

IN THE UNITED STATES COURT OF APPEALS FOR
THE EIGHTH CIRCUIT

No. 16-3307

UNION PACIFIC RAILROAD COMPANY, *Petitioner,*

v.

SURFACE TRANSPORTATION BOARD; UNITED STATES OF AMERICA,

Respondents.

No. 16-3512

CSX TRANSPORTATION, INC., *Petitioner,*

v.

SURFACE TRANSPORTATION BOARD; UNITED STATES OF AMERICA, *Respondents.*

No. 16-3513

NORFOLK SOUTHERN RAILWAY COMPANY, *Petitioner,*

v.

SURFACE TRANSPORTATION BOARD; UNITED STATES OF AMERICA, *Respondents.*

No. 16-3514

CANADIAN NATIONAL RAILWAY COMPANY; ILLINOIS CENTRAL RAILROAD
COMPANY; GRAND TRUNK WESTERN RAILROAD COMPANY *Petitioners,*

v.

SURFACE TRANSPORTATION BOARD; UNITED STATES OF AMERICA, *Respondents*.

**DECLARATION OF JAMES MATHEWS IN SUPPORT OF UNOPPOSED
MOTION FOR LEAVE TO INTERVENE IN SUPPORT OF RESPONDENTS**

I, James Mathews, hereby declare under penalty of perjury as follows:

1. I submit this declaration in support of this Motion to Intervene as Respondents by the National Association of Railroad Passengers and the other Movants, All Aboard Indiana, All Aboard Ohio, All Aboard Wisconsin, the Environmental Law and Policy Center (“ELPC”), Friends of the Cardinal, Midwest High Speed Rail Association, Michigan Association of Rail Passengers, Inc., the Southern Rail Commission and Virginians for High Speed Rail.

2. I am the President and CEO of NARP and have served in that position since September 2014.

3. As President and CEO of NARP, I am responsible for leading the Association’s professional staff, which tracks on-time performance data and monitors and collects concerns relating to intercity passenger rail service from thousands of members nationwide.

4. NARP is a non-profit that dates back to 1967 and is the largest national organization speaking for the nearly 40 million Americans who ride intercity passenger rail trains in the United States every year. NARP’s current membership of 28,000 nationwide advocates for reliable, safe and on-time intercity passenger rail service in the United States before Congress, the U.S. Department of Transportation, Amtrak and the Surface Transportation Board.

5. NARP is affiliated with state and regional level passenger rail organizations

including All Aboard Indiana, All Aboard Ohio, All Aboard Wisconsin, the Environmental Law and Policy Center (“ELPC”), Midwest High Speed Rail Association and Virginians for High Speed Rail (“VSHR”) that share a common goal of advancing the development and operation of intercity passenger rail service in the United States. All of these organizations have members who regularly ride Amtrak trains and have directly experienced the on-time performance of those trains.

6. In related litigation, *USDOT v. Ass’n of Amer. Railroads*, 2015 U.S. Lexis 1713 (U.S. March 9, 2015) brought by the Association of American Railroads challenging the constitutionality of Metrics and Standards promulgated by the Federal Railroad Administration and Amtrak, that included On-Time Performance (“OTP”) metric, NARP partnered with All Aboard Ohio, ELPC, Midwest High Speed Rail Association and VHSR as *amicus curie* in support of the United States.

7. Beginning in approximately 2013 through to the present, members of NARP and the other organizations as intercity rail passengers have experienced terrible on-time performance with protracted and chronic delays on Amtrak’s Capitol Limited, Empire Builder and Lake Shore Limited routes waiting for freight railroad traffic to clear.

8. The steep decline in OTP had numerous adverse impacts on intercity rail passengers in terms of costs, time and threats to safety

9. In October of 2014, NARP filed more than 1,300 reports of passengers on delayed Amtrak trains with the Surface Transportation Board documenting the poor on-time performance and the missed weddings and funerals, delayed medical patient transports, and cut short or cancelled rare home visits by deployed service-members.

10. NARP and the other passenger rail organizations support the Board's final rule entitled "On-Time Performance Under Section 213 of the Passenger Rail Investment and Improvement Act of 2008" (the "OTP Rule"). 81 Fed. Reg. 51,343 (Aug. 4, 2016) (to be codified at 48 C.F.R. Part 1040) that provides for measuring OTP at all stations on an Amtrak route.

11. NARP and the Movants are deeply concerned about the impact that a negative ruling on STB's Final OTP Rule could have on the intercity passenger rail service in the United States. If petitioners prevail in this case on-time performance of intercity passenger rail in the United State will be reduced or eliminated.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed at Washington, D.C. on September 5, 2016.



James Mathews
President and CEO
NATIONAL ASSOCIATION OF RAILROAD PASSENGERS