

Testimony of
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Before the
U.S. House of Representatives
Committee on Transportation and Infrastructure
Subcommittee on Railroads, Pipelines, and Hazardous Materials

**Hearing: "Tracking Toward Zero: Improving Grade Crossing Safety and Addressing
Community Concerns"**

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Thank you, Chairman Lipinski and members of the Subcommittee. I am Matthew O'Shea, and I have had the honor to serve as the Alderman for Chicago's 19th Ward since 2011. I'll be speaking today about the severe impact that blocked at-grade crossings have had on my largely residential community on Chicago's far southwest side.

The current federal framework to regulate railroad operations has failed to protect our community from wide-ranging and potentially life-threatening effects directly caused by the manner in which CSX operates one line in particular, the Elsdon Line, which runs through densely populated communities in the City of Chicago and surrounding municipalities.

Railroads are entirely capable of mitigating the effects of their operations on the communities where they operate, but will not do so voluntarily – our experience is, unfortunately, ample proof of that. Stronger measures are clearly necessary to ensure that railroads are not a threat to their neighbors. Because of the broad reach of federal law in the rail industry, only Congress can impose those necessary measures. I will include some simple but potentially effective proposals at the end of this statement.

I. Description of 19th Ward

- A. Chicago's 19th Ward is comprised of the neighborhoods of Beverly, Mount Greenwood, and Morgan Park.
- B. Our total population is over 50,000, a good-sized small city in itself, and is 2/3 white, a quarter African-American, five percent Hispanic, and about one percent Asian-American. We are a tight-knit community of predominantly single-family homes built in the early to mid-20th Century, with local businesses along 95th Street, 103rd Street, 111th Street, Western Avenue, Kedzie Avenue and Pulaski Road.
- C. Several rail lines run through or border our Ward, including CSX's Blue Island Subdivision and the Elsdon Line, which run north-south through our Ward. I will be speaking today about the impact of the Elsdon Line, which runs through the heart of our community, parallel to Sacramento Avenue.

II. Impacts of CSX Operations 2013-2016

- A. CSX was authorized to operate on the Elsdon Line in 2012 when it received approval from the Surface Transportation Board, or STB, after an extensive public comment process. Because the STB recognized that the communities surrounding the Elsdon Line are densely populated and the line has many at-grade crossings, including five in the 19th Ward, it imposed a number of conditions on the railroad to try to reduce the impacts of its planned increased operations. These conditions may have constituted a well-meaning attempt to reduce harm, but the community saw an immediate, dramatic and harmful impact once CSX started running on the Elsdon Line.

1. Virtually all of my comments reflect material that is already in the public record in the STB's docket, Finance Docket Number 35522.
2. The line existed but had been little-used previously, and CSX indicated that it expected traffic on the Elsdon Line to increase from 3-4 trains per day to over 20.
3. CSX promised to abide by a number of conditions as part of its operating approval, and noted that it expected to clear at-grade crossings in three minutes or less.
4. Here are some of the extremely detailed and specific conditions CSX voluntarily accepted in order to have permission to operate on the Elsdon Line. These conditions are listed in the STB's February 8, 2013 Decision¹ granting CSX permission to operate:
 - a) Cut any train that blocked an at-grade crossing for more than 10 minutes. CSX cut trains on only a handful of the hundreds of occasions on which this occurred, and the STB eventually removed the requirement at CSX's request because it was effectively useless. Our railroads should be held to basic standards of good faith, which CSX's consistent failure to cut trains completely negated. If CSX found that it was just too hard to comply with the condition, that is a significant indication that it is unable to operate effectively on the line.
 - b) Cooperate with school and park districts to identify at-grade crossings where additional pedestrian warning devices may be warranted, and provide informational materials concerning railroad safety to elementary, middle and high schools within 0.5 miles of the Elsdon Line.
 - c) Notify Emergency Service Dispatching Centers for communities along the affected segments of all crossings blocked by trains that are stopped and may be unable to move for a significant period of time.
 - d) Work with affected communities to minimize emergency vehicle delay by maintaining facilities for emergency communication with local Emergency Response Centers through a dedicated toll-free telephone number.
 - e) To further assist with the timely response of emergency service providers for the Advocate Christ Medical Center and the Little Company of Mary Hospital, CSX shall consult with all appropriate

¹ *CSX Transportation, Inc. – Acquisition of Operating Easement – Grand Trunk Western R.R. Co.*, STB Docket No. 35522 (Service Date Feb. 8, 2013).

agencies and hospitals to **install a closed-circuit television system (CCTV) with video cameras (or another comparable system or acceptable option) so that the movement of trains can be predicted at the 95th Street highway/rail at-grade crossing.**

5. This last point is extremely important. Advocate Christ Medical Center, just across the border in Oak Lawn, lies just to the west of the Elsdon Line, and the Little Company of Mary Hospital in Evergreen Park, just to the east of the line, are the primary health care facilities serving the 19th Ward. In fact, **Advocate Christ serves the entire South Side of Chicago as a Level 1 Trauma Center and describes itself as the busiest Level 1 Trauma Center in Illinois.** One of the first indications that all was not right on the Elsdon Line beginning in 2013 was the emergence of reports that emergency response vehicles were being blocked by slow or stopped trains, or by malfunctioning gates. When severely injured patients cannot get to the hospital, lives are literally at risk.
- B. By late 2015, local Aldermen and state representatives were hearing every day from constituents with complaints about blocked at-grade crossings. Together with the Village of Evergreen Park, the City of Chicago petitioned the STB to make CSX abide by the conditions it had agreed to. We presented detailed evidence compiled over the course of CSX's operations on the Elsdon Line to prove that the railroad was consistently failing to comply with the conditions in its operating license.
- C. Community letters: I will shortly share with you various comments from the community about the impact of blocked at-grade crossings. As you can imagine, in a dense urban area it does not take long for significant traffic backups to form, so that even if motorists want to seek a way around a blocked at-grade crossing, they can't. However, pedestrian safety is perhaps an even more urgent concern, as I'll describe. On two occasions, in 2016 and 2018, my office solicited letters for the record of the STB proceeding and got well over 200 unique responses. Here are the most pressing themes I heard from my community:
1. Multiple instances of schoolchildren walking to school and climbing through a stopped train – as related by a number of commenters. I hope I do not need to highlight how incredibly dangerous this is.
 2. Multiple accounts of parents unable to get their kids to or from school or daycare, missed medical appointments, missed flights, and residents being docked pay because they were late to work. One pair of newlyweds missed the first hour of their own wedding reception.
 3. Most poignantly, one commenter could not reach the Little Company of Mary Hospital when her grandfather was dying and missed saying her goodbyes to him by 15 minutes because of a train blocking an at-grade crossing.

4. Most alarmingly from a public safety perspective, there are multiple accounts from physicians, police officers and fire/rescue/EMT personnel describing instances when they could not respond to an emergency or could not secure adequate backup because of a train blocking an at-grade crossing. As one career fire fighter explained, “every minute a cardiac arrest victim goes without CPR means a 10% decrease in survival rate. 10 minutes in those cases means zero chance to save a life.” A doctor at Advocate Christ noted that 15 minutes can determine success or failure in saving a fetus in distress.

III. Current conditions

- A. Conditions have improved since we began our regulatory effort with the STB in 2016, but the problem is not completely solved: we still experience several blocked at-grade crossings each month. In addition, the STB has taken the very unusual position of holding off on specific action,² leaving the community in a wait-and-see stance.
- B. I note that rail traffic across the country has been decreasing in the time that CSX has operated the Elsdon Line, and that alone may account for any decrease in blocked at-grade crossings. We cannot be at the mercy of the commodity markets to know if our community will remain safe.

IV. Federal Regulation has failed to protect the 19th Ward from the effects of CSX's operations:

- A. The bottom line here is that the federal government has largely failed us. CSX is essentially unregulated from our standpoint. When acquiring the line, the railroad had to make promises to the STB, the most substantial of which were cutting the trains and installing closed circuit TVs to hospitals.
- B. I emphasize that the conditions the STB imposed indicate a clear recognition that railroads must be responsible to the communities in which they operate, and that, rather than acting with impunity, railroads must not be permitted to cause harm to the public, as has happened in the 19th Ward and surrounding communities.
- C. Several years later we brought to the STB that CSX didn't do these things - there is no follow up or mechanism to ensure they are doing what they say. Advocate Christ Hospital to this day doesn't have the TV equipment (we assume Little Company of Mary also doesn't but they did not respond to our inquiry in time for this hearing).

² *CSX Transportation, Inc. – Acquisition of Operating Easement – Grand Trunk Western R.R. Co.*, STB Docket No. 35522 (Service Date Dec. 10, 2018).

- D. But here's the biggest question - why doesn't anyone from the STB confirm whether CSX is abiding by its promises? The STB is the federal agency responsible for setting conditions on railroads, granting them permission to operate, and revoking that permission when the railroad fails to live up to its promises. Here, the STB initially imposed very specific requirements on the railroad in order to prevent the very situation we are living with today.
 - E. Why didn't STB fine CSX or impose other penalties when the agency learned CSX was out of compliance with its operating conditions on the Elsdon Line? Why do we allow this huge company to just tell us they did something and take their word for it? How can local communities rely on the promises of the railroads or the enforcement powers of the federal government if nobody will do anything – even when there have **been repeated, consistent, and demonstrated violations**? **THIS** is why action by Congress is necessary.
- V. Now I'll focus on how this Subcommittee and the Congress as a whole can help. **Existing federal regulation does not adequately protect communities from the effects of blocked at-grade crossings and malfunctioning crossing gates.**
- A. Federal regulation is pervasive in the railroad industry **except** when it comes to at-grade crossings.
 - B. The current regulatory approach, which treats at-grade crossings primarily as a road safety issue regulated by individual states, is **ineffective**.
- VI. Without action by Congress, the situation is only likely to get worse.
- A. The Federal government recognizes that at-grade crossings are a significant safety concern:
 - 1. In May 2019, in response to concerns from members of Congress, the Governmental Accounting Office issued a report urging Congress to direct the Federal Railroad Administration (FRA) to address the significant impacts of ever-longer freight trains, which today are frequently **2 miles**, and in some cases **3 miles**, long.³
 - a) This report specifically recommended that FRA engage with railroads, state and local governments, to (a) identify community-specific impacts of train operations, including longer trains, where streets and highways cross railroad rights-of-way and (b) develop potential solutions to reduce those impacts.⁴

³ U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-19-443, RAIL SAFETY: FREIGHT TRAINS ARE GETTING LONGER, AND ADDITIONAL INFORMATION IS NEEDED TO ASSESS THEIR IMPACT (2019), at 1.

⁴ *Id.* at 28.

2. In December 2019, the FRA set up a web portal where members of the public and law enforcement can report blocked at-grade crossings: <https://www.fra.dot.gov/blockedcrossings/>.
 - a) In announcing the effort, FRA pointed out that “there are no federal laws or regulations pertaining to blocked crossings.”
 - b) Creation of the website is an indication that **FRA recognizes that at-grade crossing safety is a significant issue for communities.**
3. I emphasize that the 19th Ward and Evergreen Park have been successful in securing improvements in CSX’s performance on the Elsdon Line only because of the specific conditions placed on the railroad by the STB. Communities should not have the burden to protect themselves on a case-by-case basis to make sure railroads do not have a seriously harmful impact. Where railroad operations already exist, there is **no** opportunity to force railroads to operate without harm to the surrounding community.

VII. As the representative of a heavily-impacted community, I propose **today** some straightforward measures Congress can enact that will simply and effectively improve at-grade crossing safety without burdening railroad operations:

- A. **Require moving trains to clear at-grade crossings in three minutes or less.**
- B. **If a train blocks an at-grade crossing for 10 minutes or more – whether the train is stopped or in motion – impose fines for every minute a blockage persists at each crossing.**
- C. **These straightforward performance-focused measures give railroads full discretion and flexibility to take whatever measures they require to achieve compliance.**

It’s that simple.

I thank the Subcommittee for your time today and would be happy to answer any questions.