



# Budget Request for FY 2017

## Surface Transportation Board



February 2016

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# Overview



The Surface Transportation Board (STB or Board) is charged with the economic oversight of the nation's freight rail system. The bipartisan Board was formed in 1996 as the successor agency to the Interstate Commerce Commission. The Surface Transportation Board Reauthorization Act of 2015, Pub. L. No. 114-110 (2015) (Reauthorization Act), established the Board as a wholly independent agency and expanded the Board's membership from three to five Board Members.

The Board has regulatory jurisdiction over railroad rate reasonableness, 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. While the majority of the Board's work involves freight railroads, the STB also performs certain oversight of passenger rail operations and the intercity bus industry, non-energy pipelines, and household goods carriers' tariffs, and rate regulation of non-contiguous domestic water transportation (freight shipping between mainland United States, Hawaii, Alaska, Puerto Rico, and other U.S. territories and possessions). The Board's responsibilities over the National Railroad Passenger Corporation (Amtrak), particularly Amtrak's relationships with the freight railroads, have grown in recent years.

Because the economics of freight rail regulation impact the national network and are important to our national economy, Congress gave 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. The newly enacted Reauthorization Act vested the Board with authority to investigate issues of national or regional significance on its own accord.

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 participates in more than 1,300 decisions and court-related matters each year, significant resources are consumed by a few complex rate cases. Much of the Board's staff time is devoted to analyzing the economic and environmental impacts of its decisions, ensuring that its decisions are fair, and defending those decisions in court.

The majority of 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 types of cases filed. In the past year, the agency continued to work on a number of large, complex rate reasonableness and passenger rail matters, but the Board's ability to process these cases has been impacted by limited staffing and resources. The agency anticipates an increase in workload in Fiscal Year (FY) 2017 in large part due to the increased responsibilities under the Reauthorization Act, including the new investigative authority and new, shortened rate case processing timelines. The Board is also expecting an increase in workload due to the growing complexity of rate cases.

# FY 2017 Budget Request

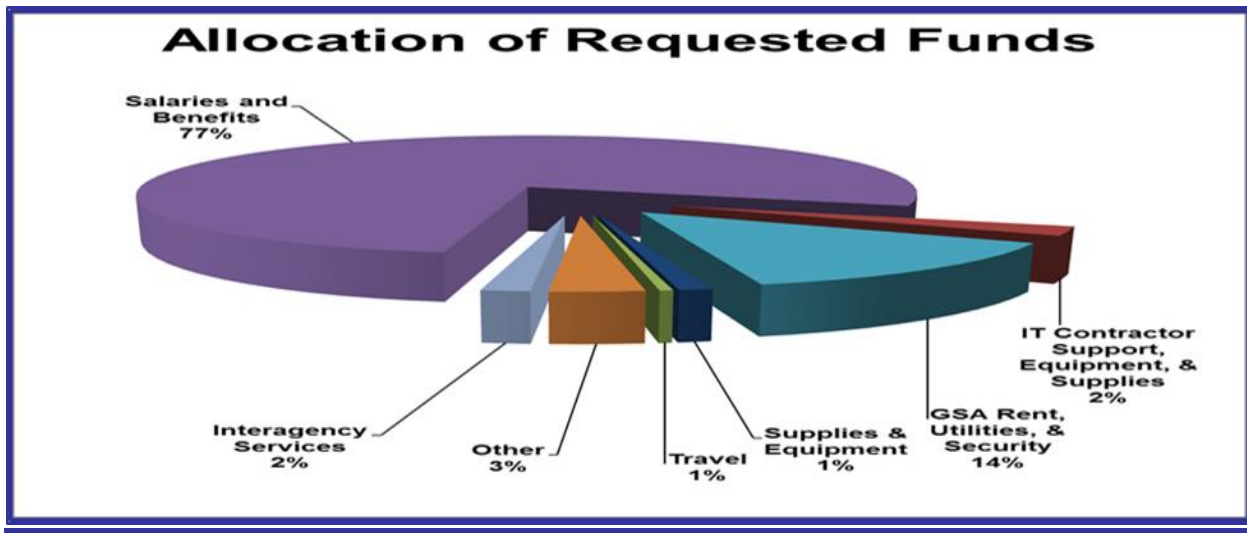


With the enactment of the Reauthorization Act on December 18, 2015, the Board became a wholly independent agency. The Board is requesting \$42,401,404 for 183 Full Time Equivalents (FTEs) and expenses, an increase of \$7,401,404 over the amount authorized in the STB Reauthorization Act. The Board is requesting additional funding to meet the administrative and workload requirements of the Reauthorization Act, and to support the additional staff needed to fulfill reauthorization goals. The Board also seeks to modernize the Board's aging information technology infrastructure and website. In addition, the Board's request includes an estimate of the cost of the potential relocation under General Services Administration (GSA) direction of the Board's offices after the current GSA lease expires in February 2017. A breakdown of expenses is listed below.

- **Administration**

For personnel compensation and benefits, \$29.312 million is requested to support the Board's total 183 requested FTEs. Included in this amount is \$180,000 for lump-sum leave payments for retiring employees. Until recently, Board employees were predominantly CSRS retirement system participants. As many of those employees have recently retired and been replaced by FERS participants, the agency's retirement and employee benefits costs have increased. Agency contributions for FERS-covered employees are higher than for CSRS employees, which increases the personnel costs for the agency.

Funding to cover other costs is requested at \$13.089 million. This includes rent payments to the General Services Administration (GSA), building security



payments to the Department of Homeland Security (DHS), and payments for employee training, telephone service, postage, IT systems support and software licenses, services and supplies, and reimbursable services acquired from other Federal agencies.

The Board is seeking the most cost effective solutions to function as a wholly independent agency. The Board is in discussions with shared services providers to continue obtaining services in the Financial, Human Resources and IT areas that would provide the Board with needed services while utilizing cost efficiencies through economies of scale such agreements provide. The Board signed a Memorandum of Agreement with the Department of Transportation utilizing the Economy Act to provide certain support functions in the Human Resources and IT areas. The Board envisions continuing to utilize the agreement with the Working Capital Fund (WCF) in FY 2017 in order to realize cost savings and to ensure continuity of vital administrative services. In the future, the Board is envisioning gradually reducing the amount of expenditures through the WCF as the Board develops its own systems. A payment to the DOT WCF of \$308,116 is included in the request. STB's share of e-Gov initiatives and funding for the Chief Information Officers Council and the Chief Financial Officers Council is included in the WCF estimate. In order to meet the requirements of the Reauthorization Act, an additional eight FTEs are required in the administrative area at a cost of \$1.064 million inclusive of salaries and benefits.

The Board continues to evaluate its level of physical security in light of the building's security committee and DHS guidelines. The Board's security costs are expected to reach \$670,000 in FY 2017, or two percent of the Board's total appropriation for the year.

- **Lease Renewal Planning and Relocation Funding Request**

The Board's GSA Lease expires in February 2017. Therefore, the Board is requesting an additional \$200,000 in the FY 2017 budget request for space planning which includes funds to hire a contractor to act as our representative during the design and construction phase of our lease renewal. In addition to space planning, the Board anticipates incurring construction and relocation costs in FY 2017, estimated to be about \$3.22 million. The Board is at an early stage of its lease renewal process with GSA, so there are many unknowns at this time.

The Board does not know if it will occupy a smaller footprint in its current location, or move to a new location. The lease and space planning request is a conservative estimate, based on design and renovation costs per square foot from a widely accepted source in the construction planning industry; it also includes a conservative contingency factor. Construction/renovation costs will be amortized over the term of the lease which is yet to be determined by GSA. Moving costs will be paid by the Board and will depend on whether the Board moves to a new facility or relocates offices in our current location.

- **Board Members**

The FY 2017 request includes a cost estimate for two new Board Member Offices, as required under the Reauthorization Act. The request includes funds for the two new Members as well as two additional FTEs in each office, additional office space, and furniture. The six additional FTEs are estimated to cost \$1.005 million.

- **Investigations**

The new law vested the Board with authority to investigate issues of national or regional significance and directed the Board to begin a rulemaking and issue final rules regarding this new authority. The Reauthorization Act requires the Board to produce an annual investigations report on actions the Board initiates on its own.

In order to properly carry out the new investigative authority requirement, the Board will need to add a new Office of Investigations. The Board requests \$1.264 million for nine FTEs for the new office to meet the new and increased workload and the reporting requirements associated with it. The formation of this office enables the Board to conduct not only its new freight rail investigations, but also passenger rail investigations under the Passenger Rail Improvement and Investment Act of 2008 (PRIIA), for which the Board has received no annualized appropriated funds since PRIIA was enacted in 2008.

- **Rail Rate Case Processing and Other Proceedings**

The Board issues hundreds of decisions each year. In FY 2015 the Board's members voted on and served 139 decisions. In addition, through delegated authority from the Board, the Board's Director of Proceedings issued 406 decisions in FY 2015. In addition to continuing to handle that workload, the Reauthorization Act requires the Board to change a number of its processes and gives the Board new responsibilities. While these changes will improve the state of rail regulation, they will also require additional resources.

Most notably, the Reauthorization Act significantly reduces the time the Board has to adjudicate large rate case proceedings, once the record is closed, from nine months to four months. At the same time, rate cases have become increasingly complex, with more commodities and movements being challenged within a single case, resulting in significantly larger evidentiary records. Under the Reauthorization Act, the Board will also need to submit a rate case methodology report and quarterly reports on unfinished regulatory proceedings to Congress. The Reauthorization Act also requires the Board to post quarterly reports of rail rate review cases pending or completed by the Board during the previous quarter that include information about each of the cases, such as a summary and the date on which the rate review proceeding began.



Finally, the Reauthorization Act requires the Board to initiate a proceeding to assess procedures that are available to parties in litigation before the courts to expedite such litigation and the potential application of any such procedures to rate cases.

In order to carry out these existing and expanded functions, the Board will need an additional nine FTEs. The nine FTEs are estimated to cost \$1.157 million. These FTEs will be primarily distributed among the Board's Office of Proceedings, the Office of the General Counsel, and Office of Economics.

The Board's Office of Proceedings currently needs additional attorneys in order to keep up with its rate docket, while still continuing to process the high volume of non-rate cases, and to meet the new Reauthorization Act requirements. The Office of Proceedings staff will also be needed to assist in compiling the reports and new rulemakings required by the Reauthorization Act.

Expediting the handling of rate cases will also affect the Board's Office of the General Counsel (GC), which advises the Board on legal matters and defends the Board's decisions in court. GC currently devotes about two to three employees to rate cases, and we project that we will need to increase the number of GC staff dedicated to rate cases, in light of the new Reauthorization Act timelines and the increased complexity of rate cases. Additionally, the agency has received increasingly large numbers of non-rate cases, involving matters such as railroad

preemption (in which the Board is asked to resolve disputes between rail carriers and local bodies or residents near rail facilities over whether and how state or local government can regulate railroads) and unreasonable practices (in which the Board is asked to determine if a rail carrier's service practice is legally permissible). Indeed, four of our current court cases arise out of Board determinations on preemption. To address these rate and preemption cases, along with the other cases that come before the agency, the Office of the General Counsel will require additional positions.

In the Office of Economics, we also propose adding positions to assist in the analysis of growing databases which are at the heart of rate reasonableness cases. As mentioned above, more staff is needed to assess the evidence submitted by the parties and to ensure a high level of quality control in reviewing the evidence submitted by the parties, especially in light of the significantly reduced timeline required by the Reauthorization Act.

In addition to handling the current case workload and the new Reauthorization Act requirements, the Board also needs to be prepared to handle additional workload that may result from a major event in the industry such as a railroad merger or an acquisition, or a series of such transactions. A proposed merger or acquisition would involve significant staff resources and would involve staff from the Office of Proceedings, the Office of Economics, the Office of Environmental Analysis, the Office of Public Assistance, Governmental Affairs

and Compliance, and the Office of the General Counsel.

- **Information Technology Initiatives**

A significant portion of the FY 2017 increase includes funds to update the Board's IT infrastructure, which has been a barrier not only to the completion of the Board's new website and case management system, but also to the day-to-day operations of the agency.

In FY 2015, the Board began pursuing extensive upgrades to its IT infrastructure and capabilities. The upgrades are necessary in order to ensure continued availability, reliability and security of the STB network (hardware, software and operating systems) and IT systems. These upgrades were also required to meet the Information Security requirements mandated by OMB. While the network infrastructure updates are expected to be completed in FY 2015 and early FY 2016, the replacement of the Board's outdated email and case management capabilities will continue into FY 2017 as resource availability allows. The Board's website and the majority of its applications were built many years ago and now require significant maintenance to keep them operational and available to all internal and external STB stakeholders. The applications, though adequate when originally created, now need to be replaced by more secure, effective systems that will assist the Board in meeting its strategic goals.

As a first step towards upgrading the Board's IT infrastructure, the Board procured Cloud Services from a provider in

FY 2015 for email and collaboration tools. Under this procurement, the Board's email and collaboration tools will be provided "as a service" by an outside contractor, as opposed to being provided by the Board in-house. Changing to an "as a service" model will provide many benefits, including: moving the Board closer to complying with the GSA's "Cloud First" mandate; supporting the Board's IT requirements for Contingency of Operations Planning (COOP); and reducing the cost to the Board in the long term of having to provide these services in-house. Although the migration to a cloud-based environment will produce long-term savings, near-term costs will be incurred to make the conversion.

Additionally, the Board began an analysis of our case management capabilities in FY 2015, with a view to begin the migration to a new system in FY 2016. The new case management solution will be expected not only to provide basic case management capabilities but also to support the automation of manual processes, reducing duplicative efforts and data entry. The development of a new solution for case management will also support the Board's efforts to reduce time to process rate reasonableness cases as specified in the Reauthorization Act and support efforts to make the new website easier to navigate and search for stakeholders. However, as is the case with all effective IT capabilities, support and maintenance will be required in FY 2017 and beyond.

Similarly, the Board has been working to implement a new design for the website to upgrade the look and feel to provide a better

user experience. These changes are based on a design developed several years ago. While this design is a significant improvement on the original site design, many improvements continue to be made in the user experience arena for website design that could further enhance the web experience of the Board's stakeholders. This too is a development and maintenance cost that will be required in FY 2017 and onwards.

Lastly, the Reauthorization Act repealed the requirement that the DOT provide administrative support for the Board. This separation has resulted in new IT requirements that must be fulfilled by the Board. While there are some services that the DOT is able to continue to provide under a temporary agreement, there are a few services that the DOT cannot provide to the Board due to federal policy restrictions. The most important of these is the acquisition of a Trusted Internet Connection (TIC) and associated Information Security services. Another equally important requirement is the provision of new non-DOT Personal Identity Verification (PIV) cards to Board employees. Also to be noted is that the issuance of new STB PIV cards will generate an additional requirement to make changes to the DOT provided Human Resources and Financial systems that the Board is currently utilizing.

- **Travel**

Because many of the Board's decisions affect the economies and environments of regions across the nation, Board Members and staff need to travel. Additional travel funds will be required for the two new

Board Members and for travel expenses of the new Office of Investigations staff, as required by the Reauthorization Act. All other travel budgets will remain at the same level requested in FY 2016 and FY 2015. As a result, a travel budget of \$265,000 is requested. In addition to funding the expected travel expenses of the new Board Members and the new Office of Investigations, the travel budget is designed in part to permit the Board to continue its monitoring of rail service, facilitate the investigation of Amtrak performance matters, and expand the Board's informal dispute resolution programs.

The need for a travel budget is particularly important given the service issues that persisted across the rail network in late 2013 and into 2015. The shippers affected by these service issues often cannot afford to travel to Washington, DC, to meet with Board Members and staff and participate in Board hearings. In addition, it is generally more informative for the Board Members and staff when they are able to view the causes of the service problem at the location on the network where the problem is occurring.

It is important to the agency's mission that Board staff physically inspects proposed rail line construction and complex abandonment sites to document and assess environmental data related to the transaction. The Board must also conduct operational reviews, defend the Board's decisions in courts across the country, and make presentations and hold public meetings on issues within the Board's jurisdiction and of intense local interest.

# Surface Transportation Board Organization Chart



The above numbers to the left represent actual FY 2015 FTEs; the numbers to the right represent requested FY 2017 FTEs. The number of Full-Time Permanent positions and FTEs is the same. The total number of requested FTEs for the Surface Transportation Board is 170 for FY 2016 and 183 for FY 2017.

# Accomplishments in FY 2015



## Rate Cases

The Board has jurisdiction over complaints challenging the reasonableness of common carrier rates 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 the 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 return on investment.

The Board had four rate cases pending at the close of FY 2015: *Total Petrochemicals & Refining USA, Inc. vs. CSX Transportation, Inc.*, Docket No. NOR 42121; *Sunbelt Chlor Alkali Partnership v. Norfolk Southern Railway Company*, Docket No. NOR 42130; *E.I. du Pont Nemours & Co. v. Norfolk Southern Railway Company*, Docket No. NOR 42125; and *Consumers Energy Company v. CSX Transportation, Inc.*, Docket No. NOR 42142.

*Consumers Energy Company* will require significant staff attention and resources. In June 2015, the Board denied a motion to dismiss Consumer Energy Company’s revenue adequacy claim.

With the record having closed in December 2015, *Total Petrochemicals* is consuming significant staff resources. In May 2015, the Board held a technical conference where the parties met with Board staff to discuss the operating plan and Rail Traffic Controller model evidence submitted.

In *Sunbelt*, the Board found that the challenged rates had not been shown to be unreasonably high until the year 2021 (Board Member Begeman dissented with a separate expression). The parties filed a joint petition for technical corrections, and each party separately filed a petition for reconsideration. The Board is in the process of resolving those petitions.

In *DuPont*, the Board found that the challenged rates had not been shown to be unreasonably high. The Board subsequently granted a joint petition for technical corrections of that decision. The parties then filed separate petitions for reconsideration, which the Board addressed in a decision served in December 2015 (with Board Member Begeman dissenting). This case was the largest maximum rate case in terms of size, dollar amount, and complexity ever adjudicated by the Board.

The Board also issued decisions in two other rate cases in FY 2015:

*Western Fuels Association, Inc. v. BNSF Railway*, Docket No. NOR 42088, was before the Board on remand; however, the Board granted a joint petition to vacate the rate prescription, dismiss the complaint with prejudice, and discontinue the proceeding.

In *Arizona Electric Power Cooperative, Inc. v. BNSF Railway*, Docket No. NOR 42113, the Board reinstated the rate prescription in this proceeding for the years 2009-2013. The Board continues to hold this case in abeyance for 2014-2018, to allow the asset markup resulting from the Berkshire Hathaway acquisition of BNSF to be fully reflected in BNSF's variable costs and the rate prescription. For 2014-2016, when each year's financial data becomes available, the Board will prescribe the rate for that year. Once the asset markup is fully incorporated, the Board will reinstate the rate prescription for 2017-2018.

### **Unreasonable Practice, Rulemaking, Declaratory Order, Licensing, and Abandonment**

In FY 2015, the Board issued multiple decisions on topics of importance to shippers and railroads.

#### *Unreasonable Practice*

In *Colorado Wheat Administrative Committee v. V & S Railway*, Docket No. NOR 42140, the Board required V & S Railway, LLC, to keep in place the track on

one of its line segments in Colorado while the Board considers a complaint claiming violation of the common carrier obligation as it pertains to that line segment.

In *North American Freight Car Association v. Union Pacific Railroad*, Docket No. NOR 42119, the Board found that three portions of Union Pacific Railroad Company's tariff, which involved a surcharge for a shipper's failure to remove lading residue from railcars, had not been shown to be unreasonable practices. The Board, however, found that one portion of the tariff, which assessed a surcharge for lading residue found after a car had left the customer's facility and begun moving in line-haul service, had been shown to be unreasonable.

#### *Rulemakings*

In *On-Time Performance Under Section 213 of the Passenger Rail Investment and Improvement Act of 2008*, Docket No. EP 726, the Board instituted a rulemaking to define on-time performance of Amtrak for purposes of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). Determining what constitutes on-time performance is significant because, under PRIIA, a finding that on-time performance has averaged less than 80 percent over two consecutive calendar quarters triggers the Board's authority to investigate the cause of such performance and award damages and other relief.

*Declaratory Order*

In *Peninsula Corridor Joint Powers Board—Petition for Declaratory Order*, Docket No. FD 35929, the Board denied a petition for declaratory order, concluding that Federal preemption did not bar the application of the California Environmental Quality Act to the electrification of the Peninsula Corridor Joint Powers Board’s rail line between San Jose and San Francisco, Cal.

In *Wichita Terminal Association, BNSF Railway, & Union Pacific Railroad—Petition for Declaratory Order*, Docket No. FD 35765, the Board found that the Kansas courts’ orders requiring a railroad crossing in Wichita, Kan., are preempted by federal law. The Board explained that it generally would be reasonable for a state court, applying state or local law, to determine whether a permanent crossing at a different location would unreasonably interfere with interstate rail operations and be preempted by federal law.

In *Fillmore & Western Freight Service, LLC—Emergency Pet. for Declaratory Order*, Docket No. FD 35813, the Board deferred to the state courts concerning the interpretation of the leases at issue between a rail operator and the owner of the rail line. Nonetheless, the Board also reaffirmed the general principle that any party seeking abandonment of a rail line or discontinuance of rail service must first obtain the appropriate Board authority, regardless of the status of any contractual arrangements.

In *California High-Speed Rail Authority—Petition for Declaratory Order*, Docket No. FD 35861, the Board concluded that Federal preemption precludes application of the California Environmental Quality Act, to the extent that applying the act would have the effect of unreasonably burdening or interfering with rail transportation, to the construction of a high-speed passenger rail line between Fresno and Bakersfield, Cal. (Board Member Begeman dissented with a separate expression).

In *Soo Line Railroad—Petition for Declaratory Order*, Docket No. FD 35850, the Board found that Federal law preempts state and local permitting and preclearance requirements and other state and local laws that would prohibit or unreasonably burden or interfere with Canadian Pacific Railway Company’s track extension project.

In *JGB Properties, LLC—Petition for Declaratory Order*, Docket No. FD 35817, the Board found that a state court is not preempted from finding that a landowner unlawfully interfered with a permanent rail easement by removing track from its property.

In *SEA-3, Inc.—Pet. for Declaratory Order*, Docket No. FD 35853, the Board found that the City of Portsmouth’s participation in zoning litigation over the expansion of a non-carrier facility was not preempted by federal law. The Board provided guidance on the issue but denied the petition for declaratory order because the law about preemption as applied to transload facilities is clear.

In *United States EPA—Petition for Declaratory Order*, Docket No. FD 35803, the Board declined to issue a declaratory order because of the many unresolved issues outside the scope of this proceeding, but provided guidance on issues of preemption as it applies to the proposed rules.

In *Thomas Tubbs—Petition for Declaratory Order*, Docket No. FD 35792, the Board found that claims under Missouri state law seeking compensation from BNSF Railway Company and its contractor, Massman Construction Co., for flooding and property damage allegedly caused by the improper design, construction, and maintenance of BNSF’s rail line are preempted by federal law.

In *Diana Del Grosso—Petition for Declaratory Order*, Docket No. FD 35652, the Board found that certain operations conducted at a bulk transloading facility in the Town of Upton, Mass., constitute “transportation by rail carrier” and that, therefore, federal preemption applies to those operations.

In *Pinelawn Cemetery—Petition for Declaratory Order*, Docket No. FD 35468, the Board held that, even if the owner claims that the lease under which the rail property is operated has terminated, a portion of a rail yard remains part of the national rail system unless the Board authorizes removal from its jurisdiction.

### *Licensing*

In *Norfolk Southern Railway—Acquisition & Operation—Certain Rail Lines of the Delaware & Hudson Railway*, Docket No. FD 35873, the Board authorized, subject to conditions, the acquisition by Norfolk Southern Railway Company of 282.55 miles of rail line, in New York and Pennsylvania, owned by the Delaware & Hudson Railway Company.

In *CSX Transportation, Inc.—Joint Use—Louisville & Indiana Railroad*, Docket No. FD 35523, the Board approved the proposed joint use agreement between CSX Transportation, Inc., and Louisville & Indiana Railroad Company, Inc., subject to environmental conditions and standard employee protection conditions.

In *New England Central Railroad, Inc.—Trackage Rights Terms & Conditions—Pan Am Southern LLC*, Docket No. FD 31250, the Board found that conditions a railroad had placed on a second railroad’s use of its line violated the terms for such use established by the Interstate Commerce Commission, the Board’s predecessor, and directed the parties to propose a procedural schedule to establish new terms and conditions.

In *Pullman Sleeping Car Company—Petition for Exemption from 49 U.S.C. Subtitle IV*, Docket No. FD 35738, the Board found that it had jurisdiction over a company providing sleeping car service, and dining and lounge facilities on passenger



trains, but exempted that company from most of the Board's regulations.

*In Great Canadian Railtour Company Limited d/b/a Rocky Mountaineer—Petition for Exemption from 49 U.S.C. Subtitle IV, Docket No. FD 35851, the Board found that it has jurisdiction over a passenger rail company that contracts with Amtrak to offer service between points in Canada and Washington State, but exempted that company from most of the Board's regulations.*

### *Abandonment/Acquisition*

*Cincinnati, New Orleans and Texas Pacific Railway Company—Discontinuance of Service Exemption, AB 290 (Sub-No. 354X) involves a discontinuance tantamount to abandonment in Scott County, Tennessee. Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a subsidiary of Norfolk Southern Railway Company, discontinued service over 3.09 miles near Helenwood, Tennessee. The underlying rail and right-of-way is owned by Cincinnati Southern Railway (CSR), an instrumentality of the City of Cincinnati, Ohio. Following discontinuance, CSR intends to sell the right-of-way to a third party for salvage. CSR is not a railroad and is therefore not subject to Board jurisdiction. Because CSR is not required to seek abandonment authority from the Board, the Board conducted an Environmental Assessment (EA) of CNOTP's notice of discontinuance in order to assess and document the potential environmental impacts of salvage activity that could occur following discontinuance.*

No significant environmental impacts were identified. Because the Board cannot impose conditions on the future salvage activities conducted by CSR or other non-railroad entities, no environmental conditions were recommended in the EA.

*In Norfolk Southern Railway Company LLC—Abandonment Exemption—in the City of Hopewell, Virginia., AB 290 (Sub-No. 364X), in 2014, the Norfolk Southern Railway Company (NSR) filed a petition to abandon approximately 0.46 miles of rail line on its City Point Branch in the City of Hopewell, Virginia. NSR sought to transfer ownership of the Line to a sole shipper on the Line for use as private track. The Virginia State Historic Preservation Office (SHPO) found five potential historic resources in the general area and noted that two of the resources – the Petersburg Battlefield Sites I and II – were located within close proximity to the abandonment. The National Park Service (NPS) became involved as well due to the presence of NPS property within the area. Both entities believed that the abandonment could adversely affect these potentially eligible National Register of Historic Places resources. The Board met with the SHPO, NPS and NSR at the site to resolve the issues, and the SHPO subsequently concluded that the potentially historic properties would not be adversely affected.*

*In Chicago Central & Pacific Railroad Company—Abandonment Exemption—in Pottawattamie County, Iowa and Douglas County, Neb., AB 314 (Sub-No. 7X), the Chicago, Central & Pacific Railroad*

Company filed a petition in 2015 to abandon approximately 2.56 miles of track across and adjacent to the Missouri River in Iowa and Nebraska. The Line includes the Missouri River Bridge (the Bridge), a substantial two-span swing or draw bridge that crosses the Missouri River. The U.S. Coast Guard (USCG) has determined that the bridge needs to be removed because it is a navigational hazard to marine traffic. The Board is now working with EPA, the United States Fish and Wildlife Service, the Iowa Department of Natural Resources, the National Geodetic Survey, the Iowa and Nebraska State Historic Preservation Offices, and the USCG to ensure that bridge removal will occur in conformity with the five environmental conditions.

*Environment Impact Statements (EIS)*

In FY 2015, the Board worked on eight EISs and six major EAs in construction and acquisition transactions. These cases are either in (1) various stages of review or (2) subject to Board oversight on the environmental mitigation imposed on the grant of Board authority, thus requiring ongoing work by OEA staff during the oversight period.

The EISs involve a number of unique and complex environmental issues, including alternatives analysis, avoiding or minimizing wetlands impacts, assessing greenhouse gas emissions, and developing agreement documents with other agencies and stakeholders to reduce impacts to historic sites and structures. The eight EIS cases are detailed below:

*In Tongue River Railroad Company, Inc.—Rail Construction and Operation—In Custer, Powder River and Rosebud Counties, Mont.,* Docket No. FD 30186, TRRC now proposes to construct and operate a 42-mile line, known as the Colstrip Alternative that would run from the proposed Otter Creek coal mine and a site near the previously planned Montco Mine, both near Ashland, MT, to the main BN rail line near Colstrip, MT. The purpose of the proposed rail line would be to move coal to Michigan, Minnesota, and to the Pacific Rim via proposed ports in the Pacific Northwest. The Board is working closely with more than 18 federally recognized tribes, the Advisory Council on Historic Preservation, and other consulting parties to develop a new Programmatic Agreement under NHPA. The Final Scope was issued on March 19, 2013. The Draft EIS was issued April 17, 2015. Public meetings on the Draft EIS were held June 8-12, 2015 in the project area and online meetings were held June 17, 2015. The comment period ends August 24, 2015.

*In California High-Speed Rail Authority—Construction Exemption—In Fresno, Kings, Tulare, and Kern Counties, Cal.,* Docket No. FD 35724-1, on April 18, 2014, the lead and cooperating agencies issued the Final EIS for the Fresno to Bakersfield Section. In a decision served August 12, 2014, the Board authorized construction and operation of the Fresno to Bakersfield Section of the CA High Speed Train (HST) System (Board Member Begeman dissented with a separate expression). The California High-Speed Rail Authority and Federal Railroad

Administration are currently evaluating a City of Bakersfield proposed alternative route into Bakersfield. Any decision to move forward with the Bakersfield-proposed route would likely require the preparation of a Supplemental EIS.

*In California High-Speed Rail Authority—Construction Exemption—In Los Angeles County, Cal.*, Docket No. FD 35724-2 and FD 35724-3, supporting the Board’s role as a cooperating agency for the preparation of the EISs for the CA HST System, the Board staff attended EIS scoping meetings for the Palmdale to Burbank and Burbank to Los Angeles sections of the CA HST System and received a tour of the potential alternatives for both sections in August 2014.

*In Canadian National Railway Company and Grand Trunk Corporation—Control EJ&E West Company*, Docket No. FD 35087, acquisition of 198-mile EJ&E line around Chicago for the purpose of diverting CN trains from congested rail lines running into Chicago to less congested EJ&E line in the western suburbs of Chicago, the Board continues to monitor the implementation and effectiveness of the overall environmental mitigation. On March 15, 2011, the DC Circuit Court issued a decision upholding the agency’s environmental review and final decision. The Board extended the oversight until January 23, 2017 (Board Member Begeman dissented with a separate expression).

*In Six County Association of Governments—Construction and Operation Exemption — Rail Line between Levan and Salina, Utah,*

Docket No. FD 34075, rail construction in UT (43-mile new rail line to provide rail service to existing coal mine in Utah currently moving coal by truck), the Board issued a Draft EIS on June 29, 2007 and a Supplemental Draft EIS on May 2, 2014. The Final EIS was issued on May 29, 2015, and the review period ended on June 28, 2015. The Board is currently coordinating execution of a Programmatic Agreement in accordance with Section 106 of the NHPA.

*In Canaveral Port Authority—Petition for Exemption to Construct and Operate a Rail Line Extension to Port Canaveral, Florida*, Docket No. FD 35852, the Board issued a Notice of Intent to prepare an EIS in October 2014 and held scoping meetings in November 2014 for a rail line extension proposed by the Canaveral Port Authority (CPA) in Brevard County, Florida. During FY 1015, OEA worked closely with its five cooperating agencies to assess the routing alternatives to be addressed in the Final Scope of Study for the Draft EIS. In late 2015, CPA asked the Board to hold the environmental review process in abeyance until CPA could determine whether an alternative route through the Canaveral Air Force Station was feasible.

*In Alaska Railroad Corporation—Construction and Operation Exemption—a Rail Line Extension to Port Mackenzie, Alaska*, Docket No. FD 35095, authority to construct and operate was granted in a November 17, 2011 Board Decision. In its decision, the Board imposed 100 environmental mitigation measures, which include an oversight and monitoring period.

Construction of the project is underway. The Board's ongoing activities include the review of quarterly monitoring reports submitted by Alaska Railroad and implementation activities associated with the Section 106 Programmatic Agreement.

*Environmental Assessments (EAs)*

The six EAs span a wide geographic area and a range of environmental impacts, such as increased rail traffic over existing rail lines, prime farmland, and a number of unique and complex environmental issues, including alternatives analysis, avoiding or minimizing wetlands impacts, assessing greenhouse gas emissions, and developing agreement documents with other agencies and stakeholders to reduce impacts to historic sites and structures. The six EA construction and joint use cases are detailed below:

*In CSX Transportation, Inc.—Joint Use—Louisville & Indiana Railroad Company, Inc.*, Docket No. FD 35523, the project at issue would provide for joint use of an existing Louisville & Indiana Railroad Company (L&I) rail line by CSX Transportation, Inc. (CSX) and L&I. To improve operating efficiencies, CSX would reroute between 13 and 15 CSX trains per day from its own lines to the 106.5-mile L&I rail line between Indianapolis and Louisville. The Board received comments from EPA on November 1, 2013 indicating that additional analysis needs to be done, thus delaying issuance of the Final EA and requiring preparation of a Supplemental EA. The Supplemental EA was issued in October

2014, and the Final EA was issued in December 2014.

*Hartwell Railroad Company, Construction and Operation Exemption – In Elbert County, GA.*, Docket No. FD 35756, concerns a proposed 1,360-foot rail construction and operation to connect Hartwell's existing Toccoa-Elberton Line with an existing rail line (CSXT's existing Abbeville Subdivision) in Elbert County, Georgia. The purpose of the project is to re-establish a prior rail connection formerly owned by the Norfolk Southern Railway Company (NSR) that was abandoned in 1995. Since then, Hartwell has had to interchange traffic with NSR at the other end of its line (some 40-miles northwest of the Proposed Action) to access the mainlines of CSXT many miles to the northeast and southwest. The Draft EA was issued on July 1, 2014 and preliminarily concluded that the Proposed Action would adversely affect historic resources associated with the former granite industry. The Georgia Historic Preservation Office (SHPO) identified the former Century Granite Company site, which included several buildings, as eligible for listing on the National Register of Historic Places. The Board, in consultation with the SHPO and Hartwell, developed a Memorandum of Agreement (MOA) to mitigate the adverse effect. The MOA was executed on September 26, 2014 and the Final EA issued on October 3, 2014. The Board issued a decision on October 24, 2014, approving the proposed construction and operation subject to 11 environmental conditions.

*Northwest Tennessee Regional Port Authority—Construction and Operation Exemption—In Lake County, Tenn.,* Docket No. FD 35802, concerns a proposed 5.5-mile rail line between a connection with the Tennken Railroad and applicant's existing port facility at Cates Landing on the Mississippi River in Lake County, TN. The purpose of this project is to provide rail access to the port, thus making the port more competitive with other in-land river ports. The new rail line would also serve a new industrial park adjacent to the port facility. Traffic on the rail line would be approximately 1000 carloads per year. The Board is currently preparing a Draft Environmental Assessment.

*Lone Star Railroad, Inc. And Southern Switching Company—Track Construction and Operation Exemption—In Howard County, Tex.,* Docket No. FD 35874, concerns a construction and operation of approximately 3.18 miles of track near Big Spring in Howard County, Texas. Newly constructed track would connect with an existing main line track of Union Pacific. The track would serve a new industrial park. Principal shippers and receivers would initially be related to crude-oil production in the Permian Basin. A site visit was conducted on March 3, 2015. An EIS waiver was granted on March 25, 2015.

*High Desert Corridor Project, Not Yet Docketed,* concerns a multipurpose 63-mile rail corridor in Los Angeles County and San Bernardino County, California, that will ultimately connect with California HSR. Caltrans with Los Angeles County Metro

has prepared a Draft EIS and in June of 2015 invited the STB to be a cooperating agency. The Board will conduct preliminary review and accept the invitation to be a cooperating agency.

*In US Rail Corporation—Construction and Operation Exemption—Brookhaven Rail Terminal.,* Docket No. FD 35141, the Board granted an exemption in 2010 for US Rail Corporation (US Rail) to construct and operate an 18,000-foot rail line on a 28-acre parcel in Brookhaven, Suffolk County, N.Y., subject to three environmental conditions. In 2014, the Town of Brookhaven filed a letter with the Board asking whether US Rail had complied with the environmental conditions, which required US Rail to use best management practices; develop and implement a SPCC Plan to ensure protection of the Nassau-Suffolk Sole Source Aquifer; and consult with the United States Department of Agriculture. The Board subsequently directed US Rail to file proof of compliance with these conditions. The Board has determined that US Rail has complied with two of the three environmental conditions recommended, and that it has substantially complied with the SPCC Plan condition pending further consultation with Suffolk County.

### **Merger Cases and Oversight**

In FY 2015, OPAGAC continued its analysis of monthly operating reports filed by Canadian National Railway Company (CN) as a condition of STB approval of CN's acquisition of Elgin, Joliet and Eastern Railway Company, *Canadian National*

*Railway Company and Grand Trunk Corporation—Control—EJ&E West Company*, Docket No. FD 35087. These reports allow RCPA to monitor and assess the effects of CN’s post-acquisition operations on communities in the greater Chicago area, in particular, the frequency and duration of blocked roadway crossings. OPAGAC also continued to coordinate outreach efforts with elected officials at the local and national level, and facilitated interaction between CN and affected communities. It is presently anticipated that active engagement will continue until the close of the monitoring period in January 2017. The Board continues to review the quarterly environmental reports issued by CN.

**“State of Maine” Proceedings**

Each year, the Board issues decisions following the agency’s “State of Maine” precedent. *See Me. Dep’t of Transp.—Acquis. & Operation Exemption—Me. Cent. R.R.*, 8 I.C.C. 2d 835 (1991). In most instances, when an entity acquires a line of railroad (by sale, lease, etc.), the purchaser becomes a common carrier subject to the Board’s jurisdiction. Under the “State of Maine” line of cases, however, when the carrier selling a rail line retains an exclusive, permanent easement to provide common carrier freight service and has sufficient control over the line to carry out its common carrier obligations without undue interference by the purchaser of the rail assets, the Board typically has found that authorization is not required. In FY 2015,

the Board issued “State of Maine” decisions in the following dockets:

*Mass. Dep’t of Transp.—Acquis. Exemption—Certain Assets of Housatonic R.R.*, Docket No. FD 35866.

*Mass. Dep’t of Transp.—Acquis. Exemption—Certain Assets of CSX Transp., Inc.*, Docket No. FD 35892.

*Snohomish Cnty., Wa.—Pet. for Declaratory Order*, Docket No. FD 35830.

*Mass. Dep’t of Transp.—Acquis. Exemption—Pan Am S. LLC*, Docket No. FD 35863.

*Wis. River Rail Transit Comm’n—Pet. for Declaratory Order—in Dane, Green & Rock Cntys., Wis.*, Docket No. FD 35843.

*Wis. Dep’t of Transp.—Pet. for Declaratory Order*, Docket No. FD 35854.

*Cent. Puget Sound Reg’l Transit Auth.—Acquis. Exemption—Certain Assets of City of Tacoma in Pierce Cnty., Wash.*, Docket No. FD 35812.

*Fla. Dep’t of Transp.—Pet. for Declaratory Order—Rail Line of CSX Transp., Inc., between Riviera Beach & Miami, Fla.*, Docket No. FD 35783.

## Petitions for Reconsideration or Reopening

A party may file a discretionary appeal to the Board to reconsider or reopen a decision if (1) new evidence or changed circumstances are presented that have a material impact on the Board's action, or (2) if material error occurred. In FY 2015, the Board issued decisions in response to petitions for reconsideration or reopening in the following dockets:

*Reasonableness of BNSF Ry. Coal Dust Mitigation Tariff Provisions*, Docket No. FD 35557.

*212 Marin Blvd., LLC—Pet. for Declaratory Order*, Docket No. FD 35825.

*Rail-Term Corp.—Pet. for Declaratory Order*, Docket No. FD 35582 (Board Member Begeman dissented with a separate expression).

*Union Pac. Corp.—Control & Merger—S. Pac. Rail Corp.*, Docket No. FD 32760.

*Denver & Rio Grande Ry. Historical Found.—Pet. for Declaratory Order*, Docket No. FD 35496.

*U S Rail Corp.—Constr. & Operation Exemption—Brookhaven Rail Terminal*, Docket No. FD 35141.

*Canadian Nat. Ry.—Control—EJ&E W. Co.*, Docket No. FD 35087 (Sub-No. 8).

## Oral Arguments and Public Hearings

The Board holds public hearings and oral arguments on issues and cases of particular interest. The Board's oral arguments give parties in individual cases an opportunity to address the Board directly and allow Board members an opportunity to ask questions before making a decision.

In *United States Rail Services Issues*, Docket No. EP 724, the Board held a public hearing in Fargo, ND, on September 4, 2014, to give interested parties the opportunity to report on rail service issues and to hear from the railroad industry about recovery efforts. In the wake of that hearing, the Board issued an interim order, requiring all Class I railroads to submit weekly performance data for their operations in the United States. In December 2014, the Board proposed a rulemaking to make the reporting permanent.

In FY 2015, the Board held a hearing in June 2015 on *Rail Transportation of Grain, Rate Regulation Review*, Docket No. EP 665 (Sub-No. 1), to explore the issue of making the Board's rate case process more accessible to grain shippers.

The Board also held a hearing in July 2015, which encompassed two proceedings: *Railroad Revenue Adequacy*, Docket No. EP 722, and *Petition of the Western Coal Traffic League to Institute a Rulemaking*

*Proceeding to Abolish the Use of the Multi-Stage Discounted Cash Flow Model in Determining the Railroad Industry's Cost of Equity Capital*, Docket No. EP 664 (Sub-No. 2). There, the Board explored what it means for a railroad to be revenue adequate and how such a finding should impact regulation of the railroads' rates, among other issues.

### **Alternative Dispute Resolution**

In recent years, the Board has used its existing staff and resources to develop and issue arbitration and mediation rules, as it has sought to encourage parties to informally resolve disputes and to avoid costly litigation. The Reauthorization Act provided statutory mandate for these programs. Additional staffing in this area will allow the Board to meet the new statutory requirements and to increase the Board's efforts in this important growing area within the rail regulatory framework.

To carry out the Board's regulatory mission at a time of an increased caseload and fewer resources, the Board actively encourages parties to make use of alternative dispute resolution (ADR). These efforts have facilitated the settlement of cases and have satisfactorily addressed other problems, thereby removing matters from the agency's crowded docket.

Specifically, since the start of FY 2008, the STB has conducted mediation in 29 proceedings (mediation is still pending in one proceeding). Eight cases were settled through Board-sponsored mediation: two

large rate cases, one small rate case, and five other railroad-related disputes. These settlements resulted in significant savings of litigation expenses to the parties, allowed both sides to reach mutually satisfactory agreements, and freed up the Board's limited staff resources to work on other matters.

In 2013, the Board adopted new arbitration and mediation rules. These rules have built on the Board's efforts over recent years to facilitate alternative dispute resolution. Under those rules, the Board may order parties into mediation or grant mediation upon request. The arbitration rules allow parties to "opt in" to the program to handle certain kinds of disputes, or to pursue arbitration on a case-by-case basis. Prior to the enactment of the Reauthorization Act, relief available under arbitration was capped at \$200,000 unless the parties agreed to cap relief at a different amount. The Reauthorization Act allows for awards damages not to exceed \$2 million in practice disputes and \$25 million in rate disputes, including any rate prescription (which can be imposed for up to five years).

A number of STB employees have received formal mediation training. These employees serve as mediators for cases that the Board assigns to mediation. They are able to leverage their substantive work experience and their specialized training to provide stakeholders with an effective pathway for resolving disputes outside of litigation.

During FY 2015, the Board conducted four mediations under the new ADR framework.



The first matter involved a dispute between a major railroad and a large shipper, related to service issues. The second case involved a large railroad and an electric utility, concerning reasonable rates for transporting coal. The third concerned a dispute between two shortline railroads over trackage rights. The final matter involved a dispute between Amtrak and freight rail host carriers. Mediation efforts were not successful in three of the four cases.

In FY 2015, the Board also conducted a number of discovery and technical conferences. These typically focus on a narrow issue, such as key facts or whether a party should be entitled to certain evidence. The Board resolved three discovery disputes in the most recent rate case through these discovery conferences and in another case held a technical conference to resolve a factual discrepancy that ultimately led to a settlement.

### **Public Outreach and Informal Dispute Resolution Program**

Through the Rail Customer and Public Assistance Program (RCPA) in the Office of Public Assistance, Governmental Affairs, and Compliance, the Board continues to provide shippers and members of the public with an accessible and effective resource for resolving disputes with rail carriers on an informal basis. In many instances, RCPA ameliorates conflicts that would otherwise be submitted to the Board for adjudication, thereby conserving agency resources.

In FY 2015, RCPA handled approximately 1,300 inquiries and informal requests for

dispute resolution. RCPA worked with stakeholders to successfully resolve matters related to timely fulfillment of car orders; availability of rail resources; track maintenance; interchange operations and inter-carrier disputes; switching services; car storage; rates and charges; and responsibility for spur track. RCPA also regularly provided informal guidance to stakeholders and/or their counsel on railroad laws and regulations.

In particular, RCPA was instrumental in assisting the Board in its response to the service deterioration experienced in late 2013 through 2015. RCPA supported the Board developing a formal order requiring the Class I railroad industry to report performance data on a weekly basis. RCPA also provided guidance to the Board in responding to a petition from a coal shipper trade association, which asked the Board to impose a service recovery plan on a specific carrier. Following up these efforts, RCPA supported the Board in preparing the annual “peak season” letters, requiring detailed input from the railroad industry on handling peak traffic in the fall.

RCPA continued to informally assist customers of household goods (HHG) moving companies to resolve service and rate disputes. The Federal Motor Carrier Safety Administration has primary regulatory jurisdiction in this area.

In addition to its dispute resolution function, RCPA also serves as a liaison between the public and the Board. In particular, RCPA fields inquiries from Board practitioners as

well as from members of the general public, to provide those parties with a better understanding of Board regulations, rules, and procedures. Through these efforts, RCPA provides agency stakeholders with helpful information and reduces the agency workload by ensuring that filings are made correctly. In addition, the three Board members play an important role in the agency's public outreach through their speeches and presentations to stakeholder groups and conferences.

### **Website Redesign**

In FY 2015, the Board re-engaged in a multiphase effort to upgrade the functionality of its website, but these efforts have been hampered significantly by the lack of both personnel and funding. STB plans to continue the redesign effort in FY16 and FY17 as resources allow.

While previous efforts focused on changing the appearance of the website, current efforts are focused on updating the website to incorporate and build on the design changes that were previously recommended. One example of work that has been done on the website is the recent acquisition of desktop ARC GIS which now allows the Board to independently create maps, identify resources in project areas, and validate environmental resource data received from applicants and contractors. Since the acquisition, the Board has designed and launched a new, interactive mapping tool called the Railroad Map Depot (RMD). This tool simplifies public searches for rail maps, makes more information about rail lines

available to STB stakeholders, and supports the STB's environmental review process. The RMD features maps of more than 3,500 miles of rail lines abandoned, discontinued, or converted into recreational trails since 2005. Users can also conduct searches for rail lines by location, and customize maps of the current national rail network to their unique specifications. In addition, there is a feature that displays maps of rail line construction proposals currently before the Board, with links to information about the corresponding environmental review process and procedures.

However, significant work is still required to change the underlying framework of the website. This upgrade will make it easy to sustain and update in the future while continuing to make the site more accessible and transparent through an improved, intuitive, and mobile friendly user experience with a more comprehensive search function. The goal is to eventually provide stakeholders with the ability to pay for fees by credit card through Pay.gov, more powerful search capabilities, the ability to more easily comment on Board proceedings, and more streamlined and enhanced electronic filing capabilities.

The project is divided into two phases: the first phase will continue to implement the new design and enhanced search functionality using the existing website architecture. The second phase will implement a new content management system that will make development of new capabilities easier and more manageable while allowing Board employees to manage

and update content on the site with minimal support from IT personnel.

### **Uniform Rail Costing System Update**

The Board continued its efforts to recode the Board's Uniform Railroad Costing System (URCS) in order to modernize our general purpose costing system. The new processes are currently in the testing phase of that development. This effort has consumed substantial staff resources in FY 2015 and will continue to do so in FY 2016. This modernization will also make URCS more adaptable to future modifications. In *Revision of the General Purpose Costing System*, EP 431 (Sub-No.4) (STB served Feb. 3, 2013), the Board proposed modifications to the "Make-Whole Adjustment" used in URCS to better reflect operating efficiencies as shipment size increases. The Board is considering revisions to its proposal based on parties' comments.

### **Court Actions**

The Office of the General Counsel is responsible for defending the Board's decisions in the federal appellate courts.

In a rail rate case, after denying a request to enjoin the Board's rate proceeding, and upon concluding that market dominance decisions are not appealable final orders, the court dismissed a rail carrier's appeal challenging the Board's findings as to market dominance. *CSX Transp., Inc. v. STB*, 774 F.3d 25 (D.C. Cir. 2014).

In a rail labor case, the court granted the Board's motion to dismiss a petition for review challenging a Board order denying reconsideration of an earlier decision finding that a business providing dispatching services is a rail carrier subject to the railroad tax laws. The court agreed with the Board that the case had to be dismissed because petitioner had challenged only the order denying reconsideration, and not the underlying order, as required by clear judicial precedent. *Rail-Term Corp. v. STB*, No. 15-1033 (D.C. Cir. July 8, 2015).

In an adverse abandonment case, the General Counsel's Office successfully defended against an ousted carrier's motion to stay a Board decision granting an adverse abandonment application brought to permit an oil refinery to terminate the carrier's service. After the court denied the request for stay, the parties settled their dispute and agreed that the court appeal should be dismissed. *SMS R.R. v. STB*, No. 15-1022 (D.C. Cir.).

In a trilogy of related cases, the General Counsel's Office prevailed in moving to dismiss for lack of jurisdiction three petitions for review of interlocutory decisions in a pending rail line sale proceeding. *See Riffin v. STB*, No. 14-4839 (3d Cir. May 11, 2015); *Riffin v. STB*, No. 15-1302 (3d Cir. May 11, 2015); *In re: James Riffin*, No. 15-1615 (3d Cir. May 11, 2015).

During the year, the General Counsel's Office assisted the Solicitor General in briefing two cases before the Supreme

Court. One supported the constitutionality of metrics and standards for Amtrak service under the Passenger Rail Investment and Improvement Act of 2008. *U.S. Dept. of Transp. v. Ass'n of Am. Railroads*, Docket No. 13-1080. The other involved alleged discriminatory taxation of railroads by a state. *Alabama Dept. of Revenue v. CSX Transportation, Inc.*, Docket No. 13-533.

At the close of FY 2015, the Board was defending in court its decisions in several cases, including: *Del Grosso v. STB*, No. 15-1069 (1st Cir.); *Padgett et al. v. STB*, No. 14-2067 (1st Cir.); *Thomas Tubbs, et al. v. STB*, No. 14-3898 (8th Cir.); *Kings County v. STB*, No. 15-70386 (9<sup>th</sup> Cir.) (all involving preemption); *G3 Enterprises, Inc. v. STB*, No. 15-70597 (9th Cir.) (merger proceeding); *Pinelawn Cemetery v. STB*, No. 15-1919 (2d Cir.) (property case); and *Denver & Rio Grande Railway Historical Foundation v. STB*, No. 15-1153 (D.C. Cir.) (licensing).

### **Amtrak and Passenger Rail**

During FY 2015, the Board continued work on its passenger rail responsibilities, as directed by PRIIA. STB staff monitored Amtrak performance through publicly available information and responded to informal inquiries about Amtrak and PRIIA as needed. Agency staff also met regularly with Amtrak staff to discuss Amtrak's publicly available monthly on-time performance operating statistics. Agency staff also obtained improved access to Amtrak's on-time and delay data, enabling more nuanced analysis to inform future STB

activities under PRIIA. During the winter of 2014-2015, Staff closely monitored the performance of Amtrak trains on Class I railroads that experienced severe service disruptions.

In FY 2015, the Board's OPAGAC staff continued to be a forum for advice on implementation of the cost allocation formula for Amtrak's state-sponsored routes, which the Board approved in FY 2012 (*Amtrak Petition for Determination of PRIIA Section 209 Cost Methodology*, Docket No. FD 35571). One state agency and Amtrak brought a dispute to the Board for resolution of one cost item under the approved methodology, and jointly settled their dispute in October 2014. (*Capitol Corridor Joint Powers Authority & National Railroad Passenger Corp.—Petitions For Declaratory Order—PRIIA Section 209 Cost Allocation Methodology Implementation*, Docket No. FD 35790). Through the Federal Mediation and Conciliation Service, the Board arranged for informal, neutral facilitation of other, long-term issues between the States and Amtrak in the implementation of cost allocation under PRIIA Section 209.

The Board utilized its existing staffing to address its intercity passenger rail responsibilities, but it has had to restrict its oversight because of limited financial resources. In that regard, PRIIA authorized the STB to hire 15 employees to handle the agency's PRIIA responsibilities, but the Board has received no annualized appropriated funds for this program since it was enacted in 2008.

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**Advisory Committees**

The Board hosted meetings for three transportation advisory councils, of which the three Board members are ex-officio members. Established in 1996 by Congress, the Railroad-Shipper Transportation Advisory Council (RSTAC) comprises rail stakeholders 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 also makes recommendations for improvements in the transportation system.

The RSTAC comprises 14 private-sector senior executives representing large and small railroads and rail customers. In addition, one member-at-large sits on the council.

The Board created the Rail Energy Transportation Advisory Committee (RETAC) in 2007 to provide advice and guidance to the agency. RETAC serves as a forum for discussing emerging issues concerning the rail transportation of energy resources such as coal, crude oil, ethanol, and other biofuels. The 25 voting members of RETAC represent a balance of stakeholders, including large and small railroads, coal producers, electric utilities, the biofuels industry, the petroleum production 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, seven from Class II and Class III railroads, 14 from grain shippers and receivers, and five from private rail car owners and manufacturers.

# Exhibits



**FY 2017 OMB Budget Justification  
Workload Summary<sup>1</sup>**

<b>Workload Category</b>	<b>Actual FY 2015 Board Decisions and Court-related Work</b>	<b>Estimated FY 2016 Board Decisions and Court-related Work</b>	<b>Estimated FY 2017 Board Decisions and Court-related Work</b>
Rail Carrier Control Cases	45	41	41
Rail Rates and Service	54	101	102
Rail Abandonments and Constructions	350	367	368
Other Line Transactions	175	179	179
Other Rail Activities	90	96	96
Non-Rail Activities	67	71	71
Activities Under Non- Transportation Statutes <sup>2</sup>	533	533	533
<b>Total</b>	<b>1,314</b>	<b>1,388</b>	<b>1,390</b>

<sup>1</sup> 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.

<sup>2</sup> 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 2015 ACTUAL	FY 2016 APPROPRIATION	FY 2017 REQUEST
PERSONNEL COMPENSATION			
11.10 FULL TIME PERMANENT APPT.	15,792	18,004	20,209
11.30 OTHER THAN FULL-TIME PERMANENT	541	650	753
11.50 OTHER PERSONNEL COMPENSATION	207	200	719
11.90 TOTAL PERSONNEL COMPENSATION	<b>16,540</b>	<b>18,854</b>	<b>21,681</b>
12.10 CIVILIAN PERSONNEL BENEFITS	4,902	5,193	6,380
13.00 BENEFITS FOR FORMER PERSONNEL	0	0	0
21.00 TRAVEL AND TRANSPORTATION OF PERSONS	102	110	265
22.00 TRANSPORTATION OF THINGS	1	3	11
23.10 RENTAL PAYMENTS TO GSA	3,675	3,887	4,327
23.30 COMMUNICATIONS, UTILITIES, MISCELLANEOUS CHARGES	184	188	242
24.00 PRINTING AND PRODUCTION	4	0	8
25.20 OTHER SERVICES	2,316	609	5,301
25.30 PURCHASES OF GOODS FROM GOVERNMENT ACCOUNTS	1,733	1,656	1,999
26.00 SUPPLIES AND MATERIALS	407	406	437
31.00 EQUIPMENT	840	219	500
42.00 INDEMNITIES-OTHER PAYMENTS	0	0	0
99.00 SUBTOTAL, DIRECT OBLIGATIONS:	<b>30,704</b>	<b>31,125</b>	<b>41,151</b>
REIMBURSABLE OBLIGATIONS:			
11.10 REIMBURSABLE FULL TIME PERMANENT APPT.	452	975	944
12.10 REIMBURSABLE PERSONNEL BENEFITS	133	275	306
99.00 SUBTOTAL, REIMBURSABLE OBLIGATIONS	<b>585</b>	<b>1,250</b>	<b>1,250</b>
99.90 TOTAL OBLIGATIONS	<b>31,289</b>	<b>32,375</b>	<b>42,401</b>



SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

PERSONNEL SUMMARY

Object Class	FY 2015 ACTUAL	FY 2016 APPROPRIATION	FY 2017 REQUEST
1001 FULL-TIME EQUIVALENT-DIRECT	129	141	174
2001 FULL-TIME EQUIVALENT-REIMBURSABLE	8	9	9
FULL-TIME EQUIVALENT (FTE) TOTAL	137	150	183

**Surface Transportation Board  
Strategic Goals and Annual Performance Measures**

<b>Strategic Goal</b>	<b>Performance Goal</b>	<b>Performance Measure</b>	<b>2015 Actual</b>	<b>2016 Target</b>	<b>2017 Target</b>
Protect Public Interest	Ensure that Board decisions comport with statutes, precedents, and policies and are fair and reasonable.	1. Court challenges to Board decisions do not raise unanticipated issues that the Board should have addressed;	0%	<5%	<5%
		2. Court rulings do not reverse Board decisions as unfair or unreasonable.	100%	>75%	>75%
Foster Economic Efficiencies	Economic Oversight: Provide timely, accurate, and useful financial and operational data and decisions.	3. Cost of capital, rail revenue adjustments, and revenue adequacy decisions are released according to schedule, and	100%	100%	100%
		4. Requests for waybill data are handled within 7 days of requests.	100%	100%	100%
Provide Timely, Efficient, and Decisive Regulatory Process	Ensure that Board decisions meet applicable deadlines	5. All decisions, notices, and other documents are published and served promptly and copies made available to the public the same day; and	100%	90%	90%
		6. Congressional and public e-mail and telephone inquiries are fully answered within 14 days.	99%	90%	90%
		7. Board's decisions on railroad abandonments are issued within 110 days of initial filing;	100%	90%	90%
		8. Statutory deadlines imposed on all cases are met at least 90% of the time; and	100%	90%	90%
		9. Met dispute resolution deadlines 90% of time.	100%	90%	90%
Ensure Necessary Organization/ Management Structure is Available to Carry Out First Three Goals	Operation Oversight/Enforcement: Monitoring rail operations, resolving complaints, and contracts.	10. 90% of informal complaints are handled within 30 days of receipt;	99%	90%	90%
		11. Data is collected and processed within 24 hours;	98%	90%	90%
		12. 90% of requestors are given correct information and complaint resolved; and	99%	90%	90%
		13. Requests for certified copies of documents are handled within 5 business days.	2.5 days	5 days	5 days

SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109 ~~\$34,797,000~~ \$42,401,404: *Provided*, That notwithstanding any other provision of law, not to exceed \$1,250,000 from fees established by the Chairman of the Surface Transportation Board shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading: *Provided further*, That the sum herein appropriated from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year ~~2016~~ 2017, to result in a final appropriation from the general fund estimated at no more than ~~\$33,547,000~~ \$41,151,404.

**SURFACE TRANSPORTATION BOARD  
SALARIES AND EXPENSES  
10-YEAR TABLE**

ESTIMATES		APPROPRIATIONS	
2008.....	<sup>1</sup> 26,495,000	2007.....	<sup>1</sup> 26,324,501
2009.....	<sup>1</sup> 26,847,000	2008.....	<sup>1</sup> 26,324,500
2010.....	<sup>2</sup> 29,800,000	2009.....	<sup>1</sup> 26,847,000
2011.....	<sup>3</sup> 33,749,000	2010.....	<sup>1</sup> 29,066,000
2012.....	<sup>5</sup> 34,708,000	2011.....	<sup>4</sup> 29,010,368
2013.....	<sup>6</sup> 34,592,000	2012.....	<sup>1</sup> 29,310,000
2014.....	<sup>7</sup> 34,284,000	2013.....	<sup>8</sup> 27,779,794
2015.....	<sup>7</sup> 34,411,000	2014.....	<sup>1</sup> 31,000,000
2016.....	<sup>9</sup> 34,797,000	2015.....	<sup>1</sup> 31,375,000
2017.....	<sup>10</sup> 42,401,404	2016.....	<sup>1</sup> 32,375,000

<sup>1</sup> Includes \$1,250,000 from offsetting collections as a credit to the appropriation.

<sup>2</sup> Includes \$500,000 for the update of URCS and \$746,000 to implement the Board's expanded jurisdiction with respect to regulation of passenger rail service under the Passenger Rail Investment and Improvement Act of 2008, P.L. 110-432. Includes \$1,250,000 from offsetting collections as a credit to the appropriation.

<sup>3</sup> Includes \$1,000,000 to continue the multi-year review of URCS, \$500,000 to overhaul the Board's information technology and decade-old docket management systems, and \$2,000,000 for an additional 10 FTEs to staff the Board's Rail Consumer and Public Assistance Program. Includes \$1,250,000 from offsetting collections as a credit to the appropriation.

<sup>4</sup> Reflects reduction of \$55,632 for across-the-board rescission (P.L. 112-10, Div. B, Title I, 1119 (a)). Includes \$1,250,000 from offsetting collections as a credit to the appropriation.

<sup>5</sup> Includes funding for 15 FTEs to carry out the statutory responsibilities of PRIIA, funding for 6 FTEs to increase mediation efforts and enhance the auditing of industry financial filings, and \$743,000 to overhaul the Board's information technology system and upgrade outdated equipment. Includes \$1,250,000 from offsetting collections as a credit to the appropriation.

<sup>6</sup> Includes funding for 15 FTEs to carry out the statutory responsibilities of PRIIA and funding for 6 FTEs to increase mediation efforts and enhance the auditing of industry financial filings. Includes \$1,250,000 from offsetting collections as a credit to the appropriation.

<sup>7</sup> Includes funding for 15 FTEs to carry out the statutory responsibilities of PRIIA and funding for 6 FTEs to increase mediation efforts, enhance the auditing of industry financial filings, and help process rate reasonableness cases. Includes \$1,250,000 from offsetting collections as a credit to the appropriation.

<sup>8</sup> Reflects reduction of \$56,120 for across-the-board rescission (P.L. 113-6, Division G, Sec. 304 (c) (1), as supplemented by OMB BDR 13-19, Attachment J). Also reflects permanent reduction of funds in accordance with Presidential Sequestration Order dated March 1, 2013. The FY 2013 sequestration resulted in reduction of \$1,411,586 in spending authority and additional reduction from offsetting collections of \$62,500. Includes \$1,187,500 from offsetting collections as a credit to the appropriation.

<sup>9</sup> Includes funding for 15 FTEs to carry out the statutory responsibilities of PRIIA and funding for 6 FTEs to increase mediation efforts, enhance the auditing of industry financial filings, and help process rate reasonableness cases. Includes \$240,000 for GSA lease renewal planning and also includes \$1,250,000 from offsetting collections as a credit to the appropriation.

<sup>10</sup> Includes funding to fully address the Surface Transportation Board Reauthorization Act of 2015, Pub.L. No. 114-110 (2015), which established the Board as a wholly independent agency. Includes \$200,000 for STB relocation planning and management and an estimate of \$3,219,931 for the relocation, should the Board be required to move to a new location after its current lease expires in February 2017.

**SURFACE TRANSPORTATION BOARD  
FY 2017 COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY**

*(in thousands of dollars)*

ACCOUNT NAME	FY 2015 ENACTED	FY 2016 APPROPRIATION	FY 2017 REQUEST
<b>SALARIES &amp; EXPENSES</b>	\$30,704	\$31,125	\$41,151
<b>OFFSETTING COLLECTIONS</b>	\$585	\$1,250	\$1,250
<b>TOTAL - APPROPRIATIONS</b>	\$31,289	\$32,375	\$42,401
<b>RESCISSIONS</b>	\$0	\$0	\$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.

In fiscal year 2017, the Board needs funding to fulfill its two most significant priorities, which are 1) implementing and meeting our new responsibilities under the STB Reauthorization Act, and 2) modernizing its aging IT infrastructure.

The Reauthorization Act necessitates the hiring of numerous key positions for successful implementation. In order to properly carry out the new investigative authority requirement, the Board will need to add a new Office of Investigations. The Board requests \$1.264 million for nine FTEs for the new office to meet the new and increased workload associated with it. The formation of this office enables the Board to conduct not only its new freight rail investigations, but also passenger rail investigations under the Passenger Rail Improvement and Investment Act of 2008 (PRIIA), for which the Board has received no annualized appropriated funds since PRIIA was enacted in 2008. The Board also needs additional staff to process rate reasonableness cases which are consuming an increasing amount of the Board's resources. Moreover, under the Reauthorization Act, the Board now has a significantly shorter time period in which it adjudicates large rate cases, and will require additional skilled staff in order to meet the new timelines. Under the Reauthorization Act, the Board became a wholly independent agency, which requires additional staff in its administration office in order to fulfill reauthorization goals.

The Board also seeks to modernize the Board's aging information technology infrastructure and website. The Board's IT needs will require significant investments, as there are many substantial hardware and software upgrades that need to be made, which will require the purchasing of new equipment and consulting services. In addition, the Board's website and the majority of its applications were built many years ago and now require significant maintenance to keep them operational and available to all STB stakeholders. As a result, the Board has re-engaged in a multiphase effort to upgrade the functionality of its website, but these efforts have been hampered significantly by the lack of both personnel and funding.

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The FY 2017 request does not include any future legislative changes that could vest the Board with additional statutory responsibilities.

**SURFACE TRANSPORTATION BOARD  
FY 2017 TOTAL BUDGETARY RESOURCES BY APPROPRIATION ACCOUNT**

**Appropriations, Obligation Limitations, and Exempt Obligations  
(in thousands of dollars)**

<b>ACCOUNT NAME</b>	<b>FY 2015 ENACTED</b>	<b>FY 2016 APPROPRIATION</b>	<b>FY 2017 PROGRAM CHANGES</b>	<b>FY 2017 TOTAL REQUEST</b>
<b>SALARIES &amp; EXPENSES</b>	\$30,704	\$31,125	\$10,026	\$41,151
<b>OFFSETTING COLLECTIONS</b> <b>Users Fees Credited to Appropriation</b>	\$585	\$1,250	\$0	\$1,250
<b>TOTAL</b>	\$31,289	\$32,375	\$10,026	\$42,401

**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.

In fiscal year 2017, the Board needs funding to fulfill its two most significant priorities, which are 1) implementing and meeting our new responsibilities under the STB Reauthorization Act, and 2) modernizing its aging IT infrastructure.

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**SURFACE TRANSPORTATION BOARD  
FY 2017 BUDGET AUTHORITY**

*(in thousands of dollars)*

<b>ACCOUNT NAME</b>	<b>FY 2015 ENACTED</b>	<b>FY 2016 APPROPRIATION</b>	<b>FY 2017 PROGRAM CHANGES</b>	<b>FY 2017 TOTAL REQUEST</b>
<b>SALARIES &amp; EXPENSES</b>	\$30,704	\$31,125	\$10,026	\$41,151
<b>OFFSETTING COLLECTIONS</b>				
<b>Users Fees Credited to Appropriation</b>	\$585	\$1,250	\$0	\$1,250
<b>TOTAL</b>	\$31,289	\$32,375	\$10,026	\$42,401

**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.

In fiscal year 2017, the Board needs funding to fulfill its two most significant priorities, which are 1) implementing and meeting our new responsibilities under the STB Reauthorization Act, and 2) modernizing its aging IT infrastructure.

The Reauthorization Act necessitates the hiring of numerous key positions for successful implementation. In order to properly carry out the new investigative authority requirement, the Board will need to add a new Office of Investigations. The Board requests \$1.264 million for nine FTEs for the new office to meet the new and increased workload associated with it. The formation of this office enables the Board to conduct not only its new freight rail investigations, but also passenger rail investigations under the Passenger Rail Improvement and Investment Act of 2008 (PRIIA), for which the Board has received no annualized appropriated funds since PRIIA was enacted in 2008. The Board also needs additional staff to process rate reasonableness cases which are consuming an increasing amount of the Board's resources. Moreover, under the Reauthorization Act, the Board now has a significantly shorter time period in which it adjudicates large rate cases, and will require additional skilled staff in order to meet the new timelines. Under the Reauthorization Act, the Board became a wholly independent agency, which requires additional staff in its administration office in order to fulfill reauthorization goals.

The Board also seeks to modernize the Board's aging information technology infrastructure and website. The Board's IT needs will require significant investments, as there are many substantial hardware and software upgrades that need to be made, which will require the purchasing of new equipment and consulting services. In addition, the Board's website and the majority of its applications were built many years ago and now require significant maintenance to keep them operational and available to all STB stakeholders. As a result, the Board has re-engaged in a multiphase effort to upgrade the functionality of its website, but these efforts have been hampered significantly by the lack of both personnel and funding.

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**SURFACE TRANSPORTATION BOARD  
FY 2017 OUTLAYS**

*(in thousands of dollars)*

<b>ACCOUNT NAME</b>	<b>FY 2015 ACTUAL</b>	<b>FY 2016 APPROPRIATION</b>	<b>FY 2017 REQUEST</b>
<b>SALARIES &amp; EXPENSES</b>	\$30,655	\$31,083	\$40,148
<b>OFFSETTING COLLECTIONS</b>			
<b>Users Fees Credited to Appropriation</b>	\$585	\$1,250	\$1,250
<b>TOTALS</b>	\$31,240	\$32,333	\$41,398

**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.

In fiscal year 2017, the Board needs funding to fulfill its two most significant priorities, which are 1) implementing and meeting our new responsibilities under the STB Reauthorization Act, and 2) modernizing its aging IT infrastructure.

The Reauthorization Act necessitates the hiring of numerous key positions for successful implementation. In order to properly carry out the new investigative authority requirement, the Board will need to add a new Office of Investigations. The Board requests \$1.264 million for nine FTEs for the new office to meet the new and increased workload associated with it. The formation of this office enables the Board to conduct not only its new freight rail investigations, but also passenger rail investigations under the Passenger Rail Improvement and Investment Act of 2008 (PRIIA), for which the Board has received no annualized appropriated funds since PRIIA was enacted in 2008. The Board also needs additional staff to process rate reasonableness cases which are consuming an increasing amount of the Board's resources. Moreover, under the Reauthorization Act, the Board now has a significantly shorter time period in which it adjudicates large rate cases, and will require additional skilled staff in order to meet the new timelines. Under the Reauthorization Act, the Board became a wholly independent agency, which requires additional staff in its administration office in order to fulfill reauthorization goals.

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The request also includes \$200,000 for the Board's relocation planning and management and an estimate of \$3,219,931 for the relocation, should the Board be required to move to a new location after its current lease expires in February 2017.

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**SURFACE TRANSPORTATION BOARD**  
**SUMMARY OF REQUESTED FUNDING CHANGES FROM BASE**

Appropriations, Obligation Limitations, and Exempt Obligations  
*(in thousands of dollars)*

**SALARIES AND EXPENSES**

	FY 2015 Actual	FY 2016 Appropriation	Baseline Changes							FY 2017 Baseline Estimate	Program Increases/ Decreases	FY 2017 Request
			Annualization of 2016 Pay Raises	Annualization of 2016 FTE	2017 Pay Raises	Compensable Day (260 days)	GSA Rent	WCF Increase/ Decrease	Inflation			
<b>DIRECT</b>												
<u>Personnel Resources</u>												
Direct FTE	129	141								141	33	174
<u>Financial Resources</u>												
Salaries and Benefits	\$21,442	\$24,047	\$333		\$441	\$0				\$24,821	\$3,240	\$28,061
Travel	\$102	\$110								\$110	\$155	\$265
Transportation	\$1	\$3								\$3	\$8	\$11
GSA Rent	\$3,675	\$3,887					\$177			\$4,064	\$263	\$4,327
Communications & Utilities	\$184	\$188								\$188	\$54	\$242
Printing	\$4	-								\$0	\$8	\$8
Other Services:												
WCF	\$273	\$249						\$59		\$308	\$0	\$308
Relocation and Other Costs	\$3,776	\$2,016								\$2,016	\$4,976	\$6,992
Supplies	\$407	\$406								\$406	\$31	\$437
Equipment	\$840	\$219								\$219	\$281	\$500
<b>Total</b>	<b>\$30,704</b>	<b>\$31,125</b>	<b>\$333</b>		<b>\$441</b>	<b>\$0</b>	<b>\$177</b>	<b>\$59</b>		<b>\$32,135</b>	<b>\$9,016</b>	<b>\$41,151</b>
<b>REIMBURSABLE</b>												
<u>Personnel Resources</u>												
Reimbursable FTE	8	9								9	0	9
<u>Financial Resources</u>												
Salaries and Benefits	\$585	\$1,250								\$1,250	\$0	\$1,250
<b>TOTALS</b>												
FTE	137	150								150	33	183
Budgetary Resources	\$31,289	\$32,375	\$333		\$441	\$0	\$177	\$59		\$33,385	\$9,016	\$42,401

**SURFACE TRANSPORTATION BOARD  
WORKING CAPITAL FUND**

*(in thousands of dollars)*

<b>ACCOUNT NAME</b>	<b>FY 2015 ENACTED</b>	<b>FY 2016 APPROPRIATION</b>	<b>FY 2017 REQUEST</b>	<b>CHANGE</b>
<b>DIRECT</b>				
<b>SALARIES &amp; EXPENSES</b>	\$273	\$249	\$308	\$59
<b>TOTALS</b>	\$273	\$249	\$308	\$59

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

ACCOUNT NAME	FY 2015 ACTUAL	FY 2016 APPROPRIATION	FY 2017 REQUEST
<b><u>DIRECT FUNDED BY APPROPRIATION</u></b>			
SALARIES & EXPENSES Civilian	129	141	174
<b>SUBTOTAL, DIRECT FUNDED</b>	129	141	174
<b><u>REIMBURSEMENTS/ALLOCATIONS/OTHER</u></b>			
OFFSETTING COLLECTIONS Civilian	8	9	9
<b>SUBTOTAL, REIMBURSEMENTS/OFFSETTING COLLECTIONS</b>	8	9	9
<b>TOTAL FTEs</b>	137	150	183

**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.

In fiscal year 2017, the Board needs funding to fulfill its two most significant priorities, which are 1) implementing and meeting our new responsibilities under the STB Reauthorization Act, and 2) modernizing its aging IT infrastructure.

The Reauthorization Act necessitates the hiring of numerous key positions for successful implementation. In order to properly carry out the new investigative authority requirement, the Board will need to add a new Office of Investigations. The Board requests \$1.264 million for nine FTEs for the new office to meet the new and increased workload associated with it. The formation of this office enables the Board to conduct not only its new freight rail investigations, but also passenger rail investigations under the Passenger Rail Improvement and Investment Act of 2008 (PRIIA), for which the Board has received no annualized appropriated funds since PRIIA was enacted in 2008. The Board also needs additional staff to process rate reasonableness cases which are consuming an increasing amount of the Board's resources. Moreover, under the Reauthorization Act, the Board now has a significantly shorter time period in which it adjudicates large rate cases, and will require additional skilled staff in order to meet the new timelines. Under the Reauthorization Act, the Board became a wholly independent agency, which requires additional staff in its administration office in order to fulfill reauthorization goals.

The Board also seeks to modernize the Board's aging information technology infrastructure and website. The Board's IT needs will require significant investments, as there are many substantial hardware and software upgrades that need to be made, which will require the purchasing of new equipment and consulting services. In addition, the Board's website and the majority of its applications were built many years ago and now require significant maintenance to keep them operational and available to all STB stakeholders. As a result, the Board has re-engaged in a multiphase effort to upgrade the functionality of its website, but these efforts have been hampered significantly by the lack of both personnel and funding.

The request also includes \$200,000 for the Board's relocation planning and management and an estimate of \$3,219,931 for the relocation, should the Board be required to move to a new location after its current lease expires in February 2017.

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

ACCOUNT NAME	FY 2015 ACTUAL	FY 2016 APPROPRIATION	FY 2017 REQUEST
<b><u>DIRECT FUNDED BY APPROPRIATION</u></b>			
SALARIES & EXPENSES Civilian	129	141	174
<b>SUBTOTAL, DIRECT FUNDED</b>	129	141	174
<b><u>REIMBURSEMENTS/ALLOCATIONS/OTHER</u></b>			
OFFSETTING COLLECTIONS Civilian	8	9	9
<b>SUBTOTAL, REIMBURSEMENTS/OFFSETTING COLLECTIONS</b>	8	9	9
<b>TOTAL POSITIONS</b>	137	150	183

**EXPLANATION**

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**SURFACE TRANSPORTATION BOARD  
SUMMARY BY PROGRAM ACTIVITY**

Appropriations, Obligation Limitations, and Exempt Obligations  
(in thousands of dollars)

PROGRAM ACTIVITIES	FY 2015 ACTUAL	FY 2016 APPROPRIATION	FY 2017 REQUEST	CHANGES FY 2016-2017
<b>SALARIES &amp; EXPENSES</b>	\$30,704	\$31,125	\$41,151	\$10,026
<b>OFFSETTING COLLECTIONS</b>	\$585	\$1,250	\$1,250	\$0
<b>TOTAL</b>	\$31,289	\$32,375	\$42,401	\$10,026
<b>FTE (direct funded only)</b>	129	141	174	33
<b>FTE (reimbursable funded only)</b>	8	9	9	0
<b>TOTAL</b>	137	150	183	33

**EXPLANATION**

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In fiscal year 2017, the Board needs funding to fulfill its two most significant priorities, which are 1) implementing and meeting our new responsibilities under the STB Reauthorization Act, and 2) modernizing its aging IT infrastructure.

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**SURFACE TRANSPORTATION BOARD  
SUMMARY ANALYSIS OF CHANGE FROM FY 2016 TO FY 2017**

**Appropriations, Obligation Limitations, and Exempt Obligations**

*(in thousands of dollars)*

	Change from FY 2016 to FY 2017 DOLLARS	Change from FY 2016 to FY 2017 FTE
<b>FY 2016 BUDGET</b>	\$32,375	141
Administrative Adjustments to Base:		
Annualization of FY 2016 FTE	\$0	
Annualization of FY 2016 Pay Raise	\$333	
FY 2017 Pay Raise	\$441	
GSA Rent	\$177	
Working Capital Fund	\$59	
Non-Pay Inflation	\$0	
Compensable Days	\$0	
<b>Subtotal, Adjustments to Base</b>	\$1,010	141
<b>Estimated Program Increases</b>	\$7,766	33
<b>Subtotal, New or Expanded Programs</b>	\$7,766	33
<b>Reimbursable-Offset Collections</b>	\$1,250	9
<b>TOTAL FY 2017 REQUEST</b>	\$42,401	183

**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.

In fiscal year 2017, the Board needs funding to fulfill its two most significant priorities, which are 1) implementing and meeting our new responsibilities under the STB Reauthorization Act, and 2) modernizing its aging IT infrastructure.

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**Detailed Budget Analysis  
by Object Class**

**Appropriations, Obligation Limitations, and Exempt Obligations  
(in thousands of dollars)**

<b>Obj. Class</b>	<b>Account Name/ Program or Office Component</b>	<b>FY 2015 Actual</b>	<b>FY 2016 Appropriation</b>	<b>Requested Increase</b>	<b>FY 2017 Request</b>
	PC&B				
11	Salaries	\$16,540	\$18,854	\$2,827	\$21,681
12	Benefits	\$4,902	\$5,193	\$1,187	\$6,380
	<i>Total Salaries and Benefits</i>	<b>\$21,442</b>	<b>\$24,047</b>	<b>\$4,014</b>	<b>\$28,061</b>
	<i>Total FTE</i>	129	141	33	174
21	Travel	\$102	\$110	\$155	\$265
22	Transportation	\$1	\$3	\$8	\$11
23	GSA Rent, Communications, & Utilities	\$3,859	\$4,075	\$494	\$4,569
24	Printing	\$4	\$0	\$8	\$8
25	Other Services				
25.1	-Advisory and assistance services	\$948	\$397	-\$37	\$360
25.2	-Other services from non-federal sources	\$83	\$40	\$183	\$223
25.3	-Other goods and services from Federal sources	\$1,039	\$967	\$232	\$1,199
25.4	-Operation and maintenance of facilities (includes STB relocation estimate)	\$681	\$697	\$3,207	\$3,904
25.6	-Medical care	\$22	\$30	\$5	\$35
25.7	-Operation and maintenance of equipment	\$11	\$17	\$31	\$48
	-Operation and maintenance of IT systems	\$1,265	\$117	\$1,414	\$1,531
26	Supplies	\$407	\$406	\$31	\$437
31	Equipment				
	--IT Development	\$818	\$209	\$266	\$475
	--Other Equipment	\$22	\$10	\$15	\$25
	<b>Sub-Total</b>	<b>\$ 9,262</b>	<b>\$ 7,078</b>	<b>\$ 6,012</b>	<b>\$ 13,090</b>
	<b><u>Programs</u></b>				
	Reimbursable Full Time Permanent Appt. and Personnel Benefits	\$585	\$1,250	\$0	\$1,250
	Reimbursable FTE	8	9	0	9
	<b>Sub Total</b>	<b>\$ 585</b>	<b>\$ 1,250</b>	<b>\$ -</b>	<b>\$ 1,250</b>
	<b>Total</b>	<b>\$31,289</b>	<b>\$32,375</b>	<b>\$10,026</b>	<b>\$42,401</b>
	<b>Total FTE</b>	<b>137</b>	<b>150</b>	<b>33</b>	<b>183</b>

# **STB Board Members' Statements**





**DISSENT OF BOARD MEMBER ANN BEGEMAN  
ON PROPOSED STB BUDGET FOR FISCAL YEAR (FY) 2017**

Less than two months ago, Congress sent a crystal clear message about the funding levels under which it expects the Board to operate when both chambers unanimously approved the Surface Transportation Board Reauthorization Act, S. 808, P.L. 114-110. Congress did so after taking into account both the Board's existing responsibilities and S. 808's additional directives. Instead of attempting to prepare a realistic budget that abides by those funding levels, the majority is ignoring Congress and continuing the Board's typical wish-list budgeting approach. That is a mistake.

Last Fall, well before enactment of S. 808, the majority submitted a budget proposal to the Appropriations Committees seeking a 28% funding increase, including a 22% FTE increase for FY 2017 (based on the actual count of 144 employees). Today, the majority is seeking a 31% funding increase, including a 23% FTE increase (excluding the two new members' offices), along with a mind-blowing 141% increase for travel, using S. 808 for its new justification. This is a budgeting shell-game, a rejiggering of the same pots of gold the majority previously sought but now under the guise of S. 808. Congress will not be fooled by this "new" proposal. The majority needs to come to grips with fiscal reality instead of further risking the Board's credibility.

Only a few years ago, we faced sequestration and endured a defining period in responsible agency budgeting. We should draw on those experiences to better fulfill our shared duties of fiscal responsibility. In fact, preparing a budget proposal that realistically addresses the Board's new mandates should have been one of the Board's very first orders of business under S. 808's new procedures allowing a majority of Board Members to discuss agency matters (subject to certain rules and procedures). We should be seizing the opportunity Congress has provided by working together to reorder the Board's funding priorities, proposing a more realistic budget, and demanding the successful use of any additional funding the Board may receive to improve its IT system.<sup>1</sup> Instead, the old Board budgeting status quo is alive and well.

I dissent.

*Ann D. Begeman*

February 5, 2016

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<sup>1</sup> The Board has spent hundreds of thousands of dollars on a new case management system and a new website, both of which were unable to launch due to legacy IT problems. If Congress agrees to provide funding to address the Board's outdated IT system, it should conduct strong oversight to hold the agency accountable for the wise expenditure of those funds.