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Good Morning. Thank you for giving me the opportunity to speak to you today on the Administration's proposed Rail Deregulation Act of 1979, and its effect on both small, rural communities and shippers of grain and coal.

This is a time of crisis in the energy field, and it is essential that our transportation policies help to alleviate the problem. With respect to coal, we want to make its expanded use both efficient and economical. To do that, we need to assure that our railroads will be safe, well maintained and financially strong to carry the massive amounts of new coal. That's one of the principal goals of our bill.

We have a similar concern with respect to transportation of agricultural commodities. The last ten years have seen a period of tremendous growth and change in the agricultural sector of the United States economy. The growth in exports has been especially impressive. Exports in 1978 were 16 percent greater than in 1973, despite the fact that the 1973 level included a large part of the historic Russian grain movement. A second important development has been the tremendous increase in on-farm storage capacity, which has given the farmer much greater control over the timing of the shipment of his crops. Unfortunately, adjustments in the transportation system, especially those affecting the railroads, have failed to keep pace.

As a consequence, the railroads today face fundamental problems: poor equipment utilization, deteriorating roadbeds, recurring car shortages and a highly precarious financial status afflicting even the western coal mines.

We could attempt to cure some of these problems, at least in the short run, with piecemeal solutions. For example, some would solve the car shortage problem by forcing the industry to maintain a stand-by fleet, to be called into service during times of peak demand. Others would have us pour tax dollars into the existing branchline network, making sure that all existing rights-of-way are kept in place, whether or not they represent the most efficient form of transportation. Still others would have the government direct the railroads' equipment utilization, making decisions from Washington about the type of cars needed in North Dakota, Montana or Wyoming -- decisions that have contributed to the decline of the railroads. I believe that piecemeal solutions have failed because they address only the symptoms of the railroad industry's underlying illness, which is inability to respond to the changing needs of the economy and the shipping public.

We believe that the present outmoded regulatory environment is a basic cause of these problems, because it discourages flexibility and limits innovation. We are, therefore, recommending a fundamental change in the relationship between the Federal government and the rail industry. Just as farmers have been free to take advantage of new technology and sophisticated marketing strategies; and just as new demand for coal has changed its pricing and marketing patterns -- so, too, the railroads must recognize the competitive realities of the 1980's. But change for the railroads does not have

to mean hardship for those who depend on railroad freight service. The rapid expansion of long-distance trucking of grain, by carriers exempt from regulation, is ample evidence that conditions have changed drastically since the 19th century, when the unrestrained market power of the railroads created a need for regulatory controls. As I am sure you are aware, substantial amounts of wheat are being trucked from farms and elevators in the Great Falls area to Lewiston, Idaho, Portland and Seattle -- the destinations for most Montana grain.

Coal is, of course, less susceptible to carriage by other modes -- but the railroads have no incentive to drive off coal traffic, and every incentive to encourage its transport by rail. This turns out to be especially important in Montana and Wyoming where the Powder River area is forecast to be the fastest growing coal-producing region in the country for the next 20 years. On the other hand, many coal industry observers suggest that the demand for Montana-Wyoming coal is highly elastic -- that is, if the price for that coal gets too high, other types of coal and other sources of coal will replace it. Our bill is intended to allow utilities, mines and railroads the pricing and service flexibility to assure that this coal can and will be marketed efficiently and cheaply.

I would like to describe a few of the most important changes we are proposing and talk a little about how we expect these changes to affect producers.

Let's begin with ratemaking. We are seeking an end to maximum rate regulation after a five-year transition period and completion of two major studies identifying the effects of deregulation on specific shippers, commodities and regions. If those studies indicate that deregulation has caused an

unfair burden, the bill requires us to recommend necessary legislative changes.

Our proposal is based on the convictions that competition provides faster, cheaper, more efficient and more equitable regulation than the government can. While specific predictions are risky, I would like to touch on what we expect in a deregulated environment. For one thing, we do not expect the railroads to raise all their rates indiscriminately. That would be counterproductive. In grain, for example, I have already noted the rapid growth in the truck share of the grain market. Here in Montana, in 1976, 160 million bushels of wheat were marketed in Seattle. A recent Montana State University study concluded that trucks and truck-barge combinations have increased their share of the Montana wheat market in recent years. The recent extension of the Columbia-Snake River waterway to Lewiston should enhance that trend. Differences of less than a cent a bushel can determine whether your grain will compete in international markets. The railroads know that if they want to continue to carry grain, their rates must allow shippers to compete. The reverse is true, as well. In recent years, the Milwaukee Railroad lowered its grain rates, a move that was, of course, very popular. But those rates -- like many other Milwaukee rates -- did not yield any profit to the railroad. And the railroad couldn't make it. Low rates and no service are no better than high rates and no service. Our bill tries to make it possible for the railroads to earn money so they can provide service.

The same thing is true for coal. Coal is a profitable commodity for the railroads, but it is not cheap to carry. And not only must the railroads cover the costs of current coal service, they must earn enough to rebuild or construct an enormous amount of new track, heavy and safe enough to carry

the massive amounts of new coal projected to come from this area to fill our energy needs. Only healthy, financially secure railroads can play this vital energy role over the long run, and that's why our deregulation proposal is an essential piece of our energy policy. Far from being inconsistent, the two are indispensable to one another.

With respect to Powder River Basin coal, it is especially important for mines, utilities and railroads to work together. I mentioned earlier that other regions and other types of coal provide effective substitutes for coal from this area. The railroads would, thus, not benefit by pricing their services so high as to deprive Montana and Wyoming mines of their fair share of the coal market. And our bill would provide them with every incentive to do the opposite -- principally by encouraging utilities, mines and railroads to negotiate binding, long-range contracts covering such things as time of service, rates and type of service. With solid information on future demands, a railroad can acquire and plan the use of equipment, thereby increasing productivity and lowering costs.

Grain shippers also will be able to enter into contracts, but for them the bill provides an effective, workable peak/off-peak pricing system. These provisions would give the railroads the ability to adjust rates to changes in demand just as truck and barge grain carriers do already. This type of year-round equipment utilization would increase the amount of grain railroads can carry and as a result increase productivity, lower costs and improve service. Flexible rates would mean more equipment would be available during the peak, and it would be allocated to those shippers who place the highest value on its availability.

One final point needs to be stressed in connection with the changes we propose in ratemaking. Both during and after the five-year transition period, railroads will be forbidden to discriminate -- just as they are now. These fundamental rules of economic fair play will continue and the ICC will continue to enforce them. The essential terms of individually negotiated contracts will be published so that similarly situated shippers can be assured that they are not the victims of discrimination.

Other basic regulatory rules also are maintained. Railroads will be required to cooperate with one another to provide nationwide connecting service via a pattern of through routes, and the ICC will retain the power to require these routes.

We would, however, eliminate the ICC's power to establish a joint rate applying to the entire movement. Railroads would be allowed to set their own joint rates and divide the revenues between them as they see fit. To accommodate efficient and prompt joint ratemaking, antitrust immunity would apply for joint-line rates, but that immunity would be granted only to those carriers actually participating, or offering to participate, in the movement. If the carriers cannot agree on a joint rate or a division, unilateral changes in one or another portion would be allowed. This should mean that if part of a movement is non-compensatory, only the rate for that part need go up. On the other hand, through traffic also could move on the sum of the rates on individual portions. The ICC will be able to require publication of the point-to-point total, so shippers will have the continued convenience of single factor rates without having to deal separately with the railroads involved. Our proposal thus would eliminate the long and expensive divisions cases that have characterized ICC joint rate setting in the past.

Another issue of great importance has to do with industry structure. Improving the railroads' financial health is not just a matter of raising their revenues. They must also cut their costs. We believe restructuring the railroads' physical properties is an essential element in improving industry finances. We recognize that this means there will be more abandonments, and that this prospect is very disturbing to shippers and communities served by lines that may be abandoned. Our approach is to address the problem of excess rail capacity without denying shippers and communities the right to rail services where they are willing to pay the costs of such services. When we talk about abandonments, it is important to realize that States, shippers, carriers and labor have opportunities to investigate alternatives to abandonment in cases where a line is not profitable today. I would like to list four of these. First, under section 401 of the 4R Act, consolidation and coordination of facilities can take place. Where there are two branch lines serving an area, perhaps only one can be profitable. It may be possible to work out an arrangement where service will be continued and made profitable by consolidating or coordinating those facilities. Second, the Local Rail Services Assistance Act of 1978 enables us now to put our capital investment funds into lines before they are abandoned, so that they can be made profitable. The Montana State Rail Plan is under way now, and funds provided by the Act will be available to implement the plan when it is completed. Third, the pricing flexibility that I discussed earlier will be of assistance in help shippers and railroads work out arrangements that will make a line profitable. Fourth, our successful St. Louis Terminal Project, which is based on management-labor cooperation, can be expanded to branch line situations. In cases where branch lines are unprofitable, arrangements between labor and management to save both the branch line and jobs can be encouraged.

For those rail lines that cannot be made profitable, the bill's abandonment provision will allow the necessary rationalization of the rail system by providing clearer guidelines for the abandonment process. This will eliminate the burden such lines place on other rail traffic. It is far better to permit the abandonment of unprofitable segments than to allow a whole railroad to go bankrupt.

Under the bill, the ICC will still review proposed abandonment applications, pursuant to a public convenience and necessity test, but its investigation will be subject to strict standards and time limits. The application must be granted if the railroad can show that operating the line was non-compensatory, or that the benefits of abandonment exceeded its costs to the public. However, service will be continued on a line if an interested party offers to subsidize operations or purchase the line and the ICC finds that the subsidy or purchase price is, according to statutory standards, adequate compensation.

As a corollary to the eased exit provisions, the bill offers eased entry into new markets by lifting restrictions on new rights-of-way and providing mandatory reciprocal switching in urban areas. We don't, of course, expect new trunklines to be constructed. But in many areas, the construction of just a few miles of track will allow a new railroad to compete for the traffic. The bill even allows one railroad to cross another railroad's line for this purpose -- curing a problem that has inhibited the growth of competition in the past. Our bill won't work in the absence of competition, and this provision and others are intended to assure that competition -- both intra- and inter-modal -- will be pervasive.

One final area of change that I'd like to mention briefly has to do with day-to-day rail operations. Today, the ICC can order a railroad to provide a given type and number of cars to a particular shipper at a particular time and a particular rate. Often such orders react to limited problems in ways that affect the entire rail system adversely. The bill would curtail this authority substantially, allowing such intervention only in times of emergencies determined by the President. If the President finds such an emergency exists, then the Department of Transportation could issue implementing car service orders. This change will allow the railroads to have greater control over their day-to-day operations.

Again, however, we provide a constraint based on principles of fundamental fairness: the common carrier obligation will be retained. Railroads will be required to provide service to everyone willing to pay the going rate (assuming it is lawful), and the only exception will be to allow the railroads to honor the terms of prior contracts or other obligations for cars -- the only basis on which the long-term contracts that we believe to be essential to a rational price structure can be enforceable and reliable.

Considerable concern has been voiced that the bill will simply allow the railroads to raise their rates, without providing any incentives for them to improve their service. It is true that the bill does not legislate mandatory service improvements, but it is more than apparent that 92 years of Federal regulation have not resulted in good service. We are confident, however, that the bill will allow the railroads

the necessary freedom to try innovative marketing and pricing practices and to increase the efficiency of their operations. The result will be lower costs, higher productivity and improved and more responsive service. The present system stifles innovation; deregulation will break the grip of tradition on rate and service patterns.

In closing, let me stress my conviction that rail deregulation is not only the best way to help the railroads -- it's also an important competitive opportunity for shippers. It's easy to focus on its risks -- because change is always alarming. But I believe that it is vital to consider the important opportunities available to shippers, railroads and consumers if this bill passes, as well as the implications for the future if it doesn't.

This ends my formal testimony and I thank you for your time. I will be happy to address any issues you would care to discuss.