenger rail duties as directed by the Passenger Rail Investment and Improvement Act of 2008 (PRIIA).

Mediation Efforts

To carry out our regulatory mission at a time of increased demand and fewer resources, the Board has begun emphasizing alternative dispute resolution efforts such as mediation, arbitration, and encouraging informal discussions between railroads and their customers. The results have reduced the number of potential formal complaints filed, saving both shippers and railroads millions of dollars in legal fees and allowing both sides to walk away satisfied.

Last year, the Board bolstered its successful Rail Customer and Public Assistance program, which provides free informal dispute resolution services. This program is particularly popular with small shippers, who otherwise would be forced to conduct expensive litigation before the board to address service and rate issues with railroads. In FY 2009, the program handled 1,469 public inquiries. Of that total, 492 were requests for informal railroad service dispute facilitation. The remaining 977 inquiries involved requests for general assistance.

In the past year, STB-led mediation resulted in the settlement of several large rate cases filed against one of the nation's largest railroads by one of the country's biggest chemical companies. STB mediation has also been successful in bridging the differences between officials in a

northeastern state and a railroad that wanted to abandon routes that would have left a large part of the state without rail service. An increase in funding for the mediation program would allow the Board to help settle more cases and reduce the need for more staff to handle the expected increase in formal complaints, including large rate cases.

Oversight

The Board also needs to increase its oversight of the railroad industry in light of changes in corporate structure and accounting rules and new Congressional mandates regarding the reporting of corporate financial information.

The STB collects and distributes numerous monthly and quarterly reports received from the railroads. The information in the reports ranges from interim financial updates and employment statistics to carload waybill data used in the STB's rate methodology, the Uniform Rail Costing System (URCS). Currently none of these data are audited by the Board due to limited audit resources. Additional resources would allow us to strengthen our oversight in these areas.

Also, in the past year, one of the nation's two largest railroads, BNSF Railway Company, was acquired by Berkshire Hathaway Inc. The STB relies on numerous and detailed filings of public companies for URCS, which is used in settling rate and other disputes. The Board needs to ensure that it continues to receive financial information from BNSF consistent with other

Budget Request for FY 2012

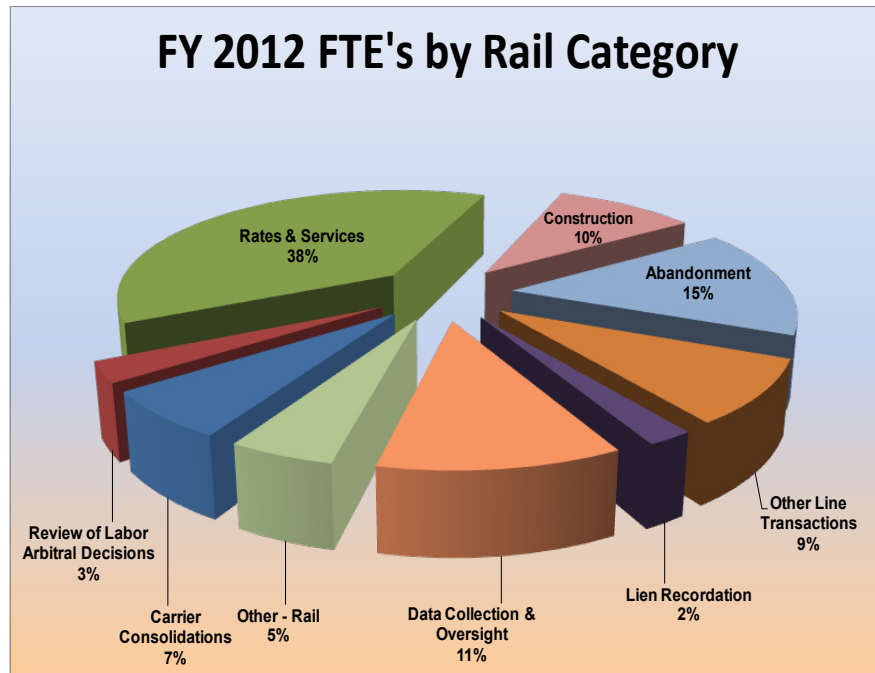
railroads in order for the costing system to remain fair and accurate. Because BNSF is no longer publicly traded, it will not be included in our calculations to determine the railroad industry cost of capital.

As the Securities and Exchange Commission evaluates a transition to international accounting standards, the Financial Accounting Standards Board continues to revise current accounting standards to bring U.S. practices more in line with those of the international community. These changes are occurring rapidly and could significantly impact the Board's current accounting and reporting requirements in the near future. We will need to expand our compliance and financial auditing of the railroad industry to carry out properly our oversight functions.

Other Priorities

The Board is also requesting \$743,000 to begin an overdue overhaul of its information technology (IT) systems and upgrade its outdated equipment. The STB has done an extensive internal analysis of its IT needs and developed a plan to address the Board's immediate needs. This includes replacing a decade-old docket management system that is increasingly difficult to integrate with modern IT systems and impacts the Board's ability to process cases most efficiently. The Board is also using old IT hardware that is out of warranty and inefficient. The Board also needs to replace its operating system software and application software with more current versions to allow it to accept certain data files from its stakeholders.

The Board has sought \$1 million in its pending FY 2011 request to update URCS. After the Board submitted that request, it completed a study directed by the House and Senate Appropriations Committees on different options to update the costing system. That study showed that it would cost approximately \$650,000 for a moderate update of URCS. The STB hopes to receive the funds from its FY 2011 request to update URCS and, as a result, has not



Budget Request for FY 2012

requested additional funding for that project here. An update of the costing system to make it as efficient and accurate as practicable remains a key priority for the Board.

For personnel compensation and benefits, slightly more than \$27 million is requested to support the Board's 170 requested FTEs. This is an increase of \$3.565 million for personnel compensation and benefits for the 22 additional FTEs plus \$1.090 million for the agency's share of increases in employee benefits compensation. Also included is \$130,000 for lump-sum leave payments for retiring employees. For many of the past years, Board employees were predominately CSRS retirement system participants. With their recent retirements and the hiring of their FERS participant replacements, the agency's retirement costs have escalated and increased the employee benefits costs.

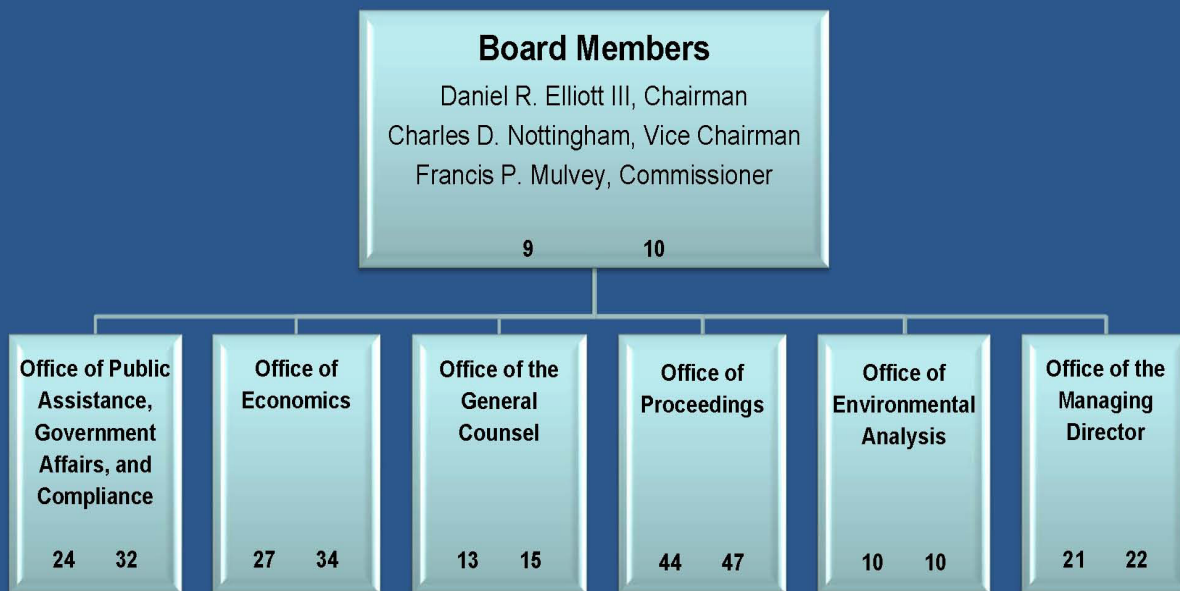
Because many of the Board's decisions affect the economies and environments of regions across the nation, a travel budget of \$210,000 is requested. Board members and staff travel to physically inspect proposed rail abandonment and construction sites, gather and verify environmental data provided by parties to proceedings, conduct operational reviews, meet with shippers regarding rail service issues and compliance, defend the Board's decisions in courts across the country, and generally provide presentations and hold public hearings on issues within the Board's jurisdiction and of intense local interest.

In FY 2010, the Board has conducted a public hearing in Presque Isle, Maine, in response to requests by Congressional and local leaders. Environmental staff has traveled to Alaska to examine the area of a proposed new rail line, and the Board's chairman has also traveled repeatedly to the Chicago area to meet with Congressional and community leaders regarding ongoing concerns related to the Canadian National (CN)/ Elgin, Joliet and Eastern (EJ&E) merger. Agency travel is expected to increase in FY 2012.

Funding to cover other costs is requested at \$7.325 million. This includes the IT overhaul in addition to rent payments to the General Services Administration, building security payments to the Department of Homeland Security (DHS), and payments for employee training, telephone service, postage, IT systems support and software licenses, miscellaneous services and supplies, and reimbursable services acquired from other Federal agencies.

These costs include the STB's share of e-Gov initiatives and CIO/CFO Council funding. A payment to the DOT Working Capital Fund of \$249,000 is included in these costs. The Board continues to evaluate its level of physical security in light of the building's security committee and DHS guidelines. The Board has implemented a business continuity plan along with sheltering-in-place procedures to provide for the physical security of its employees and the continuity planning and continuance of its statutory mission.

Surface Transportation Board Organization Chart



The above numbers to the left represent FY 2011 FTEs; the numbers to the right represent FY 2012 FTEs. The number of Full-Time Permanent positions and FTEs is the same. The total number of FTEs for the Surface Transportation Board is 148 for FY 2011 and 170 for FY 2012.

Accomplishments in FY 2010

Rate Cases

The Board has jurisdiction over complaints challenging the reasonableness of a common carriage rate only if the railroad has market dominance over the traffic involved. Market dominance refers to an absence of effective competition from other railroads or transportation modes for a specific movement to which a rate applies. To assess whether a challenged rate is reasonable, the Board uses “constrained market pricing”, which limits a railroad’s rates to levels necessary for an efficient carrier to make a reasonable profit.

The number of cases challenging rail rates continues to increase. Despite the Board’s often successful efforts to encourage settlement between the parties, the Board has ten major rate cases pending before it as of February 2011. These proceedings will require significant staff attention and resources, given the complex nature of the cases and the substantial efforts that will need to be devoted to matters such as motions and discovery resolution in the adjudications.

In January 2010, the Board directed Union Pacific Railroad Company to establish new rates for shipments of chlorine for U.S. Magnesium, L.L.C., finding that the railroad’s rates were unreasonably high. (*U.S. Magnesium, L.L.C. v. Union Pacific*

Railroad Company, STB Docket No. NOR 42114.) This ruling involved a significant application of the Board’s rules for cases filed under its Simplified Standards for Rail Rate Cases.

The current rate cases include *Arizona Electric Power Cooperative, Inc. v. BNSF Railway Company and Union Pacific Railroad Company, STB Docket No. 42113*; *Arizona Electric Power Cooperative, Inc. v. Union Pacific Railroad Company, STB Docket No. 42113 (Sub. No. 1)*; *Total Petrochemicals USA, Inc. v. CSX Transportation, Inc., STB Docket No. 42121*; *M&G Polymers USA, LLC v. CSX Transportation, Inc., STB Docket No. 42123*; *E.I. du Pont de Nemours and Company v. Norfolk Southern Railway Company, STB Docket No. 42125*; *Intermountain Power Agency v. Union Pacific Railroad Company, STB Docket No. 42127*; and *South Mississippi Electric Power v. Norfolk Southern Railway Company, STB Docket No. 42128*.

STB mediation has been successful in ending six of the last seven rate cases filed as of July 2010, including *NRG Power Marketing LLC v. CSX Transportation, Inc., STB Docket No. NOR 42122*, a major case. Board mediation helped settle three rate cases involving *E.I. du Pont de Nemours*

and Company v. CSX Transportation, Inc., STB Docket Nos. NOR 42099, NOR 42100 and NOR 42101, and two rate cases involving U.S. Magnesium, L.L.C. v. Union Pacific Railroad Company, STB Docket Nos. NOR 42115 and NOR 42116.

New Construction

The Board approved the request of the Alaska Railroad Corporation (ARRC, a state-owned railroad) to construct and operate a new, 80-mile railroad line—the Northern Rail Extension—in the State of Alaska, subject to extensive environmental-mitigation conditions.

After considering the entire public record before it, including both the transportation aspects of ARRC's proposal and potential environmental issues, the Board was satisfied that the proposed line would provide reliable, year-round freight and passenger service to the region south of North Pole, Alaska; access to training areas used by the United States military; and an alternative to the Richardson Highway, now the sole means for surface transportation of commercial freight in the proposed project area.

The Board was also satisfied that the proposal would foster development of Alaska's economy by expanding ARRC's passenger and freight network to an area currently without rail service. (*Alaska Railroad Corporation—Construction and Operation Exemption—Rail Line Between North Pole and Delta Junction, Alaska, STB Docket No. FD 34658.*)

Merger Oversight

As part of the STB's ongoing monitoring of Canadian National Railway Company's 2008 acquisition of the Elgin, Joliet and Eastern Railway Company, *Canadian National Railway Company and Grand Trunk Corporation--Control--EJ&E West Company, STB Docket No. FD 35087*, the Board directed an audit of Canadian National's compliance with STB reporting requirements included in its merger decision. Members of the Illinois congressional delegation and local leaders have complained that Canadian National was underreporting street-crossing blockages, among other complaints.

The Board had required Canadian National to report every street-crossing blockage of 10 minutes or more. In its November and December 2009 monthly reports, the railroad reported a total of 14 blockages caused by stopped trains. But an independent audit conducted on behalf of the Board by its third-party consultant, HDR Inc., found, during that same period, 1,457 instances of crossings blocked for 10 minutes or more by stopped or slowly moving trains. The Board held an oversight hearing in April 2010 and ordered Canadian National to update its reports.

Environmental Studies

The Board's Section of Environmental Analysis issued a Draft Environmental Impact Statement for the R. J. Corman Railroad Company/Pennsylvania Lines

Inc.'s proposed construction, operation, and reactivation of a 20-mile railroad line between Wallaceeton and Gorton, in Clearfield and Centre Counties, Pennsylvania.

Oral Arguments and Public Hearings

In an effort to make the Board's activities more transparent, the STB began holding public hearings and oral arguments in cases of particular interest. The oral arguments give parties an opportunity to address the Board directly and allow Board members a chance to ask questions before making a decision. The format is similar to oral arguments held in federal appellate courts.

The Board held oral arguments on *Seminole Electric Cooperative, Inc. v. CSX Transportation, Inc.*, STB Docket No. 42110, a major rate case, and on the efforts of Stagecoach Group PLC and its subsidiaries to acquire Twin America, LLC to provide tourist bus operations in New York City, *Stagecoach Group PIC and Coach USA, Inc., et al.—Acquisition of Control—Twin America, LLC*, STB Docket No. MCF 21035.

In addition to its public oversight hearing on CN/EJ&E's reporting, the Board held a hearing on a case, *San Benito Railroad LLC—Acquisition Exemption—Certain Assets of Union Pacific Railroad Company*, STB Docket No. FD 35225, in which a non-carrier wanted to purchase 12.43 miles of rail line from the Union Pacific Railroad Company in a transaction that would have allowed San Benito to purchase the physical

assets of the rail line without incurring a common-carrier obligation.

The Board also held a public hearing on issues surrounding coal dust. The case, *Arkansas Electric Cooperative Corporation—Petition for Declaratory Order*, STB Docket No. FD 35305, raises the issues of whether BNSF Railway Company may establish rules regarding coal dust dispersion from coal trains operating over its lines and if it can refuse to provide rail service to shippers who do not comply with its rules. The Board will decide if this constitutes an unreasonable practice and whether the provision would violate BNSF's common carrier obligation.

Field Hearings

At the request of the Maine congressional delegation, the Board held a public hearing in Presque Isle, Maine, to allow local leaders, stakeholders, and members of Congress to comment on the Montreal, Maine & Atlantic Railway, Ltd.'s application to abandon 233 miles of line in *Aroostook and Penobscot Counties, Montreal, Maine & Atlantic Railway, Ltd.—Discontinuance Of Service and Abandonment--In Aroostook and Penobscot Counties, Me.*, STB Docket No. AB 1043 (Sub. No. 1).

Public Outreach

The Board began including a plain-language digest in every decision in an effort to make the Board's actions more understandable to the general public.

The Board has mounted an extensive outreach effort for its successful Rail Customer and Public Assistance Program, which provides a venue to resolve disputes informally between shippers and railroads, thus preventing such disputes from becoming expensive and lengthy formal cases. The free program is especially popular among small shippers. The Board reached out to shipper organizations and trade groups and asked them to let their members know of the program and add links on their websites to the program. The Board has also sent informational brochures about the program to Members of Congress in Washington and to their district office staff to let them know that the program can be of assistance to local shippers and communities.

Website Redesign

The Board launched a complete redesign of the Board's website, www.stb.dot.gov, in a major effort to make the work of the STB more transparent, inclusive, and efficient. The redesign will make it easier to file documents electronically, search for filings, and comment on proceedings.

Uniform Rail Costing System Update

Responding to a request from Congress, the Surface Transportation Board prepared a study outlining options for updating its Uniform Rail Costing System (URCS), the methodology that allows the STB to determine a railroad's variable costs of providing rail transportation service. The

suggested improvements would make URCS more reliable and more reflective of today's railroad industry. *Review of The Surface Transportation Board's General Costing System, STB Docket No. EP 431 (Sub No. 3.)* The Board uses variable costs to determine whether it has jurisdiction in rate disputes between railroads and their customers and if the rates in question are reasonable. URCS is also used in other cases such as proposed abandonments and disputes over trackage rights.

The report lays out three alternatives ranging from updating the outdated computer programs to a complete revamping of the current system that could cost \$10 million or more. The Board has recommended a middle option that would upgrade computer software and modify the existing system to account for the many changes in the railroad industry that have occurred since URCS was first adopted in 1989. The middle option is estimated to cost \$625,000 over 2 years.

Court Actions

The Office of the General Counsel, which is responsible for defending the Board's decisions in court, filed several briefs this fiscal year. Some of the briefs addressed matters such as the sometimes controversial area of federal preemption. Those with the broadest impact involved environmental and rate issues.

The Board defended its decision authorizing, with substantial conditions, the acquisition by the Canadian National

Budget Request for FY 2012

Railway Company of the EJ&E rail line running around Chicago. Certain communities around Chicago had challenged the sufficiency of the Board's environmental review and of the conditions the Board imposed to mitigate the harms that could result from increased train traffic, while the railroad had argued that the Board lacked the authority to impose any environmental conditions and that, in any event, certain conditions that the Board imposed were excessive. The Board also defended its decision authorizing the Canadian Pacific Railway (CP) to acquire the Dakota, Minnesota & Eastern Railroad (DM&E), again subject to environmental protective conditions – most notably, conditions foreclosing the carriage of coal over CP lines connecting to DM&E's not-yet-built line to the Powder River Basin coal mines until a further decision is issued after full environmental review.

The Board defended its decision finding that the rates BNSF charged to Western Fuels Association and Basin Electric Cooperative were unreasonable and awarding reparations to the shippers. The Board also defended its decision applying its longstanding methodology for determining the "cost of capital" to be used for the years 1998-2005 in assessing a claim by AEP Texas that the rates charged by BNSF were unreasonable.

The Board also provided substantial assistance to the Solicitor General in preparing the brief and argument to the Supreme Court in an international water/rail case involving the interplay between two

statutes governing recovery for damage to freight, one applicable to movements over land, the other to movements by water.

During the fiscal year, the Board has been very successful in court. Six of the court rulings issued this year (in Fox, Wheeler, Medina, Riffin I, Kemp, and CP/DM&E) affirmed the Board's decisions in their entirety. In a seventh (Franks), the en banc court of appeals (Fifth Circuit) requested the Board's participation in a rail crossing matter involving the scope of federal preemption and then, in its decision, adopted the Board's position. And even the four court decisions that remanded Board decisions were substantially favorable to the Board's interests (Riffin II, BNSF, CSXT, and AEP Texas).

Amtrak and Commuter Rail

During FY 2010, the Board has continued work on implementing its passenger rail responsibilities as directed by the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). Board staff has monitored Amtrak performance through publicly available information and responded to informal inquiries about Amtrak and PRIIA as needed. Board staff has also spoken to industry trade associations to raise awareness of the Board's new commuter rail access dispute mediation authority.

PRIIA authorized the STB to hire 15 people to handle our PRIIA responsibilities, but we received appropriated funds for only 6 FTEs.

Advisory Committees

The Board hosted meetings for many of the transportation advisory councils of which the three Board members are ex-officio members.

Established In 1996, the **Railroad-Shipper Transportation Advisory Council** (RSTAC) is comprised of rail advocates with the common goal of strengthening the national rail industry, improving service levels, and fostering mutually beneficial relations between large and small railroads and shippers across all commodity groups. The RSTAC advises the STB, the Secretary of Transportation, and congressional committees on rail transportation policy and reports recommendations for improvements. The RSTAC is comprised of 14 private-sector senior executives from the railroad and rail shipping industries and 1 public member-at-large.

The Board created the **Rail Energy Transportation Advisory Committee** (RETAC) in 2007 to provide advice and guidance to the agency and serve as a forum for discussion of emerging issues concerning the rail transportation of energy resources such as coal, ethanol, and other biofuels. The 23 voting members of RETAC represent a balance of stakeholders,

including large and small railroads, coal producers, electric utilities, the biofuels industry, and the private railcar industry.

The **National Grain Car Council** (NGCC) assists the Board in addressing problems concerning grain transportation by fostering communication among railroads, shippers, rail-car manufacturers, and government. The NGCC consists of 14 representatives from Class I railroads, 7 from Class II and Class III railroads, 14 from grain shippers and receivers, and 5 from private rail car owners and manufacturers.

In 2010, the Board proposed to create the **Toxic by Inhalation Hazard Common Carrier Transportation Advisory Committee** (TIHCCTAC) to provide independent advice and policy suggestions to the Board on issues related to the common carrier obligation of railroads to transport toxic by inhalation hazards (TIH). The TIHCCTAC would convene for a 2-year period during which the Board anticipates it would produce a report that will include a recommended policy statement for further consideration by the Board. It is intended that this committee be comprised of a balanced panel of stakeholders, including railroads; TIH shippers; insurers or underwriters; and tank car owners, lessors, or manufacturers.

Exhibits

FY 2012 CONGRESSIONAL BUDGET JUSTIFICATION WORKLOAD SUMMARY¹

Workload Category	Actual ² FY 2010 Board Decisions and Court-related Work	Estimated ² FY 2011 Board Decisions and Court-related Work	Estimated ² FY 2012 Board Decisions and Court-related Work
Rail Carrier Control Cases	60	65	72
Rail Rates and Service	77	85	93
Rail Abandonments and Constructions	393	501	552
Other Line Transactions	144	157	173
Other Rail Activities	98	133	145
Non-Rail Activities	26	24	26
Activities Under Non- Transportation Statutes ²	313	318	318
Total	1,111	1,283	1,379

¹ The Table reports the number of decisions, court-related work, and activities to comply with non-transportation-related statutes as the measure of workload at the Board. Certain activities performed at the Board that provide direct and indirect support for rulemakings and decisions in specific cases are not reflected in these workload numbers. Such activities not reflected include: enforcement activities; rail audits and rail carrier reporting oversight; administration of the rail waybill sample and development of the Uniform Railroad Costing System; and case-related correspondence and informal public assistance.

² In recent years, these activities, involving statutes such as the Freedom of Information Act and the laws governing ethical conduct of Federal employees, were included in this Summary as Non-Rail Activities.

**SURFACE TRANSPORTATION BOARD
SALARIES AND EXPENSES
OBJECT CLASSIFICATIONS**

(in thousands of dollars)

OBJECT CLASS	FY 2010 ACTUAL	FY 2011 ESTIMATE	FY 2012 REQUEST
DIRECT OBLIGATIONS			
PERSONNEL COMPENSATION			
11.10 FULL TIME PERMANENT APPT.	\$16,305	\$16,160	\$19,441
11.30 OTHER THAN FULL-TIME PERMANENT	\$693	\$650	\$780
11.50 OTHER PERSONNEL COMPENSATION	\$648	\$222	\$636
11.90 TOTAL PERSONNEL COMPENSATION	\$17,646	\$17,032	\$20,857
12.10 CIVILIAN PERSONNEL BENEFITS	\$4,224	\$4,180	\$5,066
13.00 BENEFITS FOR FORMER PERSONNEL	\$8	\$0	\$0
21.00 TRAVEL AND TRANSPORTATION OF PERSONS	\$111	\$141	\$210
22.00 TRANSPORTATION OF THINGS	\$5	\$5	\$12
23.10 RENTAL PAYMENTS TO GSA	\$3,733	\$3,808	\$3,826
23.30 COMMUNICATIONS, UTILITIES, MISCELLANEOUS CHARGES	\$189	\$197	\$217
24.00 PRINTING AND PRODUCTION	\$1	\$3	\$6
25.20 OTHER SERVICES	\$426	\$376	\$710
25.30 PURCHASES OF GOODS FROM GOVERNMENT ACCOUNTS	\$1,483	\$1,556	\$1,712
26.00 SUPPLIES AND MATERIALS	\$358	\$341	\$390
31.00 EQUIPMENT	\$111	\$177	\$452
42.00 INDEMNITIES-OTHER PAYMENTS	\$0	\$0	\$0
99.00 SUBTOTAL, DIRECT OBLIGATIONS	\$28,295	\$27,816	\$33,458
REIMBURSABLE OBLIGATIONS			
11.10 REIMBURSABLE FULL TIME PERMANENT APPT.	\$609	\$1,004	\$1,005
12.10 REIMBURSABLE PERSONNEL BENEFITS	\$146	\$246	\$245
99.00 SUBTOTAL, REIMBURSABLE OBLIGATIONS	\$755	\$1,250	\$1,250
99.90 TOTAL OBLIGATIONS	\$29,050	\$29,066	\$34,708

**SURFACE TRANSPORTATION BOARD
SALARIES AND EXPENSES
PERSONNEL SUMMARY**

	FY 2010 ACTUAL	FY 2011 ESTIMATE	FY 2012 REQUEST
1001 FULL-TIME EQUIVALENT-DIRECT	144	139	161
2001 FULL-TIME EQUIVALENT-REIMBURSABLE	5	9	9
TOTAL FULL-TIME EQUIVALENT (FTE)	149	148	170

**SURFACE TRANSPORTATION BOARD
STRATEGIC GOALS AND ANNUAL PERFORMANCE MEASURES**

Strategic Goal	Performance Goal	Performance Measure	2010 Actual	2011 Target	2012 Target
Protect Public Interest	Ensure all alternatives to formal litigation and that Board decisions are fair and reasonable.	1. 5% or less of Board's decisions are challenged in court; 2. 75% or more of Board's decisions are upheld when subjected to court challenge; 3. All decisions, notices, and other documents are published and served promptly and copies made available to the public the same day; and 4. Congressional and public e-mail and telephone inquiries are fully answered within 14 days.	3.6%	<5%	<5%
Foster Economic Efficiencies	Economic Oversight: Provide timely, accurate, and useful financial and operational data.	5. Met dispute resolution deadlines 90% of time; 6. 90% of cost of capital, rail revenue cost adjustments, and revenue adequacy decisions are released according to schedule.	82%	>75%	>75%
Provide Timely, Efficient, and Decisive Regulatory Process	Environmental Oversight: Examine environmental impact of actions before decisions.	7. 90% of Board's decisions on railroad abandonments are issued within 110 days of initial filing; 8. 90% of requests for waybill data are handled within 7 days of requests; 9. Statutory deadlines imposed on all cases are met at least 90% of the time; and 10. Docket management – percentage of cases completed relative to the number of cases filed the prior year.	100%	90%	90%
			100%	90%	90%
			94%	90%	90%
			98%	90%	90%
			99%	90%	90%
			102%	100%	100%

SURFACE TRANSPORTATION BOARD
STRATEGIC GOALS AND ANNUAL PERFORMANCE MEASURES -- *Continued*

Strategic Goal	Performance Goal	Performance Measure	2010 Actual	2011 Target	2012 Target
Ensure Necessary Organization/ Management Structure is Available to Carry Out First Three Goals	Operation Oversight/Enforcement: Monitoring rail operations, resolving complaints, and contracts.	11. 90% of informal complaints are handled within 30 days of receipt;	100%	90%	90%
		12. Data is collected and processed within 24 hours;	100%	90%	90%
		13. 90% of requestors are given correct information and complaint resolved; and	100%	90%	90%
		14. Requests for certified copies of documents are handled within 5 business days.	1 day	5 days	5 days

**SURFACE TRANSPORTATION BOARD
FY 2012 NEW BUDGET AUTHORITY**
(in thousands of dollars)

ACCOUNT NAME	FY 2010 ACTUAL	FY 2011 CONTINUING RESOLUTION ESTIMATE	FY 2012 TOTAL REQUEST
SALARIES & EXPENSES	\$28,295	\$27,816	\$33,458
TOTALS	\$28,295	\$27,816	\$33,458
OFFSETTING COLLECTIONS	\$755	\$1,250	\$1,250

EXPLANATION

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

The Board wants to enhance its auditing program to monitor the increasingly complex corporate structures of railroads, such as BNSF, which was recently bought and taken private, and to verify data collected from railroads. In addition, the Board sees increasing its mediation efforts as a lower-cost way of dealing with the increasing number and complexity of cases filed each year. Settling disputes through mediation saves stakeholders time and money and allows Board staff to focus on the most difficult cases.

The FY 2011 and FY 2012 request does not include any future legislative changes that could vest the Board with additional statutory responsibilities.

SURFACE TRANSPORTATION BOARD
FY 2012 TOTAL BUDGETARY RESOURCES BY APPROPRIATION ACCOUNT
(in thousands of dollars)

APPROPRIATIONS, OBLIGATION LIMITATIONS, AND EXEMPT OBLIGATIONS

ACCOUNT TITLE	FY 2010 ACTUAL	FY 2011 CONTINUING RESOLUTION ESTIMATE	FY 2012 BASELINE ESTIMATES	FY 2012 PROGRAM CHANGES	FY 2012 TOTAL REQUEST
SALARIES & EXPENSES	\$28,295	\$27,816	\$28,090	\$5,368	\$33,458
OFFSETTING COLLECTIONS					
Users Fees Credited to Appropriation	\$755	\$1,250	\$1,250	\$0	\$1,250
TOTALS	\$29,050	\$29,066	\$29,340	\$5,368	\$34,708

EXPLANATION

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

The Board wants to enhance its auditing program to monitor the increasingly complex corporate structures of railroads, such as BNSF, which was recently bought and taken private, and to verify data collected from railroads. In addition, the Board sees increasing its mediation efforts as a lower-cost way of dealing with the increasing number and complexity of cases filed each year. Settling disputes through mediation saves stakeholders time and money and allows Board staff to focus on the most difficult cases.

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SURFACE TRANSPORTATION BOARD
FY 2012 BUDGET REQUEST BY DOT STRATEGIC AND ORGANIZATIONAL GOALS
(in thousands of dollars)

APPROPRIATION/PROGRAM ACTIVITY/PERFORMANCE GOAL	SAFETY	REDUCED CONGESTION	GLOBAL CONN.	ENVIRON. STEWARD.	SECURITY	ORGAN. EXCELL.	TOTAL
ACCOUNT TITLE							
Salaries and Expenses	\$0	\$0	\$0	\$0	\$0	\$33,458	\$33,458
OFFSETTING COLLECTIONS							
Users Fees Credited to Appropriation	\$0	\$0	\$0	\$0	\$0	\$1,250	\$1,250
TOTALS	\$0	\$0	\$0	\$0	\$0	\$34,708	\$34,708

EXPLANATION

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

The Board wants to enhance its auditing program to monitor the increasingly complex corporate structures of railroads, such as BNSF, which was recently bought and taken private, and to verify data collected from railroads. In addition, the Board sees increasing its mediation efforts as a lower-cost way of dealing with the increasing number and complexity of cases filed each year. Settling disputes through mediation saves stakeholders time and money and allows Board staff to focus on the most difficult cases.

The FY 2011 and FY 2012 request does not include any future legislative changes that could vest the Board with additional statutory responsibilities.

**SURFACE TRANSPORTATION BOARD
FY 2012 BUDGET AUTHORITY**
(in thousands of dollars)

ACCOUNT TITLE	FY 2010 ACTUAL	FY 2011 CONTINUING RESOLUTION ESTIMATE	FY 2012 BASELINE ESTIMATES	FY 2012 PROGRAM CHANGES	FY 2012 TOTAL REQUEST
SALARIES & EXPENSES	\$28,295	\$27,816	\$28,090	\$5,368	\$33,458
OFFSETTING COLLECTIONS					
Users Fees Credited to Appropriation	\$755	\$1,250	\$1,250	\$0	\$1,250
TOTALS	\$29,050	\$29,066	\$29,340	\$5,368	\$34,708

EXPLANATION

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

The Board wants to enhance its auditing program to monitor the increasingly complex corporate structures of railroads, such as BNSF, which was recently bought and taken private, and to verify data collected from railroads. In addition, the Board sees increasing its mediation efforts as a lower-cost way of dealing with the increasing number and complexity of cases filed each year. Settling disputes through mediation saves stakeholders time and money and allows Board staff to focus on the most difficult cases.

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SURFACE TRANSPORTATION BOARD
FY 2012 OUTLAYS
(in thousands of dollars)

ACCOUNT TITLE	FY 2010 ACTUAL	FY 2011 CONTINUING RESOLUTION ESTIMATE	FY 2012 TOTAL REQUEST
SALARIES & EXPENSES	\$26,815	\$26,815	\$33,112
OFFSETTING COLLECTIONS			
Users Fees Credited to Appropriation	\$755	\$1,250	\$1,250
TOTALS	\$27,570	\$28,065	\$34,362

EXPLANATION

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

**SURFACE TRANSPORTATION BOARD
SUMMARY OF REQUESTED FUNDING CHANGES FROM BASE
APPROPRIATIONS, OBLIGATION LIMITATIONS, AND EXEMPT OBLIGATIONS**

(in thousands of dollars)

SALARIES AND EXPENSES

	FY 2011 CONTINUING RESOLUTION ESTIMATE						FY 2012 Baseline Estimate	Program Increase/ Decrease	FY 2012 Request
		One Less Compensable Day	GSA Rent	Program Increase/ Decrease	WCF Increase/ Decrease	Inflation			
DIRECT									
<u>Personnel Resources</u>	139						139	14	153
Direct FTE	139						139	14	153
<u>Financial Resources</u>									
Salaries and Benefits	\$21,212	(\$70)				\$126	\$21,268	\$4,655	\$25,923
Travel	\$141					\$10	\$151	\$59	\$210
Transportation	\$5					\$7	\$12		\$12
GSA Rent	\$3,808		\$18				\$3,826		\$3,826
Communications & Utilities	\$197					\$10	\$207	\$10	\$217
Printing	\$3					\$3	\$6		\$6
Other Services:									
WCF	\$192						\$249		\$249
Other	\$1,740					\$83	\$1,823	\$350	\$2,173
Supplies	\$341					\$15	\$356	\$34	\$390
Equipment	\$177					\$15	\$192	\$260	\$452
Total	\$27,816	(\$70)	\$18			\$269	\$28,090	\$5,368	\$33,458
REIMBURSABLE									
<u>Personnel Resources</u>	9						9		9
Reimbursable FTE	9						9		9
<u>Financial Resources</u>									
Salaries and Benefits	\$1,250						\$1,250		\$1,250
TOTALS									
FTE	148						148	22	170
Budgetary Resources	\$29,066	(\$70)	\$18			\$269	\$29,340	\$5,368	\$34,708

SURFACE TRANSPORTATION BOARD
WORKING CAPITAL FUND
(in thousands of dollars)

ACCOUNT NAME	FY 2011 CONTINUING RESOLUTION ESTIMATE	FY 2012 TOTAL REQUEST	CHANGE
DIRECT			
SALARIES & EXPENSES	\$192	\$249	\$57
TOTALS	\$192	\$249	\$57

**SURFACE TRANSPORTATION BOARD
PERSONNEL RESOURCE - SUMMARY
TOTAL FULL-TIME EQUIVALENTS**

	FY 2010 ACTUAL	FY 2011 CONTINUING RESOLUTION ESTIMATE	FY 2012 REQUEST
<u>DIRECT FUNDED BY APPROPRIATION</u>			
SALARIES & EXPENSES			
Civilian	144	139	161
SUBTOTAL, DIRECT FUNDED	144	139	161
<u>REIMBURSEMENTS/ALLOCATIONS/OTHER</u>			
OFFSETTING COLLECTIONS			
Civilian	5	9	9
SUBTOTAL, REIMBURSEMENTS/OFFSETTING COLLECTIONS	5	9	9
TOTAL FTE	149	148	170

EXPLANATION

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

The Board wants to enhance its auditing program to monitor the increasingly complex corporate structures of railroads, such as BNSF, which was recently bought and taken private, and to verify data collected from railroads. In addition, the Board sees increasing its mediation efforts as a lower-cost way of dealing with the increasing number and complexity of cases filed each year. Settling disputes through mediation saves stakeholders time and money and allows Board staff to focus on the most difficult cases.

The FY 2011 and FY 2012 request does not include any future legislative changes that could vest the Board with additional statutory responsibilities.

**SURFACE TRANSPORTATION BOARD
RESOURCE SUMMARY - STAFFING
FULL-TIME PERMANENT POSITIONS**

	FY 2010 ACTUAL	FY 2011 CONTINUING RESOLUTION ESTIMATE	FY 2012 REQUEST
<u>DIRECT FUNDED BY APPROPRIATION</u>			
SALARIES & EXPENSES			
Civilian	144	139	161
SUBTOTAL, DIRECT FUNDED	144	139	161
<u>REIMBURSEMENTS/ALLOCATIONS/OTHER</u>			
OFFSETTING COLLECTIONS			
Civilian	5	9	9
SUBTOTAL, REIMBURSEMENTS/OFFSETTING COLLECTIONS	5	9	9
TOTAL POSITIONS	149	148	170

EXPLANATION

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

The Board wants to enhance its auditing program to monitor the increasingly complex corporate structures of railroads, such as BNSF, which was recently bought and taken private, and to verify data collected from railroads. In addition, the Board sees increasing its mediation efforts as a lower-cost way of dealing with the increasing number and complexity of cases filed each year. Settling disputes through mediation saves stakeholders time and money and allows Board staff to focus on the most

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**SURFACE TRANSPORTATION BOARD
SUMMARY BY PROGRAM ACTIVITY**
(in thousands of dollars)

APPROPRIATIONS, OBLIGATION LIMITATIONS, AND EXEMPT OBLIGATIONS

PROGRAM ACTIVITIES	FY 2010 ACTUAL	FY 2011 CONTINUING RESOLUTION ESTIMATE	FY 2012 TOTAL REQUEST	CHANGES FY 2011-2012
SALARIES & EXPENSES	\$28,295	\$27,816	\$33,458	\$5,642
TOTALS	\$28,295	\$27,816	\$33,458	\$5,642
FTE (direct funded only)	144	139	161	22
OFFSETTING COLLECTIONS	\$755	\$1,250	\$1,250	\$0
FTE (reimbursable funded only)	5	9	9	0

EXPLANATION

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

The Board wants to enhance its auditing program to monitor the increasingly complex corporate structures of railroads, such as BNSF, which was recently bought and taken private, and to verify data collected from railroads. In addition, the Board sees increasing its mediation efforts as a lower-cost way of dealing with the increasing number and complexity of cases filed each year. Settling disputes through mediation saves stakeholders time and money and allows Board staff to focus on the most difficult cases.

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SURFACE TRANSPORTATION BOARD
SUMMARY ANALYSIS OF CHANGE FROM FY 2011 TO FY 2012
APPROPRIATIONS, OBLIGATION LIMITATIONS, AND EXEMPT OBLIGATIONS
(in thousands of dollars)

	Change from FY 2011 to FY 2012
FY 2011 Base (Board's Budget Request)	
Salaries and Expenses	\$27,816
Adjustments to Base	
One Less Compensable Day	(\$70)
Inflation	\$137
Program Cost Increases	\$132
GSA Rent Increase	\$18
WCF Increase	\$57
Subtotal, Adjustments to Base	\$274
New or Expanded Programs	
Program Increases/Decreases	
Program Cost Increases	\$5,368
Subtotal, New or Expanded Programs Program Increases/Decreases	\$5,368
Reimbursable-Offset Collections	\$1,250
TOTAL FY 2012 REQUEST	\$34,708

EXPLANATION

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and

The Board wants to enhance its auditing program to monitor the increasingly complex corporate structures of railroads, such as BNSF, which was recently bought and taken private, and to verify data collected from railroads. In addition, the Board sees increasing its mediation efforts as a lower-cost way of dealing with the increasing number and complexity of cases filed each year. Settling disputes through mediation saves stakeholders time and money and allows Board staff to focus on the most difficult cases.

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**STB Board
Members'
Statements**

Budget Request for FY 2012

**DISSENT OF VICE CHAIRMAN NOTTINGHAM
ON PROPOSED SURFACE TRANSPORTATION BOARD BUDGET
FOR FISCAL YEAR 2012**

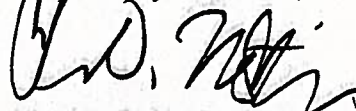
I respectfully dissent from the Surface Transportation Board's Fiscal Year (FY) 2012 budget request to Congress.

The Board's request of \$34,708,000 for FY 2012 represents more than a 19% increase when compared to actual agency expenditures in FY 2010 and projected expenditures in FY 2011. The Board's proposed budget would also increase staffing levels by approximately 18% from the current level of 144 employees up to 170. In addition, the Board's budget request seeks a 90% increase in staff travel funds when compared to actual travel expenditures in FY 2010.

Our federal government faces enormous budget deficits. Agencies across the government are being challenged by the President and Congress to reduce spending. In light of these realities, I believe that the Board should avoid requesting significant increases in taxpayer funds. Fortunately, the Board has an excellent track record of effectively carrying out our regulatory responsibilities within limited budget and staffing constraints.

To the extent existing resources or modest funding increases allow, I believe that the Board's top priority should be updating the Uniform Rail Costing System (URCS). Maintaining the accuracy and integrity of the Board's URCS data is critical to safeguarding the credibility of much of our economic regulatory and dispute resolution missions. FY 2012 should be a critical and productive year for the URCS update project. Our budget request should be more aligned with this priority.

Respectfully submitted,



Charles D. Nottingham
February 10, 2011

**COMMENTS OF COMMISSIONER MULVEY
ON PROPOSED SURFACE TRANSPORTATION BOARD BUDGET
FOR FISCAL YEAR 2012**

I support the Board's budget request, which reflects an increase of approximately \$5.3 million (over the FY 2011 Continuing Resolution Estimate) largely to fund improvements to our auditing and mediation programs. Both of these programs are important to the Board's success. Moreover, expenses related to the programs can be expected to increase in the next fiscal year as the Board seeks to continue the recent uptick in STB-facilitated settlements and perform necessary auditing of Class I railroad data. I believe that this small investment in the Board's human resources will ultimately make the Board more efficient and accurate.

In addition, because the makeup of the Board's staff is changing from primarily CSRS employees to one including more FERS employees, the Board's benefit expenses will continue to go up even if its overall FTE figure were to remain constant. This is because for FERS employees, the Board must pay the 11.7% employer contribution for FERS annuities, 6.2% for Social Security and 5.0% in TSP-matching for a total of 22.9% versus 7.0% for CSRS employees. Additional funding will assist the Board in meeting this budget challenge.

I am pleased that the Board's budget request affirms its priority of updating the Uniform Rail Costing System in a cost effective manner. I am optimistic that the funding necessary for this important project will be a key consideration in the FY 2011 budget deliberations.

The goals that the Board's budget request lays out have increased urgency as the federal government moves to reduce its long-term spending. The modest funding increase will help to ensure an efficient and effective Surface Transportation Board far into the future.

February 14, 2011