

## **Summary: “Keeping Goods Moving: Continuing to Enhance Multimodal Freight Policy and Infrastructure”**

### **Senate Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security**

#### **Witnesses:**

- Mr. Derek J. Leathers, President and Chief Executive Officer, Werner Enterprises
- Mr. Lance M. Fritz, Chairman, President and Chief Executive Officer, Union Pacific
- Mr. Michael L. Ducker, President and Chief Executive Officer, FedEx Freight
- Mr. James Pelliccio, President and Chief Executive Officer, Port Newark Container Terminal

#### **Opening Statements:**

**Chairman Fischer (R-NE)** opened the hearing by emphasizing the importance of freight policy to all states across the country, both urban and rural. She noted that investment in freight helps to grow the U.S. economy, reduce costs, and increase safety. Chairman Fischer applauded the potential of a trillion dollar infrastructure program and suggested supporting any infrastructure investment using funds from tax reform revenues. Infrastructure is a core duty of the federal government but she urged Congress to avoid falling in to a stimulus style trap. The Chairman noted that there are existing programs through which funds can be distributed, making it unnecessary for Congress to create new ones. She applauded the Fixing America’s Surface Transportation (FAST) Act for being the first long term surface transportation bill in more than a decade and highlighted the freight formula program that provides every state with annual guaranteed funding. Chairman Fischer supports this method because it allows states to select projects, as long as the project enhances freight transportation movements. It also ensures that funding goes to both rural and urban freight corridors, offering states the opportunity to make critical investments that meet their specific needs. She noted that this program has national, bipartisan support and that expanding the program would be a wise investment in America’s future. Beyond funding, Chairman Fischer called on Congress to keep in mind how unintended regulatory consequences can impact the freight network, with delays or burdensome requirements negatively impacting the supply chain. She called for certainty in the regulatory process while also encouraging innovation to enhance efficiencies across the network.

**Ranking Member Booker (D-NJ)** used his opening statement to speak briefly about the importance of safety on our transportation systems.

**Mr. Leathers**, president and CEO of Werner Enterprises, began his opening statement by providing some background on Werner, one of the five largest truck load carriers in the United States. He commended Congress for recognizing the importance of the movement of freight to our economy and for supporting

a safe, uncongested, reliable highway system. Mr. Leathers told the Subcommittee that trucks move 70 percent of all freight and that drivers are the connectors between rails and ports, and between urban and rural areas. He urged multimodal investments and regulatory reform to ensure that the U.S. meets the growing needs of the freight system, specifically calling on Congress to invest in freight bottlenecks and in making our roads and bridges structurally sound. He supported a variety of revenue sources, including Senator Fischer's Build USA Infrastructure Act and higher user fees in general. He noted that increasing the federal gas tax and indexing it to inflation is an efficient way to get funds but emphasized that such revenues should be used on surface transportation. Mr. Leathers also called on Congress to work with the industry to address the driver shortage issue. He told the Subcommittee that Werner invests millions annually in safety measures and thanked Congress for including measures in the FAST Act that address the deficiencies at the Federal Motor Carrier Safety Administration (FMCSA) as well as prioritizing critical rulemaking such as the electronic logging devices (ELDs), the entry level driver, and the hair follicle testing rulemakings. He called on the trucking industry to continue investing in safety as technology improves but added that Congress should work to address the patchwork of state regulations that make a commercial motor vehicle (CMV) driver's job more difficult.

**Mr. Fritz**, president and chief executive officer of Union Pacific (UP), used his opening statement to request that Congress improve the rail industry, and therefore the freight industry, by enacting policies that support investment, safety, service, and efficiency. First, Mr. Fritz said that economic regulatory policy must recognize that rail must charge market based rates to attract private capital to make investments. He said that publically traded companies cannot justify the risk of investment unless the upside gain is enough to offset the downside risk. He called on Congress and the Surface Transportation Board (STB) to consider this as they considered any economic regulatory structure in the future. Second, Mr. Fritz said that in the current heavy command and control regulatory structure, it is difficult for the rail industry to take advantage of new technology and innovations to improve safety and increase efficiency, which it must do to remain competitive. He called for performance based approaches to make innovating easier. Third, he said that the U.S. tax and trade policies must be structured to ensure competitiveness. Mr. Fritz told the Subcommittee that the high U.S. corporate tax rate makes it hard for firms to justify investing in the United States. He also emphasized the importance of trade to the U.S. economy, saying that 42 percent of all rail carloads are directly associated with international trade. He called on Congress and the Administration to rework the North American Free Trade Agreement (NAFTA) by strengthening its environmental and labor rules and addressing ecommerce and cross border data flow but advised against withdrawal. Finally, Mr. Fritz requested that Congress continue to foster and fund the FASTLANE and TIGER grant programs. He noted that both programs have done great work in fostering public-private partnerships (P3s) and are good ways to leverage future private investment.

**Mr. Ducker**, president and chief executive office of FedEx Freight, began his statement by giving some background on FedEx Freight and their use of various modes of transportation as well as their focus on

safety. He then used the rest of his opening statement to address three key topics: 1) enhancements to the national highway system and funding sources; 2) innovation; and 3) modernization. First, Mr. Ducker called for federal investment in our nation's highways and suggested funding them through some sort of user fee. He added that FedEx Freight supports a broad mix of revenue sources, including increasing and indexing the federal gas tax, a vehicle miles traveled fee, a direct user fee, congestion pricing, or a reduction in the U.S. corporate tax rate. Second, Mr. Ducker called for national uniformity with reasonable and flexible guidelines for the future of innovation and automation in both vehicle to vehicle communications and vehicle to infrastructure communications. Third, he called on Congress to modernize the trucking equipment standards, which have not been changed in over 25 years. Mr. Ducker supported allowing twin 33-foot trailers, with no change in the federal weight limit, on all roads. Twin 33-foot trailers are currently allowed in 20 states and, according to Mr. Ducker, improve safety, reduce congestion, reduce wear and tear, and save fuel while reducing carbon emissions. He also called on Congress to modernize regulations while reducing unnecessary regulatory burdens. Finally, he called on the trucking industry to adopt the most modern safety systems on all vehicles.

**Mr. Pelliccio**, president and chief executive office of Port Newark Container Terminal (PNCT) and CAGTC member, began his opening statement by giving background on both PNCT and CAGTC. He explained that ports are intermodal hubs and essential for trade but that changes in the global supply chain, including ultra-large container vessels, have created a need to strengthen inadequate infrastructure to ensure that the U.S. retains its competitive advantage. Mr. Pelliccio praised the FAST Act, calling it a down payment on the nation's infrastructure needs but noted that our goods movement system needs strategic investments cutting across traditional modal barriers. Mr. Pelliccio praised the FASTLANE grant program because of its, and other competitive grant programs', ability to assist in funding large scale infrastructure projects that span multiple modes and jurisdictional borders and are virtually impossible to fund through a traditional formula program. He also praised competitive grant programs for fostering P3s and used various PNCT and New Jersey projects as examples. Mr. Pelliccio also praised the TIGER grant program as critical for transportation projects, noting that the program is different from the FASTLANE program. While FASTLANE is freight focused, TIGER can address many types of mobility needs, including freight and transit projects. Through the TIGER program, Essex County was able to fund an essential project by flipping the traditional 80 percent federal, 20 percent nonfederal funding method of the formula program on its head, funding 30 percent of the project through federal funds and 70 percent nonfederal. Mr. Pelliccio called on Congress to develop a national strategy to guide long term funding and to invest \$2 billion annually through a multimodal, freight specific competitive grant using merit based criteria and encouraging private sector investment.

#### **Question & Answer:**

**Chairman Fischer** asked Mr. Fritz to expand upon the consequences of unbalanced or overreaching federal regulations. **Mr. Fritz** answered that the rail industry must invest millions every year to abide by

the regulatory environment that is increasingly out of date. For example, the Federal Railroad Administration (FRA) recently proposed a rule that would mandate two people in the cab of a locomotive. While the rail industry's primary safety regulator is mandating that rail stay frozen in time, their competitive mode, trucking, is pursuing autonomous vehicle technology. He called on Congress and regulators to let technology take the rail industry to the future by embracing a performance based regulatory environment that uses waivers to test technology.

**Chairman Fischer** asked how a performance based system and more freedom to utilize technology would work and would be safer for the rail industry. **Mr. Fritz** answered that UP has a few installations along its rail that take photos of trains when they go through them. These images are quickly analyzed to determine if a car or intermodal box is in good operating condition. If not, the technology sends that information to the train's end terminal the issue can be fixed right away. This method finds more defects than the human eye does and removes people from risky environments. UP would like to explore more options like this in the future.

**Chairman Fischer** asked Mr. Leathers how Congress could address the driver shortage. **Mr. Leathers** answered that reducing the wait period to be tested to get a commercial drivers license (CDL) is one possible solution. He also asked that Congress or regulators address other CDL permitting restrictions, including the inability to cross state lines to get a permit, calling the restriction silly. He noted that autonomous technology will allow drivers to have a better way of life in the future but will not solve the driver shortage problem.

**Senator Hassan (D-NH)** asked Mr. Ducker to expand upon the work FedEx is doing to improve safety in the trucking industry. **Mr. Ducker** answered that 100 percent of their fleet has collision mitigation systems, lane departure systems, ELDs, roll stability technology, speed limiters, and other important safety systems. FedEx is constantly testing new technology to determine its viability because technology is changing rapidly and nothing is more important than safety.

**Senator Hassan** asked Mr. Pelliccio to speak to the importance and feasibility of the Marine Highway Program. **Mr. Pelliccio** noted that there are many miles of the Marine Highway System that are underutilized, one specific area being the Northeast Corridor. Services have begun running between two terminals in that area on an ad hoc basis to gauge the feasibility of using waterways and get freight off of overburdened highway segments. Mr. Pelliccio said the waterways are a great opportunity for supply chains and that they could be complementary to other modes of transportation by taking freight off roads in the most congested areas.

**Senator Wicker (R-MS)** expressed a hope for the passage of a large infrastructure bill and also expressed concerns about the idea of twin 33 trailers. He noted there are safety concerns expressed by groups as well as concerns of their impact on infrastructure. He asked Mr. Fritz how the introduction of twin 33s

would negatively impact railways. **Mr. Fritz** answered that the rail industry is in the process of evaluating what impact they would have, if any, but that historically they have been neutral on the topic. **Senator Wicker** added that many groups, including the American Trucking Association (ATA), have reevaluated their position. ATA now supports reformed size and weights on a state by state basis, which Senator Wicker also supports.

**Senator Wicker** asked if the witnesses had suggestions as to how to improve transportation efficiency between railways and ports, specifically wondering how much on dock railway access increases the efficiency. **Mr. Pelliccio** said that on dock rail is critical as ports are the entry point and exit point for the majority of goods and have a responsibility to get goods to consumers as quickly as possible. He noted that Newark recently connected on dock and since the change, 1,000 truck moves a day have been taken off the road and productivity has been quadrupled while capacity has increased and the environmental footprint has been lowered. He could not overstate the importance of bringing ports and rail together. **Mr. Fritz** echoed Mr. Pelliccio's statement, saying that connectivity of ports to rail and rail to highway is essential.

**Senator Inhofe (R-OK)** noted that Congress is ready to work together and keep busy to pass an infrastructure bill. He asked Mr. Leathers to expand upon possible solutions for getting a learners permit for a CDL. **Mr. Leathers** answered that it would make more sense to have larger scale centralized schools with good technology to train drivers instead of schools in every state. He asked that the regulations around this be changed.

**Senator Inhofe** noted that the FAST Act included a provision for a national freight program for the first time and created the FASTLANE grants. He asked Mr. Fritz how these could be used. **Mr. Fritz** answered that they use funds for many projects. He noted that when a railroad is involved, such projects are basically P3s and are great for grade separations and last mile investments.

**Senator Inhofe** asked how congestion on our nation's highways can be reduced. **Mr. Ducker** answered that Congress could approve twin 33s on all roads as one option. Another option could be to implement congestion pricing or build new roads around congested areas that are paid for through tolls. He also added that continued connected and autonomous technology will help.

**Senator Duckworth (D-IL)** spoke about the CREATE program and its benefits and asked Mr. Fritz to elaborate. **Mr. Fritz** said that UP is very supportive of CREATE and explained that it is a partnership of all the freight railroads going through Chicago, Amtrak, and local, state and federal government. The project uses both public and private dollars to invest in needed projects in Chicago and has had tremendous benefits, including reduced congestion and emissions. He supports doing other initiatives like CREATE around the country and noted that the industry is making small steps towards that.

**Senator Duckworth** asked how freight reliability can keep up with growing ecommerce and how it can be improved. **Mr. Ducker** answered that the rapid growth of ecommerce has overtaken networks and that infrastructure and the industry, including regulations, are not modernizing fast enough.

**Senator Udall (D-NM)** expressed many concerns for New Mexico when it comes to a potential border adjustment tax, trade war, or wall with Mexico. He called on the Administration to submit any renegotiation of NAFTA to Congress for approval. He then asked Mr. Fritz how NAFTA impacts freight rail. **Mr. Fritz** said that international trade is critical to freight railroads and the U.S. economy. He said that one in three acres in the U.S. is grown for export and that international trade supports 14 million U.S. jobs. In terms of renegotiation, Mr. Fritz said that opportunities include addressing environmental laws, labor laws, ecommerce, complex data flows, and border security. He suggested dealing with trade deliberatively and thoughtfully through a tripartite conversation as NAFTA supports both jobs and U.S. economic growth. **Mr. Leathers** added that trucking and trade are inseparable and advised that the Administration tread lightly and look at what is at stake in any renegotiation as North America is inextricably linked.

**Senator Blunt (R-MO)** asked about streamlining the permitting process for various modes and how that helps or could be improved. **Mr. Fritz** applauded the streamlining language included in the FAST Act but was unsure about how far along it is to being implemented.

**Senator Blunt** asked, given the projected growth in demand, how the U.S. can maximize and improve our intermodal network. **Mr. Ducker** answered that all modes work together and use each other as partners and customers. He called on Congress to invest in the entire network and to focus on key congestion bottlenecks. He also called for regulations that allow for greater innovation and use of technology. **Mr. Leathers** added that freight transportation is becoming increasingly complex and that it is essential the industry remain mode neutral and get goods to market in the most efficient way possible. He called on Congress to invest in intermodal facilities and key bottlenecks across the country.

**Senator Blumenthal (D-CT)** asked the panelists how far away the industry is from driverless trucks. **Mr. Leathers** answered that we are a long way away but that the industry should embrace the process as it leads to safety technology that saves life. **Mr. Fritz** added there has not been adequate conversation surrounding the need to improve infrastructure to get it ready for autonomous vehicles. Such technology requires well defined lanes, communication systems, and clear signage that must be invested in. **Mr. Ducker** agreed that driverless trucks are years away and that we may move to platooning or more driver assisted systems soon and that those will have positive safety impacts. **Mr. Pelliccio** added that for ports it is very different but that technology is extremely important for safety and productivity. **Senator Blumenthal** added that FMCSA should issue guidance for driverless trucks sometime this year and that much work still needs to be done, including clear, national regulations.

**Senator Booker (D-NJ)** asked why competitive grant programs are important and how they differ from traditional formula programs. **Mr. Pelliccio** answered that grants are a competitive platform that allows for complex multimodal projects to be funded through a combination of both private sector and public funds. They accelerate projects that might otherwise take many years longer or go unfunded. The fact that both TIGER and FASTLANE have been oversubscribed shows how important they are – they put the best ideas forward, are a bottom up process, and use tax payer funds the most effectively. Furthermore, these types of projects have multiplier effect in economic benefits.

**Senator Booker** asked the witnesses how a massive infrastructure investment could be paid for, including the use of tax breaks, tolls, P3s as opposed to direct investment. **Mr. Ducker** answered that such an investment will require a variety of methods. He believed that the most direct method has been the indexed fuel tax or user fees but that all options should be on the table. **Mr. Leathers** agreed that a fuel tax is easiest, most efficient form of payment. He said that there is a place for P3s in some projects but that he is opposed to tolls on existing highways as they are inefficient, create bottlenecks, and cause environmental issues.

**Senator Booker** asked Mr. Fritz about the impact twin 33s would have on the rail industry. **Mr. Fritz** said that their widespread usage would most likely take freight off of trains and put it back on roads but that the rail industry is currently exploring the exact impacts.

**Senator Cantwell (D-WA)** asked what the U.S. needs to do to continue our investment in freight mobility and freight infrastructure as well as last mile investments. **Mr. Fritz** said the U.S. must continue to invest and that ports are moving towards more automation to ensure they function quickly and continue to attract global freight. He also said investing in the connectivity between modes is a win for the U.S. economy and will help ease freight bottlenecks. **Mr. Leathers** said freight must work together, regardless of what mode it is traveling on. He said we should focus on the largest bottlenecks in the U.S. to eliminate congestion. **Mr. Pelliccio** added that automation is a crucial part of ports' future and should be invested in. He also called for funds, through grants like FASTLANE and TIGER, to invest in the physical infrastructure of gateway cities, citing the widening of the Panama Canal and use of megaships as needs that will need to be addressed through infrastructure changes or else the U.S. will lose market share. **Senator Cantwell** added that the U.S. could lose businesses if we do not continue to invest, which **Senator Booker** agreed with.

**Senator Fischer** adjourned the hearing.