Testimony of John Tolman, Vice President and National Legislative Representative Brotherhood of Locomotive Engineers and Trainmen Before the House Committee on Transportation & Infrastructure Subcommittee on Railroads, Pipelines & Hazardous Materials Hearing on Oversight of Passenger and Freight Rail Safety February 26, 2014

Good afternoon Chairman Denham, Ranking Member Brown, and Members of the Subcommittee. My name is John Tolman and I am the Vice President and National Legislative Representative of the Brotherhood of Locomotive Engineers and Trainmen, which is a Division of the Teamsters Rail Conference. On behalf of more than 37,000 active BLET members and over 70,000 Rail Conference members, I want to thank you for the opportunity to provide this Subcommittee with our views on freight and passenger rail safety.

Railroad safety is a complex need and goal that we all share. For more than 150 years, the BLET has worked with the industry, government and other labor unions to ensure that railroads provide for the safety of our members and the public. There are many issues encompassing the topic of rail safety, and I would like to take this opportunity to discuss several current, pertinent ones with you today.

Over the past several months, there have been a series of events in the railroad industry that have once again put rail safety back in the headlines. While the causes of many of these accidents have not been determined, there is heightened public concern about the overall safety of railroad operations in this country. As my testimony will show, several areas of continued concern also are implicated by these recent events.

Our perspective — and that of rail labor — differs significantly from that of the railroads on many, if not all, of these issues. Our vision doesn't come down from the board room or a business plan; rather, it comes up from the ranks of our hard working members work every day and every night on our nation's railroads. They are on the front lines of these operations and serve as the first responders to accidents. And for this reason we are uniquely positioned to provide good ideas regarding the types of changes that would make our industry safer.

The most important issue in our minds continues to be the implementation of Positive Train Control without further, blanket delays. PTC was mandated by the Rail Safety Improvement Act of 2008. The railroads will have had over seven years from the time the legislation was passed until it is supposed to be fully implemented at the end of next year. PTC is currently required to be installed on all Class I mainline track where TIH and PIH materials are transported, and on mainline track over which intercity or commuter rail passenger transportation is regularly provided.

PTC technology will prevent the most egregious and catastrophic accidents where hazmat or passenger trains are involved, protecting the public and railroad employees alike, and that's why it has been on the NTSB most wanted list since the early 1970s. Over the past 20 years, more than 70 of our members have been killed in the line of duty, and nearly 50 of those deaths would have been prevented by PTC.

The carriers have had ample time to prepare for the implementation of PTC. However, since it was mandated, the railroads have used a seemingly never-ending series of excuses for delaying the implementation of this life saving technology, and while there are challenges to its implementation, we believe that these could have been averted by more forward thinking by the railroads.

The lack of wireless spectrum is one of the reasons cited as justification for delay. Some railroads — including Caltrain, BNSF and SEPTA — had the foresight to purchase sufficient bandwidth for PTC, while others now complain about the challenges of doing so. Another recent

issue is the sudden appearance of approval problems for the wireless towers that will be placed on land owned by Native American Tribes. The Federal Communications Commission's recent streamlined approval process for this should mitigate this problem and, hopefully, there will be no further delays of this nature.

We fully understand the implementation of PTC is an expensive undertaking for many commuter railroads that are already strapped for cash. We would also support the idea of federal funding for the commuter agencies. However, if any extension is granted to either freight or passenger railroads, we believe certain time- and construction-sensitive benchmarks must be met, and we oppose a blanket extension of the December 31, 2015 deadline. And we reject the notion that PTC provides a justification for reducing crew size, as the railroads contend. To implement PTC as a pretext to reduce crew size would be taking a one step forward and two steps backwards. PTC is simply another safety overlay of operating systems in which trains will be kept apart in the majority of circumstances, but not in every circumstance.

While the implementation of PTC has the potential to positively impact the safety of railroad operations, BLET members — many of whom I hear from each and every day — feel that their greatest safety concern continues to be the often crushing levels of fatigue felt by many in the industry. I have testified before both this Subcommittee and the full Committee on several previous occasions, and discussed the problem of fatigue and its effect on risk in general and our members' safety and the public's safety in particular. It remains clear to me that the intent of the 2008 Rail Safety Improvement Act was to reduce fatigue in the industry. This should have been done by providing railroad operating employees with predictable schedules, calling windows and train line ups they can rely on so that they can plan their sleep accordingly. I continue to believe these and similar ideas will help to alleviate fatigue in the industry. Any legislation or regulation intending to reduce fatigue needs to examine ideas that are not only workable for the carriers but also for their employees, and must be based in science.

The majority of the nation's engineers in freight service — who operate side by side on the same tracks as passenger and commuter engineers — work unscheduled jobs. They are "on call" 24/7, 365 days a year and receive as little as an hour and half notice to report to work a twelve hour shift. Most times there is no predictability as to reporting time, and calls are made without regard to the fact that the engineer may have already been awake for twelve to sixteen hours waiting for the phone to ring.

Our members are professionals who want to go to work rested and ready to ensure their safety and the safety of the communities through which they operate. But in the current operating environment — because they do not know when they will be called to go to work — they simply cannot accomplish this goal. The changes made by the RSIA were well intentioned but reducing the number of hours of service to 276 did nothing to reduce fatigue and was not based upon sleep science. Instead, operational decisions by railroads, such as leaving crews at the away from home terminal for prolonged periods of time, has actually increased fatigue in some cases. And nearly 5½ years after enactment of the RSIA, the industry has yet to engage us in a serious discussion about predictably.

Simply put, fatigue has severe consequences across transportation modes. According to the NTSB, since 1990, fatigue has been cited as an accident cause nearly 200 times. In the railroad

industry the potential for a fatigue-related accident can be significantly mitigated by PTC, by predictable work schedules and adequate rest, and by alerters.

An alerter is a relatively inexpensive, low tech alarm that can automatically apply a train's brakes if the engineer is unresponsive to it. While alerters are in most locomotive cabs, there are many exceptions to their requirement within the existing regulations. For example, the control stand at which the locomotive engineer in the Metro North derailment was operating at did not have an alerter, while the locomotive at the other end of the train did have one. An alerter would have applied the brakes if that engineer did not react to it, and likely would have saved lives.

Another cab-related issue that also implicates security is the securement of locomotive cabs and controls. Since the June 2010 murder of a CSX conductor and the shooting of his engineer during a robbery in their locomotive cab in New Orleans, we have worked hard to develop an appropriate securement regulation that permits the locking of the cab from the inside and the outside, independently, and facilitates first responder ingress into a locked cab during an emergency. While that task as not yet been completed to our satisfaction, we will continue to pressure FRA and the industry to properly protect our members.

The recent publicity concerning rail safety is the result of several serious accidents involving the shipping of crude oil from the Bakken region, including the catastrophe that destroyed the downtown area of Lac Mégantic, Quebec, and the derailment, spill and fire that triggered evacuations in Casselton, North Dakota. Unprecedented levels of traffic and 80 to 100 cars per train, have strained railroad infrastructure and exhausted train crews who do more work with little or no advanced notice. Shorter train lengths would lessen the safety risks to the employees and the public.

We urge the Subcommittee not to lose sight of the overall rail safety picture by hyper-scrutinizing crude oil, because the causes of railroad accidents, for the most part, operate independently of cargo. In fact, the Casselton wreck was caused by a manifest freight train derailing in the path of the crude oil train. PTC and fatigue mitigation must continue to be our top two goals, as they mitigate risk as much for a crude oil train as for any other train.

That being said, I do want to address two specific subjects that have arisen during the debate over rail safety. The BLET has spent significant time and resources countering industry efforts to understaff train crews. The industry has even enshrined in its lexicon the oxymoronic term "one person crew." This issue — specifically, the proposed requirement that there be, at minimum, two individuals in the cab of all freight locomotives — is before your Subcommittee in the form of H.R.3040, which was introduced by Mr. Michaud last summer.

Now, the reality is that virtually all of America's freight trains already operate with two federally-certified crew members. So, then why the need to address this subject today? There are many tasks that must be performed by the crew on a freight train every day that one person just cannot accomplish alone, and a one person crew is not only unsafe, but it also is inefficient ... and can be deadly. The train that wiped downtown Lac-Mégantic off the map had been left standing unattended on a steep grade several miles outside the town because that was the only stretch of track that could accommodate the entire train without blocking any highway grade crossings.

The safest option was to secure the train on flat terrain much closer to the town after separating it into multiple pieces to keep the crossings open. However, that option was not available because the railroad operated the train with a one person crew, and it is physically impossible for a single person to both secure the train with hand brakes and test the securement by releasing the air brakes, as safe operating standards dictate. Therefore, it is time to enshrine this aspect of current railroad operations into law, as Canada's safety regulator did in reaction to the accident in Quebec.

Lastly, it seems to have become fashionable in some quarters to call for the installation of inward-facing cameras in the cabs of all locomotives, as a way to prevent railroad accidents and cure a host of other ills. The proponents of these cameras suggest that video surveillance of locomotive engineers and conductors in the workplace will somehow abate fatigue and foster rule compliance. However, it is absurd to suggest that inward facing cameras are a tool to reduce fatigue. In the absence of operational changes to reduce the likelihood that a locomotive engineer or conductor will be fatigued while operating a train, these cameras will do nothing but document the crewmember falling asleep. In fact, these cameras cannot and will not prevent a single accident, and will only create yet another source of distraction from the train crew's work tasks. More than a century of research establishes that monitoring workers actually reduces the ability to perform complex tasks, such as operating a train, because of the distractive effect of surveillance.

Nor do we believe such cameras have a significant future even as an investigative tool. We currently have event recorders on all locomotives that record all movements in the cab, from throttle, to speed, bell, whistle, alerter, brakes, to all movements of the train. There have been a handful of accidents in which the National Transportation Safety Board stated video would have been helpful because the other event recorder data did not answer all the questions raised during the investigation. Respectfully, however, those accidents were so horrific that it is unlikely the video data recorders would have survived for analysis. These cameras are merely "feel good" devices, which won't improve railroad safety one whit at the end of the day.

The professional men and women working on our nation's railroads serve on the front lines of this industry. We are dedicated to its safety and would like to be partners in improving it. Our organization and all the other railroad labor organizations are committed to working towards solutions for the complex and multi-faceted problems facing the industry, as we bring a unique body of experience and point of view to these problems. Thank you for allowing us the opportunity to share our perspective with you, and I look forward to answering your questions.