TESTIMONY OF

Jo E. Strang

Senior Vice President, Safety and Regulatory Policy
American Short Line and Regional Railroad Association

HEARING TITLED

The Rebuilding of Infrastructure in America: State and Local Transportation Needs

BEFORE THE

Senate Committee on Commerce, Science and Transportation, Subcommittee on Surface Transportation, Merchant Marine Infrastructure, Safety and Security.

Tuesday March 13, 2018 | 2:30
PM 253 Russell Senate Office
Building Washington, DC

Thank you, Chairwoman Fischer, Ranking Member Peters and Members of the Committee. My name is Jo Strang and I am Senior Vice President for Safety and Regulatory Policy of the American Short Line and Regional Railroad Association (ASLRRA). We are the national trade association representing the nation's 600 Class II and Class III railroads (referred to collectively as "short lines").

Together short line railroads operate just under 50,000 miles of track, or nearly one third of the national railroad network. They operate in 49 states and in 36 of those states they operate at least one quarter of the state's total rail network. In five states, short lines operate 100% of the state's rail network. In the states represented by this Subcommittee's Members, there are 231 short lines operating 20,951 track miles. Short lines are often called the first mile/last mile of the nation's railroad system and handle in origination or destination nearly one out of every four rail cars moving on the national system.

I have **attached** a map of the network.

Short lines have four defining characteristics.

1. Short lines are small businesses. Our combined annual revenues are less than the annual revenues of any single one of the nation's four largest Class I railroads. The average short line employs 30 people or less, and a sizable number are run with less than a dozen employees. Like all small businesses, we are forced to do more with less.

2. Our importance is not our size or our total market share, but in who and where we serve. For large areas of the country and particularly for small town and rural America, short line railroad service is the only connection to the national railroad network. For the businesses and farmers in those areas, our ability to take a 25-car train 75 miles to the nearest Class I interchange is just as important as the Class I's ability to attach that block of traffic to a 100-car unit train and move it across the country. While midwestern grain shippers cannot complete the journey to poultry farm markets in the southeastern United States without Class I railroad service, for many, they cannot start the journey without short line service.

   Short lines serve over 10,000 shippers nationwide and we find those shippers quite willing to testify to the importance of their short line rail service. I have **attached** to my testimony a list of quotes from current customers. We have selected a wide variety from across the country to give you a sense of the important relationship between shippers and their short lines. In general, they sound like this: *"Our serving short line railroad is truly a partner for our paper mill. The services provided, including freight haul in and out, daily switches, and rail car maintenance help us keep our mill running successfully day in and day out. It is critical to the 400 plus people employed here that our short line railroad be able to continue to operate successfully."*

3. The majority of short lines operate track that was headed for abandonment under previous Class I owners. These were light density branch lines that could not make enough money under the cost structure of the big national carriers. They served customers located "off the beaten path" of the large railroads…meaning not on their main lines. These customers typically shipped smaller volumes. Because these were marginal or money losing lines they received little or no capital investment by their previous owners, resulting in significant deferred maintenance. To be successful, short line owners must not only overcome that deferred maintenance but upgrade their tracks to handle the heavier, longer trains of our Class I connections. To do that short lines invest on average from 25 to 33 percent of their annual revenues in rehabilitating

their infrastructure and this makes short line railroading one of the most capital intensive industries in the country. To provide some dollar perspective, to rehabilitate one mile of typical 90-pound track up to standards necessary to handle today's modern railcars costs between $400,000 and $500,000. Because we thought the committee might appreciate seeing exactly what we're talking about, this is a picture of a small cross-section of older 90-pound rail and one of more modern 115-pound rail – in essence, we need to change out the smaller lighter rail on the left for the heavier stronger rail on the right, and we need to do it across much of a 50,000 mile network.

A single bridge replacement is a multi-million dollar project. We estimate the total short line cost for what needs to be done just for track and bridges is $10.8 billion.

4. <u>Without upgrades to short line tracks and bridges, customers served by short lines face potential competitive disadvantages.</u> If a short line is not able to handle an industry-standard, heavier-weight freight car, they must ship or receive rail shipments often in suboptimal rail shipment sizes. This will become a more pronounced problem with time, as the older, smaller freight cars used in the national railroad fleets reach their mandatory retirement age and become unavailable. At that point shippers will either have to use the newer, more expensive freight cars and light load them, or divert their shipments to trucks.

Before I discuss the various infrastructure programs under the jurisdiction of the Commerce Committee, let me emphasize that the most important and effective infrastructure program for the short line industry is the Short Line Railroad Rehabilitation Tax Credit, known as 45G. Congress enacted the credit in 2004 and has renewed it six times through 2017. The credit has been a major factor in maximizing infrastructure investment, both by the short lines and by their shippers that are the beneficiaries of the improvements. It is simple to administer, it targets the money on the projects that yield the highest benefit, and it makes railroads safer. We believe making the credit permanent is <u>the most important thing</u> Congress can do to help short line railroads rebuild and improve their portion of America's infrastructure.

We know and appreciate that many of you agree. Fourteen of the 17 Members of this Subcommittee, including Chairwoman Fischer and Ranking Member Peters, are co-sponsors of S. 407, the stand-alone bill that would make the credit permanent, and likewise full Committee Chairman Thune and Ranking Member Nelson are co-sponsors.

I know that tax legislation is not the purview of this Committee but as the Committee that is the most knowledgeable when it comes to railroad infrastructure matters, I urge you to take our tax credit message to your Senate colleagues whenever and however the subject of infrastructure is addressed in this Congress.

Regarding that which is in your jurisdiction let me comment on several specific programs and conclude with some thoughts on infrastructure programs in general.

We strongly support the CRISI program as it specifically provides for short line eligibility and puts a focus on benefit-cost analysis. We think with that level playing field, short line projects will fare well. Further it includes a special category for Railroad Safety Technology Grants which can potentially be very helpful as we work to implement and pay for the Positive Train Control mandate. We were pleased to see the USDOT issue its first CRISI NOFO last month, we strongly support CRISI funding being brought up to its authorization levels in FY18 and FY19 appropriations, and we think that additional support for CRISI would be appropriate as this Committee works to develop an infrastructure package.

We likewise support the TIGER grant program. While the benefit-cost analysis hurdles are steep for short lines operating in rural areas and serving relatively small shippers, short lines have succeeded in securing numerous grants over the life of the program. The application process is extraordinarily time consuming and the competition is fierce for these grants, but year after year many short lines are willing to go through the process and in general we have found that short line projects stack up pretty well against projects from other modes when measured on any sort of apples-to-apples basis.

We are also supportive of the INFRA grant program, formerly known as FASTLANE. There is value in a merit-based discretionary grant program open to multiple modes of transportation, especially one that is focused on freight and goods movement. While the main category of INFRA is targeted at mega projects that exceed the size of most short line work, the small project portion of the program is of value to us. We would be supportive of a significant expansion of INFRA in a new infrastructure package, but would suggest an expanded small project component and a removal of the arbitrary and counterproductive limit on how much of the program can be spent on non-highway projects, especially in a scenario where the program is not being 100% funded by a highway use fee.

Many of you are likely familiar with the RRIF loan program and the many efforts by Congress and both Republican and Democratic Administrations to improve the program – efforts that have met with limited success. I will not repeat all that history here, but I do want to caution the Committee regarding RRIF's potential to address short line infrastructure issues. The RRIF program is an authorization for $35 billion in loan authority, but it is not contract authority or even an authority for an appropriation. It's still just a loan that must be paid back. Of that $35 billion in loan authority, $7 billion is set aside for short lines, yet in the almost 20-year history of the program, short lines have secured less than $1 billion in loans. Overall only $5.3 billion in loans have been approved and the vast majority of that has gone to Amtrak and public transit agencies. It typically takes over two years to get a single loan approved and the cost of processing is extraordinarily high. Towards that point, the Build America Bureau's recently published RRIF Dashboard (https://www.transportation.gov/sites/dot.gov/files/docs/policy-initiatives/programs-and-services/rrif/284231/rrif-dashboard-feb-1-2018.pdf) shows five draft applications pending as of February 1, 2018 – those "draft" applications were received at the USDOT between May 2016 and July 2017, but here we are in March 2018 and they are all still just sitting there.

RRIF loans are not going to be the solution for a significant number of short line rail rehabilitation projects and we hope that Congress will not use the large loan authority number to "check the short line box" as it puts together an infrastructure package.

That being said about RRIF, we do think there are opportunities to improve the program and we would be happy to work with this Committee to do so. Perhaps with the right changes and then aggressive oversight of the program, it could be made to work efficiently for short lines. Useful changes would include a subsidy to the program so that applicants were not forced to pay an often-prohibitive Credit Risk Premium, expanding the length of RRIF loan terms to match the loan to the sometimes 50+ year asset life of the infrastructure being financed, and encouragement to the USDOT to provide a reasonable estimate of the likely required CRP to a potential borrower much earlier in the process than typically occurs. I should also note that we are encouraged by recent discussion with the Build America Bureau in which they are considering ways to simplify and expedite the process for some borrowers who could meet a transparent and publicly available set of criteria – that would be a potentially significant improvement to the process.

While there appears to be general agreement that Congress should enact a significant infrastructure funding package, the specifics are still to be determined. As you consider how to proceed we believe there are four general provisions that will be important for short line participation:

1) Short lines should be directly eligible applicants for project grants, similar to CRISI. Too often in the past, federal programs have been only open for application to local units of government, which in turn requires short lines to create unnecessarily complex and burdensome applicant structures and which sometimes favors politically popular projects over economically beneficial projects.

2) The application process needs to be as simple and transparent as possible. Short lines are small businesses and generally the individuals writing and engaging with the government on our applications are employees with other duties on the railroad. We don't have full time grant writers or the resources to hire expensive Washington DC consulting firms.

3) The analysis used to judge a project should not be a rigid one-size-fits-all process. For example, the process to apply, the public planning and the engineer required, and the appropriate benefit-cost analysis format for incrementally upgrading a ten-mile segment of existing track serving five small grain elevators should not be the same as building a new subway line or adding lanes to an interstate highway.

4) Often with prior TIGER and INFRA grants there is an extremely time consuming period between USDOT announcing the award of the grant and completion of all items required to advance the project to construction. This appears to be largely due to two on-going issues. First, there is too much involvement required for the grant agreements. Considering that these agreements are generally in a standard USDOT format, a drawn out process to finalize the grant agreement should not be necessary. Second, if there is to be an associated environmental approval process it typically requires a very long time to complete. This can be true even if the project qualifies for a categorical exclusion from the National Environmental Protection Act mandated reviews. Grant agreement approval processes that last for years are of no use to those running a business.

To summarize this section on grant and loan programs:

- CRISI, TIGER, and INFRA are all useful tools, and generally we support their expansion and improvement. However, even functioning optimally, these programs would still be only able to help just a few short line railroads each year. There are 600 short lines in the United States, and the overwhelming majority have a significant amount of capital investment needed, so even if 10 or 20 short lines were to benefit from CRISI, TIGER, and INFRA in a year, that would leave 580 or 590 railroads unsupported. And even for those projects that are lucky enough to receive a grant or loan, the process is slow and expensive. At the end of the day, that is why we always come back to the 45G rehabilitation tax credit as our #1 ask in a potential infrastructure package – it is the most efficient and effective way to support all short lines, and it is a proven success.

- All prior efforts to improve the RRIF loan program to make it meaningful to short line railroad infrastructure projects have been unsuccessful. While it is possible the current improvement efforts by the USDOT Build America Bureau will improve the program, and the elimination of the CRP would be an important development, it is difficult to see how RRIF could ever be a widespread solution to the infrastructure needs of short line railroads.

Briefly on the subject of truck size and weight, short lines oppose any increases to truck lengths, including efforts to force states to allow Twin 33s. Increased truck lengths will divert freight from largely privately-owned and-maintained railroad infrastructure to already over-crowded and congested highways that are heavily subsidized by general taxpayers. Given the threat of bigger trucks, short line railroads have consistently opposed increasing truck lengths, especially in the annual appropriations process. We ask that any consideration of bigger trucks be tied to a full vetting by the authorizing committees of jurisdiction and include a full understanding of the diversion from rail to highway and the true infrastructure cost of accommodating even larger trucks.

Let me conclude with an issue unrelated to direct government funding but critical nonetheless to our ability to maximize capital investment. The short line railroad industry is awash in unnecessary and expensive regulations that divert precious investment dollars from infrastructure improvements that are the best way to improve safety. Most damaging for short lines are the kind of one-size-fits-all regulations that provide no basis for the presumed benefits and that don't take into consideration our unique operating characteristics. Two stand out in particular:

1) The Part 243 training rules pursuant to the Rail Safety Improvement Act of 2008 impose a huge and meaningless paperwork requirement on top of what are already substantial training and qualification requirements. They are attempting to fix a non-existent problem. Congress should repeal this rule or at the very least require the FRA to retract and revise this rule in a much simpler fashion.

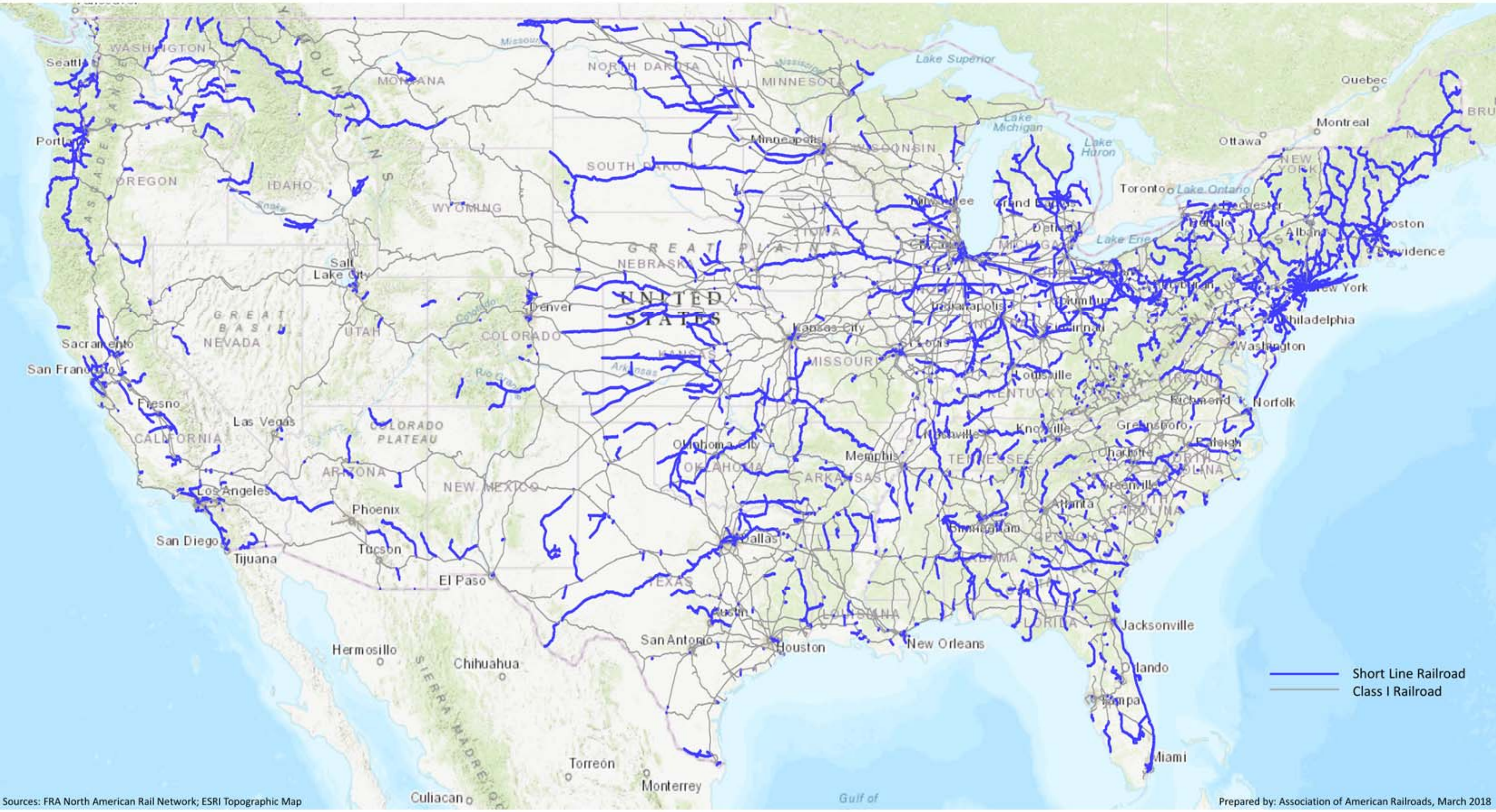
2) Mandatory two-person crews are also a solution in search of a problem. There is absolutely no evidence from the Federal Railroad Administration or any other institution of a safety benefit generated by a second crew member. It is particularly ironic that as the government is spending billions of dollars to facilitate the move to driverless vehicles on the open architecture of the highway system, it is making the railroads do just the opposite on the closed architecture of the railroad system.

I am proud to say that as of today the short line industry has gone one year and 127 days without a single fatality. It is often said, and correctly so, that one fatality is one too many and we do not mean to rest on this one accomplishment. But we believe that every dollar spent on these kind of excessive regulatory requirements is a dollar that could be better spent on improving track or rebuilding bridges and those are the dollars that do the most to improve safety.

I know this Committee does not write these rules but you have jurisdiction over the FRA which does and I urge you be continually vigilant in your oversight of their work. We believe that the RAILS Act introduced by Chairwoman Fischer over the summer would be an excellent addition to a potential infrastructure bill and would be helpful in permanently reforming and improving the FRA regulatory process.

In summary, I'd note that this hearing is being held to "examine opportunities to improve the national transportation network to better connect communities across the country." Well, connecting communities, particularly rural, industrial, and agricultural communities, across the country to the national rail network and domestic and international markets is exactly what we do every day, and we very much appreciate the Committee's willingness to consider our suggestions regarding how to improve our ability to do that important work. I'll be more than happy to answer any questions. Thank you.

U.S. Short Line Freight Rail Network



Sources: FRA North American Rail Network; ESRI Topographic Map

Prepared by: Association of American Railroads, March 2018

Short Line Railroad Customers Talk about Service and the Short Line Rehabilitation 45G Tax Credit

Dana Shellberg, of Allweather Wood LLC, in Loveland, CO

A customer of the Great Western Railway of Colorado

"Without the Great Western Railway of Colorado we would have to truck all our lumber in from Oregon, Washington, Alabama, and Arkansas. This would not allow us to stay competitive in the lumber market."

Robert Glezen, of Mont Eagle Mills, Inc., in Oblong and Palestine, IL

A customer of the Indiana Rail Road

"Short line railroads are an increasingly important piece of our nation's infrastructure. Our business depends upon the Indiana Rail Road to serve the agricultural base of southeastern Illinois."

David Doti, of Jadcore, LLC, in Terra Haute, IN

A customer of the Indiana Rail Road

"The Indiana Rail Road is our only connection to the main line. All of the other carriers have either merged or are out of business. The plastics industry relies on the railroad for its delivery of finished products all over the country."

Daniel Semsak, of Pacific Woodtech Corporation, in Saginaw, MI

A customer of the Lake State Railway

"We depend on short lines to get into our customers' facilities. Rail access is essential for our company and our customers to be able to grow. As the Class 1 railroads have focused more and more on unit trains for inefficiencies, small business has relied on short lines for survival. We need the short lines for the "last mile"."

Brian Arnhalt, of Minn-Kota Ag Products, in Breckenridge, MN

A customer of the Red River Valley & Western Railroad

"Our rail service from the Red River Valley & Western Railroad is outstanding. The personalized attention to our customer needs is a big help in the success of our business."

Curt Warfel, of Akzo Nobel, Inc., in Columbus, MS

A customer of the Alabama and Gulf Coast Railway

"Akzo Nobel has long been supportive of the short line railroad tax credit. We see this as an excellent way in which short line railroads may "stretch" a dollar to upgrade their railroads and improve service to rail shippers."

Chuck Hunter, of PSC Metals, Inc., in St. Louis, MO

A customer of the Terminal Railroad Association of St. Louis

"The six short lines that serve our facilities have and will play a vital role in the growth of our company. They have worked with us to add rail service to several of our facilities, issued rates to incent rail service -vs- truck. Their local presence and willingness to partnership in problem solving has been a blessing. These service providers are an essential part of our continued success in the North American marketplace."

Levi Ross, of Dead River Company, in North Walpole, NH

A customer of the Green Mountain Railroad

"Our retail petroleum business is dependent on the service of short lines for a dependable regional supply chain."

Jason Tininenko, of Freeport McMoRan, in Hurley, NM

A customer of the Southwestern Railway

"There are several short line railroads that are integral to our business. They provide a consistent, cost effective option for us to move large volumes of freight both to and from our mining locations."

Mike Sawyer, of Western Producers Cooperative, in Dill City, Rocky, and Sentinel, OK

A customer of Farmrail

"Our livelihood depends on railroads shipping our grain. Farmrail does a great job in taking care of our needs. We need their services!"

Steve Stivala, of MacMillan-Piper, in Tacoma, WA

A customer of Tacoma Rail

"Tacoma Rail is an integral part of our business and overall operation in Tacoma. The short line railroad provides us with consistent and reliable service on a daily basis. By meeting our needs and requirements, we are better able to service our customers. This would not be possible without the assist from Tacoma Rail."

Maurice Bohrer, of Michels Materials, in Janesville and Waterloo, WI

A customer of the Wisconsin & Southern Railroad

"Our short line and regional railroad, the Wisconsin & Southern Railroad, is the only railroad that provides service to our black granite quarry and without them we would not be able to sell our granite to many of our customers and the other railroads that use our ballast!"