



*A bold voice for transportation workers*

February 24, 2023

John Karl Alexy  
Associate Administrator  
Federal Railroad Administration  
1200 New Jersey Avenue SE  
Washington, DC 20590

**RE: UP Notice of Application for Approval of Discontinuance or Modification  
of a Railroad Signal System  
Docket No. FRA-2023-0004**

Dear Associate Administrator Alexy:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the Federal Railroad Administration's (FRA) notice regarding Union Pacific's (UP) recent petition to suspend the use of block signals on its Winnemucca Subdivision. TTD consists of 37 affiliated unions representing the totality of rail labor, including both passenger and freight rail workers.<sup>1</sup> TTD endorses the comments of our affiliates, the Brotherhood of Railroad Signalmen (BRS) and the International Association of Sheet Metal, Air, Rail and Transportation Workers – Transportation Division (SMART-TD). We ask FRA to deny this application because UP's request would result in a decrease in safety and is not warranted since UP itself made the decision to decrease the workforce and capital investment needed to maintain the Winnemucca Subdivision.

In its application, UP requests to temporarily "remove [Centralized Traffic Control (CTC)] limits and replace with [Track Warrant Control (TWC)] limits through the same area." UP states that this request is made due to "an uncurable (sic) situation with contaminated track conditions that will not allow the signal system to function properly." UP notes that "This condition is resulting in roughly 5 recrews a day for this area, leaving the new STB ruling to serve Foster Farms expeditiously, in jeopardy."<sup>2</sup>

TTD opposes UP's emergency application to remove block signals and CTC on the grounds that a failure of routine track maintenance does not constitute an emergency. The track problems that UP describes in its application are the result of a lack of maintenance investments by UP over many years – something that should not enable UP to further put workers at risk by being allowed to continue operations without safety systems that have been in place for nearly a century.

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<sup>1</sup> Attached is a list of TTD's affiliated unions.

<sup>2</sup> <https://www.regulations.gov/document/FRA-2023-0004-0001>

**Transportation Trades Department, AFL-CIO**

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Greg Regan, President / Shari Semelsberger, Secretary-Treasurer



CTC has been around since 1927 and the Class I railroads, including UP, have widely installed CTC across their networks.<sup>3</sup> UP's petition to suspend the use of CTC undermines the progress that has been made over the past few decades in installing signal systems that make our rail system safer. UP's petition for a safety waiver is also in the context of UP's worsening safety record since 2013. Per FRA's own data, UP's rate of accidents & incidents per million train miles went from 10.457 in 2013 to 14.042 in 2021 (higher is worse) and the rate of yard accidents went from 12.656 in 2013 to 19.568 in 2021 (again higher is worse).<sup>4</sup> At a time when UP's safety record is getting worse, granting UP's request for a waiver to actively disable an important signal system would undermine the safety of rail workers and the general public and is counter to the safety mission and oversight role of the FRA.

As our affiliate, BRS, stated "With the current deteriorated track conditions, the CTC system is not functioning and cannot detect broken rail or the presence of trains, train cars, or equipment, these conditions will remain once CTC is turned off. What will increase with TWC is the train speed across the track that has not been properly maintained, this could increase the probability of an incident, accident, or derailment."

While TTD understands UP's obligations under the Surface Transportation Board's (STB) Foster Farms ruling, and is glad to see that UP has finally realized that its service obligations are important, it is incredibly disappointing that UP believes it is unable to meet its service commitments without resorting to a safety waiver. TTD completely rejects this false choice. UP's disingenuous dichotomy framing is emblematic of UP's slapdash approach to safety and service under Precision Scheduled Railroading (PSR). Since 2015, UP has greatly cut back on the amount of workers they have from 47,201 employees at the beginning of 2015 to 33,179 at the end of 2022.<sup>5</sup> These cuts to the workforce include the signal and track workers that maintain the Winnemucca signal and track subdivision. UP's lack of investment in its workforce and infrastructure investment has predictably led to the deterioration of its track and signals, not any force majeure.

TTD greatly disputes UP's position that this track and signal situation is "uncurable." Last year in 2022, UP reported record high profits of \$7 billion.<sup>6</sup> Furthermore, UP reported that it spent nearly double on stock buybacks in 2022, \$6.3 billion, than on their entire capital program in 2022 which was \$3.4 billion.<sup>7</sup> UP is not a company that lacks resources. TTD strongly suspects that if UP wanted to spend some money on fixing the underlying track condition, it could definitely do so. Perhaps if UP spent more on their workforce and infrastructure and less on stock buybacks, it wouldn't be applying for a safety waiver to revert to pre 1920's technology.

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<sup>3</sup> See [CTC: Remotely directing the movement of trains | Trains Magazine](#)

<sup>4</sup> <https://safetydata.fra.dot.gov/OfficeofSafety/publicsite/Query/TenYearAccidentIncidentOverview.aspx>

<sup>5</sup> See

[https://www.up.com/cs/groups/public/@uprr/@investor/documents/investordocuments/pdf\\_upc\\_10k\\_02062015.pdf](https://www.up.com/cs/groups/public/@uprr/@investor/documents/investordocuments/pdf_upc_10k_02062015.pdf)

and [https://www.up.com/cs/groups/public/@uprr/@investor/documents/investordocuments/pdf\\_up\\_10k\\_02102023.pdf](https://www.up.com/cs/groups/public/@uprr/@investor/documents/investordocuments/pdf_up_10k_02102023.pdf)

<sup>6</sup> See

<https://www.up.com/media/releases/4q22-year-end-earnings-nr-230124.htm#:~:text=Reported%20net%20income%20for%20full,or%20%249.95%20per%20diluted%20share.>

<sup>7</sup> Id.

UP has also made no progress at all in the last year in hiring additional track or signal workers that could fix the problem. The number of UP track workers actually decreased from 6,123 in October 2021 to 5,954 in September 2022 and the number of UP signal workers went from 1,619 in October 2021 to 1,628 in October 2022.<sup>8</sup> Again, UP made record profits of \$7 billion in 2022. They have the money to hire additional workers to better maintain their system, including the Winnemucca subdivision, if they wanted to. Instead, UP is actively choosing not to.

It is impossible to ignore the recent events in East Palestine, Ohio, when discussing an application to waive important safety requirements such as this one from UP. As the United States Department of Transportation and USDOT Secretary Buttigieg noted on February 21st, “Committing to greater [rail] safety requires investing in human and physical infrastructure. Instead, in the intervening years the railroad industry has actively lobbied Congress to roll back or weaken some of these rules.”<sup>9</sup> This application from UP is another similar attempt by a railroad to weaken important safety rules.

FRA must not reward UP’s deliberate decision to cut back over the past several years on the maintenance of its entire system, including the Winnemucca subdivision, so they could make more money, with a safety waiver that will decrease the safety of our rail system and potentially jeopardize the wellbeing of rail workers, surrounding communities, and the general public. In this situation, UP should instead make the necessary workforce and maintenance investments to keep basic tracks and signals operating safely. UP clearly has the resources to undertake such investments. Granting this waiver would only encourage UP and other railroads to cut back on needed staffing and maintenance and further increase the probability of rail accidents and incidents. Therefore, TTD urges FRA to deny this emergency request and petition from UP.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Regan", enclosed within a hand-drawn circle.

Greg Regan  
President

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<sup>8</sup> “Oversight Hearing Pertaining To Union Pacific Railroad Company's Embargoes,” STB EP 772, Filing ID 306010

<sup>9</sup><https://www.transportation.gov/briefing-room/us-department-transportation-fact-sheet-steps-forward-freight-rail-industry-safety>