



July 25, 2017

The Honorable Paul Torkelson, Chair
House Transportation Finance Committee
381 State Office Building
Saint Paul, MN 55155

The Honorable Scott Newman, Chair
Senate Transportation Finance & Policy Committee
3105 Minnesota Senate Building
Saint Paul, MN 55155

The Honorable Linda Runbeck, Chair
House Transportation & Regional Governance Policy
Committee
417 State Office Building
Saint Paul, MN 55155

The Honorable Scott Dibble
Ranking Minority Member
Senate Transportation Finance & Policy Committee
2213 Minnesota Senate Building
Saint Paul, MN 55155

The Honorable Frank Hornstein, DFL Lead
House Transportation Policy & Finance Committee
243 State Office Building
Saint Paul, MN 55155

The Honorable Connie Bernardy, DFL Lead
House Transportation & Regional Governance
Policy Committee
253 State Office Building
Saint Paul, MN 55155

RE: 2016 Annual Railroad Lighting Report

Dear Legislators:

The Minnesota Department of Transportation is pleased to provide the annual report on Railroad Yard Lighting. This report is required under [Minnesota Statute 219.375, subdivision 4](#).

The report describes the information provided by the Class I and Class II railroads and the United Transportation Union representatives about the condition, efficacy and maintenance of railroad yard lighting. As the statute requires, the differences and discrepancies between the information provided by the railroads and the UTU were analyzed.

Included within the report are recommendations from MnDOT in order to improve compliance and reporting by the railroads and the UTU.

Please contact me if you have questions about this report, or you may contact Bill Gardner in the Office of Freight & Commercial Vehicle Operations, Rail Division at william.gardner@state.mn.us or at 651-366-3665.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Charles A. Zelle'.

Charles A. Zelle
Commissioner

Railroad Yard Lighting Report

July 2017



Prepared by:

The Minnesota Department of Transportation
395 John Ireland Boulevard
Saint Paul, Minnesota 55155-1899

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To request this document in an alternative format, call 651-366-4718 or 1-800-657-3774 (Greater Minnesota). You may also send an email to ADArequest.dot@state.mn.us

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Legislative Request

This report is issued to comply with [Minnesota Statutes 219.375, subs. 1-4.](#)

219.375 RAILROAD YARD LIGHTING.

Subdivision 1. Lighting status reports submitted by railroad common carriers.

By January 15 of each year, each Class I and Class II railroad common carrier that operates one or more railroad yards in this state where, between sunset and sunrise, cars or locomotives are frequently switched, repaired, or inspected, or where trains are assembled and disassembled, shall submit to the commissioner of transportation a plan that:

- (1) identifies all railroad yards operated by the railroad where the described work is frequently accomplished between sunset and sunrise;
- (2) describes the nature and placement of lighting equipment currently in use in the yard and the maintenance status and practices regarding this equipment;
- (3) states whether the lighting meets or exceeds guidelines for illumination established by the American Railway Engineering and Maintenance-of-Way Association;
- (4) describes whether existing lighting is installed and operated in a manner consistent with energy conservation, glare reduction, minimization of light pollution, and preservation of the natural night environment; and
- (5) identifies plans and timelines to bring into compliance railroad yards that do not utilize and maintain lighting equipment that meets or exceeds the standards and guidelines under clauses (3) and (4), or states any reason why the standards and guidelines should not apply.

Subd. 2. Maintenance of lighting equipment.

A railroad common carrier that is required to file a report under subdivision 1 shall maintain all railroad yard lighting equipment in good working order and shall repair or replace any malfunctioning equipment within 48 hours after the malfunction has been reported to the carrier. Repairs must be made in compliance with, or to exceed the standards in, the Minnesota Electrical Code and chapter 326B.

Subd. 3. Lighting status reports submitted by worker representative.

By January 15 of each year, the union representative of the workers at each railroad yard required to submit a report under subdivision 1 shall submit to the commissioner of transportation a report that:

- (1) describes the nature and placement of lighting equipment currently in use in the yard and maintenance status and practices regarding the equipment;
- (2) describes the level of maintenance of lighting equipment and the carrier's promptness in responding to reports of lighting malfunction;
- (3) states whether the available lighting is adequate to provide safe working conditions for crews working at night; and

- (4) describes changes in the lighting equipment and its adequacy that have occurred since the last previous worker representative report.

Subd. 4. Commissioner response.

The commissioner shall review the reports submitted under subdivisions 1 and 3. The commissioner shall investigate any discrepancies between lighting status reports submitted under subdivisions 1 and 3, and shall report findings to the affected yard's owner and worker representative. The commissioner shall annually advise the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over transportation budget and policy as to the content of the reports submitted, discrepancies investigated, the progress achieved by the railroad common carriers towards achieving the standards and guidelines under clauses (3) and (4), and any recommendations for legislation to achieve compliance with the standards and guidelines within a reasonable period of time.

The cost of preparing this report is under \$5,000.

Lighting Summary

[Minnesota Statutes 219.375](#), subd. 1 and 3, direct Class I railroads, Class II railroads and the union representative for each railroad to submit reports to the commissioner of transportation. According to the statute, these reports should include specific information regarding lighting conditions in rail yards where train cars or locomotives are frequently switched, repaired, inspected, assembled or disassembled at night. After the railroad yard lighting reports are received, the commissioner is to advise the transportation committees about the content of reports, any discrepancies investigated, the railroads progress toward achieving the standards and guidelines identified in the statute, and any recommendations for legislation to achieve compliance.

Burlington Northern Santa Fe Railway, Canadian Pacific Railway, Canadian National Railroad and United Transportation Union's SMART Transportation Division submitted initial reports to Minnesota Department of Transportation's Office of Freight and Commercial Vehicle Operations for calendar year 2016. Union Pacific Railroad did not submit a 2016 report to MnDOT as of the date of publication of this report, although UP did file a report in 2015. Two of the three railroads stated in their cover letters that while they were submitting information in a spirit of cooperation, each believes that some or all of the requirements placed on the railroads in [Minn. Stat. 219.375](#) may be pre-empted by federal laws. No documentation or analysis was provided supporting the contention of pre-emption by federal laws. The UTU stated in its report that it "disagrees vigorously with the carriers" on the pre-emption issue.

The respondents provided most of the information required by the statute with some exceptions:

- BNSF and CN provided information on the status or maintenance practices of yard lighting. CP provided this information during data collection for the 2015 report.
- UP did not provide information for the 2016 yard lighting status report as of publication of this report. UP did provide a lighting status report in 2015. An outstanding issue from the 2015 yard lighting report was the status of yard lighting in Roseport yard, which meets requirements of subd. 5 of Minn. Stat. 219.375 for yard lighting since it is located within two miles of a qualifying petroleum refinery. UP indicated that in 2015 lighting was being installed at the Roseport yard. UTU's 2016 filing indicates some of the Roseport yard now has lighting installed, but not in all the required areas.
- UTU provided an overview narrative of the placement of lighting in its report and issues at specific rail yards. However, UTU indicated that information on lighting maintenance status or lighting related maintenance practices of individual yards is only accessible to railroads.

MnDOT Analysis

Summary of Results

The railroads and the UTU did not agree on whether lighting is required at 11 rail yards. In cases where the UTU did not have data, the lighting condition was reported as unknown.

The discrepancies between the railroads and the UTU reports over the applicability of subd. 1 to a particular yard likely arises from one or more of the following:

- **Interpretation of “frequent operations.”** The statute lacks a specific definition of the term “frequent operations.” For the purposes of this report, MnDOT established a definition of frequent operations and asked the carriers and the UTU to apply this definition when determining the applicability of frequent operations in Minn. Stat. 219.375 subdivision 1. MnDOT’s “frequent operations” definition is “between sunset and sunrise, cars or locomotives are switched, repaired or inspected at least one hour per night, five nights per week, and at least four weeks per year.” Several discrepancies between the UTU and the carriers over which yards are subject to “frequent operations” remain despite this clarification.
- **Lack of data to assess operations.** MnDOT is not aware of any data available from the railroads or the UTU to quantify operational activities by time of day. In addition, railroad operations are not constant, so any attempt to conduct spot audits will not resolve discrepancies. Determining conformance with the statute is difficult without a source of complete and objective data.
- **Interpretation of the statute.** Subd. 5 of Minn. Stat. 219.375 imposes an obligation on the railroads to install lighting that meets the standards listed in the statute in certain rail yards by Dec. 31, 2015. The UTU and the railroads have different interpretations of which rail yards are subject to this requirement. The UTU interprets subd. 5 as having much broader applicability than the interpretation by the railroads.
- **Geographic and operational yard definitions.** There are instances of the UTU and the railroad using different terminology to identify a rail yard. For example, the UTU identified part of the CP yard in St. Paul as the “Dunn” yard, but the CP considers that area to be part of the “St. Paul” yard.

Lighting maintenance issues were also difficult to evaluate for each yard because of a lack of specific reporting by the railroads and the UTU. The railroads provided general procedure information. The UTU was asked if the lighting conditions for each railroad were adequate for working at night. The UTU reported conditions were not adequate in 15 yards, and there were “unknown” conditions in 25 yards.

UP’s Roseport yard was the only rail yard with adequate night time lighting conditions reported by UTU, but not in all areas of that yard. The UTU was also asked if the railroads repair or replace lighting issues within 24 hours, and they reported “unknown” for every yard. The UTU was also asked if lighting equipment has changed since last year’s report, and they responded “no” for every yard except portions of UP’s Roseport yard.

Finally, the UTU was asked if lighting adequacy has changed since last year's report, and they responded "no" for every yard except portions of UP's Roseport yard. The UTU stated that maintenance and repair conditions at many yards are unknown because "this information is held by each railroad carrier engineering department within their yard maintenance logs, inventory control data and possibly other sources."

The information provided by the railroads and the UTU regarding energy conservation, glare reduction, minimization of light pollution and preservation of the natural night environment was not specific or detailed. The railroads generally identified the type of lighting, and indicated that new lighting installations meet this requirement.

The railroads and the UTU were provided an opportunity to respond to the discrepancies between the railroad-provided lighting reports and the UTU-provided lighting report.

- BNSF reported that Dayton's Bluff, Duluth Rice Point and Staples yards do not fall under Minnesota Statutes Section 219.375, subdivision 1.
- CN stated that Biwabek, Wilpen and Missabe yards do not meet the criteria where, between sunset and sunrise: (i) locomotives, or railcars carrying placarded hazardous materials, are frequently switched, repaired or inspected; or (ii) trains with more than 25 tanker railcars carrying placarded hazardous materials are assembled and disassembled; and the yard is located within two miles of a petroleum refinery having a crude oil production capacity of 150,000 or more barrels per day. The criteria cited by CN is from Minnesota Statutes Section 219.375, subdivision 5, and not subdivision 1.
- CP did not respond
- UP did not respond
- The UTU provided responses for each rail yard where it disagreed with railroad reports. These responses contain detailed reasoning for its disagreement with railroad reports, and are contained in Appendix B.

Progress Achieved

This yard lighting report indicates that one rail yard received yard lighting upgrades in required areas since the publication of the 2015 yard lighting report. The UTU's yard lighting status filing indicates lighting was installed in portions of Union Pacific's Roseport yard. However, the UTU does not believe lighting was installed in all required areas of this yard. Additionally, the UTU reported that aside from the UP improvements at Roseport, "no other Class I carriers in Minnesota have installed, expanded, remodeled or refocused rail yard lighting during 2015." Summaries of 2016 carrier and UTU lighting status filings can be found in Appendix A. Any future progress achieved will be documented in the 2017 report.

Recommendations

MnDOT recommends the following to improve compliance and reporting:

- Further clarify the definition and extent of “frequent operations” in statute. MnDOT provided guidance to the reporting parties on the determining frequent operations, but the lack of clarity in the statute contributes to a difference in interpretation between the parties.
- Clarify the intent of subd. 5 so that all parties understand that yards must meet the December 2015 lighting installation date.
- Continue to use a standard form for all respondents to fill out. Reporting fields on the form would be limited to the following:
 - ♦ Yard Name
 - ♦ Frequent nighttime switching occurs (Yes/No)
 - a. If frequent nighttime switching occurs, provide the following information:
 - Lighting is/is not installed
 - Type and location of lighting
 - Installed lighting meets the AREMA guideline (Yes/No)
 - Lighting is maintained per subd. 2 (Yes/No)

Appendix A: Railroad Yard Lighting Charts

Burlington Northern Santa Fe Rail Yards Chart: Comparison of Yard Lighting Status

Yard	Carrier	Does the yard fall under the operation requirements of subd. 1?		Is lighting installed at the yard in all required areas?		Is lighting operational at the yard?		Is the lighting AREMA Compliant?	Describe type and placement of lighting
		Railroad	UTU	Railroad	UTU	Railroad	UTU	Railroad	
Dayton's Bluff	BNSF	No	Yes		No ¹		Yes ²		
Duluth Rice Point	BNSF	No	Yes		Yes		No		
Northtown	BNSF	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	Overhead lighting evenly dispersed throughout yard
Willmar	BNSF	Yes	Yes	Yes	No ³	Yes	Complaint Filed	Yes	Overhead lighting evenly dispersed throughout yard
Dilworth	BNSF	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	Overhead lighting evenly dispersed throughout yard
Midway	BNSF	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	Overhead lighting evenly dispersed throughout yard
East Grand Forks	BNSF	No	Yes		Yes		Unknown		
St. Cloud	BNSF	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	Overhead lighting evenly dispersed throughout yard
Staples	BNSF	No	Yes		Yes		Unknown		

¹ UTU indicates "East End - No"

² UTU indicates "West End - Yes"

³ UTU indicates "Complaint Filed"

Canadian National Rail Yards Chart: Comparison of Yard Lighting Status

Yard	Carrier	Does the yard fall under the operation requirements of subd. 1?		Is lighting installed at the yard in all required areas?		Is lighting operational at the yard?		Is the lighting AREMA Compliant?	Describe type and placement of lighting
		Railroad	UTU	Railroad	UTU	Railroad	UTU	Railroad	
Proctor	CN	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Overhead lighting (pole) positioned 100' from the track and 400' pole to pole. Lighting type is mixed: Original lighting consists of High Pressure Sodium. Newer style converted to ballast, metal halide and most recently to LED lighting.
Rainier	CN	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Keenan	CN	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	
Missabe	CN	No	Yes		No		No		
Wilpen	CN	No	Yes		No		No		
Two Harbors	CN	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	
Biwabek	CN	No	Yes		No		No		
Virginia	CN	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	

Canadian Pacific Rail Yards Chart: Comparison of Yard Lighting Status

Yard	Carrier	Does the yard fall under the operation requirements of subd. 1?		Is lighting installed at the yard in all required areas?		Is lighting operational at the yard?		Is the lighting AREMA Compliant?	Describe type and placement of lighting
		Railroad	UTU	Railroad	UTU	Railroad	UTU	Railroad	
St. Paul including Dunn	CP	Yes	Yes	Yes	Yes/No	Yes	Yes/No	Yes	Combination of HPS, MH and LED lighting on wood poles/high mast and buildings throughout yard
New Ulm	CP	No	Yes		No		No		
Hastings	CP	No	Yes		No		No		
Thief River Falls	CP	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	HPS, MH and LED lighting on wood poles
Humboldt	CP	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	Combination of HPS, MH and LED lighting on wood poles/high mast and buildings throughout yard
Shoreham	CP	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	Combination of HPS, MH and LED lighting on wood poles/high mast and buildings throughout yard
Glenwood	CP	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	
Waseca	CP	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	HPS, MH and LED lighting on wood poles
River Junction	CP	No	Yes		No		No		
Winona	CP	No	Yes		No		No		
Austin	CP	No	Unknown		Unknown		Unknown		
Wells	CP	No	Unknown		Unknown		Unknown		
Tracy	CP	No	Unknown		Unknown		Unknown		

Union Pacific Rail Yards Chart: Comparison of Yard Lighting Status⁴

Yard	Carrier	Does the yard fall under the operation requirements of subd. 1?		Is lighting installed at the yard in all required areas?		Is lighting operational at the yard?		Is the lighting AREMA Compliant?	Describe type and placement of lighting
		Railroad	UTU	Railroad	UTU	Railroad	UTU	Railroad	
Roseport	UP		Yes		Yes/No ⁵		Yes/No		
Western Avenue	UP		Yes		No		No		
Merriam	UP		Yes		No		No		
St. Paul Hoffman	UP		Yes		Yes		Unknown		
East Minneapolis	UP		Yes		Yes		Unknown		
Albert Lea	UP		Yes		No		Unknown		
So. St. Paul	UP		Yes		Yes		Yes		
Valley Park	UP		Yes		Yes		Yes		
Mankato	UP		Yes		Yes		Yes		
Elk Creek	UP		Yes		Yes		Yes		
Worthington	UP		Yes		Yes		Yes		
Winona	UP		No		No		Unknown		
Elk Creek	UP		Yes		Yes		Yes		
Hazel Park	UP		No		No		Unknown		

⁴ UP did not submit a yard lighting status report in 2016.

⁵ UTU indicates "North-Yes/South-No"

Appendix B: All Responses from the Railroads and UTU



JENNIFER L. WILLINGHAM
General Attorney

BNSF RAILWAY COMPANY

Law Department
P. O. Box 961039
Fort Worth, TX 76161-0039

2500 Lou Menk Drive, AOB-3
Fort Worth, TX 76131-2828
(817) 352-1738
jennifer.willingham@bnsf.com

January 15, 2016

VIA Email: William.gardner@state.mn.us
and regular mail

Mr. William Gardner
Director of Freight Planning
Minnesota Department of Transportation
395 John Ireland Boulevard
St. Paul, MN 55155-1899

Dear Mr. Gardner:

In accordance with the requirements of the railroad yard lighting status report set forth in Minnesota Statutes section 219.375, subdivision 1, BNSF Railway Company submits the attached report.

BNSF remains committed to providing a safe work environment for all of our employees and the communities in which we operate. Please let me know of any questions or requests for additional information.

Sincerely,


Jennifer L. Willingham



In order to ensure national uniformity of regulation, federal law regulates all aspects of the railroad industry. Railroads are exclusively governed by federal laws and regulations. Nonetheless, in good-faith cooperation with the State of Minnesota, BNSF Railway Company ("BNSF") submits the following report pursuant to Minnesota Statutes 2014 § 219.375 Railroad Yard Lighting.

Subdivision 1. **Lighting status reports submitted by railroad common carriers.** By January 15 of each year, each Class I and Class II railroad common carrier that operates one or more railroad yards in this state where, between sunset and sunrise, cars or locomotives are frequently switched, repaired, or inspected, or where trains are assembled and disassembled, shall submit to the commissioner of transportation a plan that:

- (1) identifies all railroad yards operated by the railroad where the described work is frequently accomplished between sunset and sunrise;

BNSF identifies those railway yards as follows:

- Northtown Yard, Minneapolis, MN
- Midway Yard, St. Paul, MN
- Dilworth Yard, Dilworth, MN
- Willmar Yard, Willmar, MN
- St. Cloud Yard, Willmar, MN

No other locations on BNSF property in Minnesota meet the criteria noted above

- (2) describes the nature and placement of lighting equipment currently in use in the yard and the maintenance status and practices regarding this equipment;

BNSF designs and maintains lighting to the Illuminating Engineering Society ("IES") guidelines. Although the IES guidelines do not address light entering property adjacent to BNSF's property, BNSF has developed rules, implemented mechanisms, and purchased technology to address concerns regarding light pollution. BNSF employees must follow rules and are provided with appropriate equipment (*i.e.*, lanterns, site specific lights, etc.) that allow operations to be safely performed with minimal effect on the surrounding community.

All outdoor lighting is HID or LED. Light fixtures are mounted on either wood or metal poles. Wood poles are 25 to 45 feet high. Metal poles are 25 to 120 feet high and are single poles or 4 leg towers.

Annual mechanical/structural inspections are performed by a contractor and documented in their database. Additionally, BNSF Electrical field personnel conduct semiannual night time audits. Light fixtures and luminaries are also audited each day by employees. Any employee noting an exception may report those to their supervisors for documentation. To assist with timely repairs, BNSF is in the process of installing identification numbers on all tower and pole mounted light

installations, allowing field personnel to accurately identify specific poles/towers that need service.

Any needed maintenance items that are reported are placed into the work order database system for tracking until the issues are remedied. When the work orders are created for light fixtures needing repair they are reported to BNSF Electrical crews for upgrades/repair. All repairs are made in compliance with Minnesota Electrical Code and Chapter 326B and are made by electricians licensed as Journeymen or Master Electricians by the State of Minnesota.

- (3) **states whether the lighting meets or exceeds guidelines for illumination established by the American Railway Engineering and Maintenance-of-Way Association;**

It is our opinion that the lighting installed meets or exceeds either our existing guidelines as set forth in the Illuminating Engineering Society ("IES") of North America's Handbook or the established guidelines set forth by AREMA.

- (4) **describes whether existing lighting is installed and operated in a manner consistent with energy conservation, glare reduction, minimization of light pollution, and preservation of the natural night environment; and**

All new installations are designed to comply with the requirements of this subsection. Some installations are over 20 years old when no such guidelines existed, however all older and/or obsolete lighting such as incandescent and Mercury Vapor lighting has been upgraded to more efficient HID and/or LED style for energy conservation and for environmental concerns.

As a company, as older HID lighting fixtures fail we continue to replace with low power consumption LED fixtures. This also applies to new installations including 100 foot towers. This allows us to reduce our carbon footprint with lower power consumption. The longer service life also reduces land fill of expended lamps and fixtures. At the same time we reduce hazardous waste.

We control light pollution through the use of directional lenses and focused applications to reduce or eliminate light bleed over to areas we do need to or desire to illuminate.

- (5) **identifies plans and timelines to bring into compliance railroad yards that do not utilize and maintain lighting equipment that meets or exceeds the standards and guidelines under clauses (3) and (4), or states any reason why the standards and guidelines should not apply.**

BNSF does not have any rail yards in Minnesota that are located within two miles of a petroleum refinery having a crude oil production capacity of 150,000 or more barrels per day. BNSF's Minnesota rail yards—as well as the rail yards in other states throughout BNSF's system—comply with federal laws and regulations that govern all aspects of railroad operations. BNSF utilizes rules, mechanisms, and technology to ensure safe working environments while minimizing effects on the surrounding communities.

Any perceived issues regarding a railroad's facility must be resolved by the Surface Transportation Board ("STB"), which has the sole jurisdiction over nearly all aspects of railroad operations, properties and facilities (including rail yards). A state law that attempts to regulate a railroad's operation, construction, or facility interferes with the STB's exclusive jurisdiction.

Yard	Does the yard fall under the operation requirements of Subd. 1	Is lighting installed at the yard in all required areas?	Is lighting operational at the yard?	Is the lighting AREMA Compliant ?	Date that the lighting requirement will be met if not presently compliant	Describe plan to meet the lighting requirement if not presently compliant	Describe type and placement of lighting
	Yes or No	Yes or No	Yes or No	Yes or No	MM/DD/YYYY	Short text	Short text
Dayton's Bluff	No						
Duluth Rice Point	No						
Northtown	Yes	Yes	Yes	Yes			Overhead lighting evenly dispersed throughout the yard
Willmar	Yes	Yes	Yes	Yes			Overhead lighting evenly dispersed throughout the yard
Dilworth	Yes	Yes	Yes	Yes			Overhead lighting evenly dispersed throughout the yard
Midway	Yes	Yes	Yes	Yes			Overhead lighting evenly dispersed throughout the yard
East Grand Forks	No						
St. Cloud	Yes	Yes	Yes	Yes			Overhead lighting evenly dispersed throughout the yard
Staples	No						



Chad Sundem
General Manager
Twin Cities Division

BNSF Railway Company
80 44th Avenue NE
Minneapolis, MN 55421
763-782-3467 Office
763-782-3019 Fax
Chad.Sundem@bnsf.com

February 27, 2017

Certified **9171 9690 0935 0127 3398 06**

Mr. William Gardner
Director of Freight Planning
Minnesota Department of Transportation
395 John Ireland Boulevard
St. Paul, MN 55155-1899

RE: **BNSF Railway 2016 Yard Lighting Report**

Dear William:

Thank you for providing MnDOT's comparison of Yard Lighting Status report for our review. The Chart that you provided in your correspondence is correct and no corrections or additions are requested by BNSF.

However, BNSF would like to reiterate its position regarding Dayton's Bluff, Duluth Rice Point and Staples Yard. Work done in these locations between sunset and sunrise is infrequent and cars /locomotives are not frequently switched, repaired, or inspected, here nor are trains frequently assembled and disassembled. As such, these location would not fall under Minnesota Statutes Section 219.375 Subdivision 1. In addition, BNSF reiterates its position regarding St. Cloud and Willmar Yard. The lighting installed in this location meets or exceeds either our existing guidelines as set forth in the Illuminating Engineering Society ("IES") of North America's Handbook or the established guidelines set forth by AREMA.

BNSF remains committed to providing a safe work environment for all of our employees and the communities in which we operate. Please let me know of any questions or requests for additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Chad Sundem", written over a white background.

Chad Sundem
General Manager
Twin Cities Division



www.cn.ca

Network Operations

James Schwichtenberg
Director of Safety & Regulatory
17650 S. Ashland Ave
Homewood, IL 60430
T 708-332-3224
F 708-332-4472

January 25, 2016

Maureen Jensen
Assistant Director
Office of Freight and Commercial Vehicle Operations
395 John Ireland Boulevard
Saint Paul, MN 55155

Re: CN Railroad Yard Lighting Report

Ms. Jensen:

Thank you for your December 7, 2015, letter clarifying the requirements of the annual lighting report required by Minnesota Statute 219.375. As requested please see attached yard lighting spreadsheet (Annex 1). In addition to the spreadsheet, please review the below sections that cover nature of lighting, maintenance, and energy conservation.

Subdivision 1, clause (2), requires description of the nature and placement of lighting equipment currently in use in the yard and the maintenance status and practices regarding this equipment.

Lighting is used to conduct business throughout CN's rail yards. Generally, utility poles are positioned 100ft from the track and 400ft pole to pole.

CN has a quarterly inspection and maintenance process for all yard lighting. This maintenance is separate from lighting that is reported as malfunctioning. Lighting that is reported as malfunctioning or defective is handled promptly within the statute requirements.

Subdivision 1, clause (4) requires description whether existing lighting is installed and operated in a manner consistent with energy conservation, glare reduction, minimization of light pollution, and preservation of the natural night environment.

Generally, yard lighting within the state consists of high pressure sodium. Over the years we have converted to new ballasts, metal halide lighting and most recently our upgrades are LED. Overall approximately 30% of yard lighting has been upgraded from the high pressure sodium type. Since our last update in March 2015, CN has upgraded lighting in Proctor yard by replacing six high pressure sodium lights with LEDs. In 2016 CN plans to invest \$50k - \$70k, in yard lighting throughout Minnesota; which should cover approximately 15 - 20% of yard lighting within the state.

Lastly, I would like to reaffirm CN's position that the AREMA standard does not differentiate the difference of illumination levels (re: fixed versus portable / handheld). CN believes the use of portable, handheld illumination far exceeds the AREMA recommended level of illumination and has additional benefits that were noted in our original correspondence.

Please contact me if you should have any questions.

James Schwichtenberg

A handwritten signature in blue ink, appearing to read "James Schwichtenberg". The signature is stylized and cursive, with a large initial "J" and a long, sweeping underline.

Dahlberg, Peter (DOT)

From: James Schwichtenberg <James.Schwichtenberg@cn.ca>
Sent: Wednesday, February 08, 2017 11:17 AM
To: Dahlberg, Peter (DOT)
Cc: Gardner, William (DOT); Jensen, Maureen (DOT); Derrell Ross; Steven Beske
Subject: RE: CN 2016 Yard Lighting Report

Good morning.

CN has reviewed the report. We note that there is a conflicting information whether the following yards require lighting:

- Biwabek
- Wilpen
- Missabe

CN has again reviewed the criteria –

(1) between sunset and sunrise:

(i) locomotives, or railcars carrying placarded hazardous materials, are frequently switched, repaired, or inspected; or
(ii) trains with more than 25 tanker railcars carrying placarded hazardous materials are assembled and disassembled;
and

(2) the yard is located within two miles of a petroleum refinery having a crude oil production capacity of 150,000 or more barrels per day.

CN has confirmed that the enclosed yards do not meet the criteria. I would like to ask if you have received any information that would indicate what criteria would make these yards covered by the statute.

Thank you,
Jim



James Schwichtenberg
Director - Safety & Regulatory Affairs
Network Operations
Phone: (708) 332-3224
Cell: (708) 728-5776

From: Dahlberg, Peter (DOT) [mailto:peter.dahlberg@state.mn.us]
Sent: Tuesday, February 07, 2017 5:07 PM
To: James Schwichtenberg
Cc: Gardner, William (DOT); Jensen, Maureen (DOT)
Subject: CN 2016 Yard Lighting Report

Good Morning Mr. Schwichtenberg,

Please see the attached memo regarding CN's 2016 submission for the Minnesota Yard Lighting Report. As noted in the memo, you may provide any corrections or clarifications by February 17, 2017 for consideration in the final Legislative Report. Please let me know if you have any questions.

Thank you,

Peter Dahlberg, AICP

Program Manager

Minnesota Department of Transportation | Office of Freight & Commercial Vehicle Operations

395 John Ireland Blvd. MS 470 | St. Paul, MN 55155

Phone: (651) 366-3693 | Email: peter.dahlberg@state.mn.us



	Does the yard fall under the operation requirements of Subd. 1	Is lighting installed at the yard in all required areas?	Is lighting operational at the yard?	Is the lighting AREMA Compliant ?	Date that the lighting requirement will be met if not presently compliant	Describe plan to meet the lighting requirement if not presently compliant	Describe type and placement of lighting
Yard	Yes or No	Yes or No	Yes or No	Yes or No	MM/DD/YYYY	Short text	Short text
Proctor	Yes	Yes	Yes	Yes			Overhead lighting (pole) positioned 100' from the track and 400' pole to pole. Lighting type is mixed: Original lighting consists of High Pressure Sodium. Newer style converted to ballast, metal halide and most recently to LED lighting.
Rainier	Yes	Yes	Yes	Yes			
Keenan	Yes	Yes	Yes	Yes			
Missabe	No						
Wilpen	No						
Two Harbors	Yes	Yes	Yes	Yes			
Biwabek	No						
Virginia	Yes	Yes	Yes	Yes			

NOTE: CN maintains that the AREMA recommendation includes light levels, but does not stipulate between fixed or portable light sources. Portable illumination devices are provided at no cost to our employees. Portable illumination far exceeds the recommended levels noted in the AREAM recommendation.



Marie van Uitert
Legal Counsel – US

Suite 1000
120 South 6th Street
Minneapolis MN 55402
USA

T 612 851 5665
F 612 851 5647
marie_vanuitert@cpr.ca

May 10, 2016

VIA Certified Mail Return Receipt Requested and E-mail: maureen.jensen@state.mn.us

Maureen Jensen, Assistant Director
Office of Freight and Commercial Vehicles
Minnesota Department of Transportation
395 John Ireland Boulevard
St. Paul, MN 55155-1899

Re: Minnesota Yard Lighting Statute

Dear Ms. Jensen:

Following up on my voicemail, enclosed please find Canadian Pacific's report regarding lighting at its yards in Minnesota. Soo Line Railroad Company and Dakota Minnesota & Eastern Railroad Corporation are subsidiaries of Canadian Pacific Railway Company and both do business as Canadian Pacific ("CP"). CP prepared the enclosed report based on the clarified definitions contained in your December 7, 2015 letter and using the spreadsheet format you requested. Thank you again for your patience while we prepared our report.

As we stated in our correspondence your office dated March 18, 2015 and April 2, 2015, CP believes a number of the requirements imposed by the Minnesota statutory provisions are likely preempted by federal laws. CP is presenting this report in the spirit of cooperation with the State of Minnesota. CP does not waive its right to assert that federal law preempts all or part of the Minnesota Yard Lighting Statute.

Please feel free to contact me should you have any questions about our report.

Sincerely,

Marie van Uitert
Legal Counsel – US

Enclosure

cc: Patrick Mooney

	Does the yard fall under the operation requirements of Subd. 1	Is lighting installed at the yard in all required areas?	Is lighting operational at the yard?	Is the lighting AREMA Compliant ?	Date that the lighting requirement will be met if not presently compliant	Describe plan to meet the lighting requirement if not presently compliant	Describe type and placement of lighting
Yard	Yes or No	Yes or No	Yes or No	Yes or No	MM/DD/YYYY	Short text	Short text
St. Paul including Dunn	Yes	Yes	Yes	Yes	n/a	n/a	Combination of HPS, MH and LED lighting on wood poles/high mast and buildings throughout yard
New Ulm	No						
Hastings	No						
Thief River Falls	Yes	Yes	Yes	Yes	n/a	n/a	HPS, MH and LED lighting on wood poles
Humboldt	Yes	Yes	Yes	Yes	n/a	n/a	Combination of HPS, MH and LED lighting on wood poles/high mast and buildings throughout yard
Shoreham	Yes	Yes	Yes	Yes	n/a	n/a	Combination of HPS, MH and LED lighting on wood poles/high mast and buildings throughout yard
Glenwood	Yes	Yes	Yes	Yes	n/a	n/a	Combination of HPS, MH and LED lighting on wood poles/high mast and buildings throughout yard
Waseca	Yes	Yes	Yes	Yes	n/a	n/a	HPS, MH and LED lighting on wood poles
River Junction	No						
Winona	No						
Austin	No						
Wells	No						
Tracy	No						

Phillip J. Qualy
Legislative Director,
Chairperson

Nicolas J. Katich
Assistant Director

Brian L. Hunstad
Secretary



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Minnesota Legislative Board

A Division of SMART, Sheet metal, Air, Rail and Transit Union
Printed In House

March 10, 2017

Mr. William Gardner
Director, Freight, Rail, Waterways
Minnesota Department of Transportation
395 John Ireland Boulevard
St. Paul, MN 55155

C/O: Ms. Maureen Jensen, Mr. Peter Dahlberg, MnDOT Rail Office.

RE: MnDOT: UTU-SMART-TD Minnesota Railroad Yard Lighting Report 2017.

Dear Director Gardner,

Belated, enclosed herewith please find our UTU-SMART-TD Minnesota Railroad Yard Lighting Report for year 2017. Enclosed herewith please find our draft letter dated January 15, 2017, requesting an extension. This was inadvertently not sent on that date.

On behalf of our 1200 members in Minnesota, I want to thank MnDOT for releasing the MnDOT 2015 Railroad Yard Lighting Report dated August 28, 2015. At this time, we see this report as the last report issued by the Department in this subject area. If this is not correct, please advise however practical.

With reference to the MnDOT August 2015 report to the Legislature, upon review I wish to respectfully remind the Department from Report pages four and five, listing of statute language, Subdivision Five was not included in the reference to Minnesota statute 219. 375. We see Subdivisions Two and Five as our highest priority to improve railroad yard safety.

MnDOT is correct listing our most recent report listed as being received on January 27, 2016. In addition to that report in year 2016, I would simply like to reference our correspondence regarding Mn. Stat. 219.375 dated October 17th, 2016, BNSF Willmar Yard Lighting Complaint and Follow-up, and October 21, 2016, provision of rail yard mile posts. Thank you for your memo of February 24th with a time extension to review MnDOT data.

Before proceeding to answer your memo questions, I wish to report the sad and entirely avoidable fatality of Mr. Jeffrey Harsh, approximately fifty weeks ago. Mr. Harsh was a Canadian Pacific Railway (CP) employee and killed between the CP and BNSF Railway properties at Oakland Interlocking. UTU-SMART-TD Local 911 members had, and we continue now, to protest CP's directive for crews to change out trains at this dangerous location. Please be advised the area of the fatality is very dark at night and adjacent to the BNSF Dayton's Bluff Yard East Lead track and the CP Dunn Yard West Lead track. While the matter remains under federal investigation at this time, we believe contributing factors will be found that include lack of ambient lighting and/or yard lighting at this location. Please see the attached file information regarding this unfortunate matter.

Mr. William Gardner
March 10, 2017
Page two.

To your memo requesting any corrections or clarifications by property and, for consideration in your final Legislative Report:

BNSF Railway Property:

- 1) Dayton's Bluff Yard East Lead Track area: Trains are assembled, disassembled, and receive mechanical inspections. Hazardous materials in manifest trains move through this yard area. There is no permanent or temporary yard lighting at this time. UTU-SMART-TD asserts the Dayton's Bluff East Yard Lead must receive lighting.
- 2) Duluth Rice Point Yard: Yard movements and trains are assembled disassembled and received mechanical inspections. Hazardous material cars are moved and inspected at this yard around the clock. BNSF lighting that now exists does not meet the AREMA standard.
- 3) BNSF Union Yard: UTU-SMART-TD respectfully notes that BNSF Union Yard has been omitted from the MnDOT listing of yards. Union Yard is used in conjunction with BNSF Midway intermodal yard around the clock, However Union and Midway yards are separate yard or systems of tracks.
- 4) UTU-SMART-TD and BNSF disagree regarding the nature of yard operations at East Grand Forks.
- 5) BNSF Staples Yard is subject to movements that include cars with hazardous materials. Trains switching, taking siding for main-line meets or staging of meets, are assembled, disassembled and are subject to receive mechanical inspections.

CN Railway Property:

- 1) Proctor Yard: UTU-SMART-TD reports that refocusing of the existing light towers after remodeling and reconfiguring of the yard in 2010 has not occurred. CN has installed some new lighting however the light polls are low and obstructed when moving or standing train cars are on track west of the primary "E" lead switching area.
- 2) Missabe Jet. Yard: Trains are assembled, disassembled, and receive mechanical inspections around the clock at this location.

Canadian Pacific Property:

- 1) Dunn Yard: UTU-SMART-TD strongly disagrees and protests CP's claim that St. Paul Yard and Dunn Yard are one and the same yard. Dunn Yard is used in conjunction with St. Paul yard around the clock however Dunn and St. Paul yards are separate systems of tracks with separate lead tracks on both ends of each respective yard. Dunn Yard remains not lighted, non-compliant, and we consider Dunn to be the most dangerous yard in the state. Each yard is over one mile long on either side of the yardmaster tower. On property, yards are referenced as "Dunn" and "St. Paul".

Mr. William Gardner
March 10, 217
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Canadian Pacific Property (Continued),

- 2) **New Ulm:** At New Ulm, cars are switched and trains are assembled, disassembled, and receive mechanical inspections. Hazardous materials are switched into manifest trains moving through this area. There is no yard lighting at New Ulm Yard.
- 3) **Hastings:** At Hastings, cars are switched and trains are assembled, disassembled, and receive mechanical inspections. Hazardous materials are switched into manifest trains moving through this area.
- 4) **Northfield:** UTU-SMART-TD respectfully notes that CP Northfield Yard has been omitted from the MnDOT listing of yards. Although a Class Three carrier operates in this yard, CP owns Northfield yard.
- 5) **River Junction South:** At River Junction, cars are switched and trains are assembled, disassembled, and receive mechanical inspections. Hazardous materials are placed into manifest trains moving through this area.
- 6) **Winona:** At Winona, cars are switched and trains are assembled, disassembled, and receive mechanical inspections. Hazardous materials are switched into manifest trains moving through this area.

Union Pacific Property:

- 1) **Roseport Yard, North and South Yards:** Union Pacific has installed lighting at Roseport North Yard. UP has installed lighting at their South Yard only at the west end. No lighting has been installed on the east end of the South Yard. UTU-SMART-TD reports UP train crews comment the contrast between bright light on one end and darkness on the other worsen safety conditions because the human eye cannot draw a contrast from lighted area beyond into darkness. With lighting completed at the East Lead, that back light will provide the contrast.
- 2) **Western Avenue:** UP Yard Job Number __ switches at night and trains are assembled, disassembled, and receive mechanical inspections. Hazardous materials are switched and move in manifest trains moving through this area. There is no permanent or temporary yard lighting.
- 3) **Hoffman Yard:** UP Yard Job Number __ switches at night and trains are assembled, disassembled, and receive mechanical inspections. Hazardous materials are switched and move in manifest trains moving through this area. While there is yard lighting on both the north and south switching leads that is designed to be compliant with the AREMA standard for lead tracks, the mid-yard areas is very dark due to the curvature of tracks at this yard.
- 4) **Merriam Yard:** Trains are switched, assembled, disassembled, and receive mechanical inspections. Hazardous materials move in manifest trains moving through this area.

Mr. William Gardner
March 10, 2017
Page four

Regarding Union Pacific Railway, we note this carrier has not responded to MnDOT's inquiry from their absence of data in "Railroad" categories of the matrix. Respectfully, we believe this lack of cooperation for railroad safety should be disclosed to the Legislature.

UTU-SMART-TD wishes to clarify that under MnDOT's matrix category four with each carrier asking "Is the lighting AREMA Compliant?", we are hesitant to answer "yes" with any of the yards in Minnesota other than BNSF Dayton's Bluff East Lead, CN Proctor, and UP Western Avenue. We have taken lighting measurements at those yards through an independent contractor in year 2014. At this time, we simply do not have actual lighting measurements from the carriers or an independent contractor at all listed yards to affirmatively state non-measured yards are AREMA compliant.

As an update, UTU-SMART-TD is not aware of any Class One Carrier in Minnesota that has installed, expanded, remodeled or refocused yard lighting in Minnesota during 2016, other than Union Pacific at Roseport South Yard and CN at Proctor Yard service road .

Regarding Mn. Stat. 219.375 Subdivision "Maintenance of lighting equipment", we remain concerned that our carrier employees remain hesitant to report defective yard lighting conditions. We are also concerned from the BNSF Willmar complaint from the carrier's response to MnDOT versus when defective lighting towers were actually repaired.

With respect to MnDOT's forthcoming report to the Legislature, please review the attached legal brief from UTU-SMART-TD Legal Counsel, Mr. Lawrence Mann, Alper & Mann, Washington D.C. Our legal brief submitted to MnDOT prior, serves as expert advice to clarify areas MnDOT finds ambiguous and also references the relationship between MNOSHA and MnDOT to improve railroad safety*.

We agree with the 2013-2014 Legislature's intent to assure rail safety in all yards that operate at night. Therefore, we support any MnDOT Report language to the current Legislature that will include and set forth the intent to clarify Mn. Stat. 219.375 Subdivision Five so that approximately fourteen to eighteen yards in Minnesota have independent lighting measurements performed and analyzed, switching schedules witnessed and confirmed, and these yards lighted to the AREMA standard. We also recommend a designated and sustainable funding source (such as expansion of the MRSI program) to provide funding for railroad yard lighting projects.

At a time MnDOT seeks to gain authorization to hire up to five additional railroad safety inspectors, we believe it is essential for effective mechanical inspection and the safety of current and future MnDOT rail office inspectors that certain carrier yards are lighted to the AREMA standard. Going forward, UTU-SMART-TD believes it is imperative for railroad safety and public security for the railroad yards listed within our Railroad Yard Lighting Report, 2015, to be lighted to the AREMA standard as soon as practical.

Finally, from MnDOT's Legislative Report 2015, we have learned the carriers claim to only cooperate with state statute 219.375 voluntarily. Further, the carriers claim this area of railroad safety is federally preempted. UTU-SMART-TD disagrees vigorously with the carriers. Please reference two UTU-SMART-TD legal briefs provided in April of 2015 to the Legislature. The carriers have not filed suit to test their claim of federal preemption.

Mr. William Gardner
March 10, 217
Page five.

We hope this information is helpful to MnDOT. Thank you for your review and consideration of UTU-SMART-TD Minnesota's Yard Lighting Report for 2017.

With kindest regards,



Phillip Qualy
Minnesota Legislative Board
United Transportation Union-SMART-TD

enclosure

cc: Mr. John Previsich, UTU-SMART-TD President
Mr. John Risch, UTU-SMART-TD National Legislative Director
Mr. Larry Mann, Alper & Mann,
UTU-SMART-TD General Committees of Adjustment
UTU-SMART-TD Minnesota Legislative Committee.

***For example, an inter agency memorandum of understanding between MnDOT and MNOSHA can satisfy practical and jurisdictional concerns regarding the scope and application of 49 CFR 212**

Phillip J. Qualy
Legislative Director,
Chairperson

Nicolas J. Katich
Assistant Director

Brian L. Hunstad
Secretary



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Minnesota Legislative Board

A Division of SMART, Sheet metal, Air, Rail and Transit Union
Printed In House

January 15, 2017

Mr. William Gardner
Director, Freight, Rail, Waterways
Minnesota Department of Transportation
395 John Ireland Boulevard
St. Paul, MN 55155

Via: Scanned PDF File

C/O:

RE: MnDOT Request for Time Extension of Annual Railroad Yard Lighting Report 2017

Dear Director Gardner,

UTU-SMART-TD Minnesota respectfully requests a time extension to deliver our annual Minnesota Railroad Yard Lighting Report for year 2017. At this time, addressing federal regulatory complaints limit our capacity to respond in a timely manner. Please accept this letter as a response as set forth in statute.

We will respond with a report letter as soon as possible. Thank you.

With kindest regards,

A handwritten signature in blue ink, appearing to read "Phillip Qualy".

Phillip Qualy
Minnesota Legislative Board
United Transportation Union-SMART-TD

enclosure

cc: Mr. John Previsich, UTU-SMART-TD President
Mr. John Risch, UTU-SMART-TD National Legislative Director
UTU-SMART-TD Minnesota Legislative Committee.

LAWRENCE M. MANN

Member, D.C. Bar
Federal Practice

THE LAW OFFICES OF

ALPER & MANN, P.C.

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June 12, 2015

Mr. Phil Qualy, Director
Minnesota State Legislative Board
SMART-Transportation Division
411 Main Street, Suite 212
St. Paul, MN 55102-1032

Dear Mr. Qualy:

The purpose of this letter is to respond to some of the comments of MNDOT dated 5-28-2015 regarding its interpretation of of the 2014 railroad yard lighting legislation. I will comment on several of its statements which I believe are not valid.

First, as to the use of the word “and” in subd.5 of the legislation, the courts have consistently construed that both “and” and “or” may be interchanged, in context, to carry out the intent of the parties. As pointed out by the Supreme Court in *Dumont v. United States*, 98 U.S. 142, 143(1878) “The word “or” is frequently construed to mean “and”, and vice versa, in order to carry out the evident intent of the parties. This has been followed in the Eighth Circuit, which covers the State of Minnesota.(*See, Smith v. United Television, Inc. Special Severance Plan*, 474 F. 3d. 1033(8th Cir. 2007); *Manson v. Dayton*, 153 F. 258, 269(8th Cir. 1907).

I understand that there are only two petroleum refineries in the state. Therefore, it is inconceivable that the legislature intended to condition lighting in the yards only where there are refineries. It is clear that the Minnesota legislature intended the railroad yards in the state to be lighted for worker safety, and to improve the quality of mechanical inspections of railroad cars. The only common sense interpretation of the section in question is to use the words “or” and “and” interchangeably.

Also, I take issue with MNDOT’s statement regarding Subd.1 that “frequently switched” is vague. Throughout the railroad industry, that has been interpreted to mean “activities which occur at least 5 days or nights”. Many states have so concluded, since the overwhelming number of railroad yards operate around the clock, year-round. The railroad industry recognizes atmospheric darkness is essentially equal to day light operations. Therefore, it is essential to reinforce the state’s expectation to improve worker safety and quality of mechanical inspections regardless of traditional shift designations.

I am confused by MNDOT’s statement that MNOSHA also has jurisdiction over illumination. The legislature clearly gave illumination authority to MNDOT in 219.375. For the safety of the railroad workers, a letter of understanding is recommended between the two agencies spelling out that MNDOT has the jurisdiction over rail yard operations. The railroad workers of Minnesota have

demonstrated that independent, objective, and accurate rail yard lighting measurements by professional lighting engineers can be achieved with little effort and expense.

Lastly, I take issue with the report by CN that the use of hand held or head lamps satisfy the AREMA standards for lighted yards. That is ridiculous, and deserves no credibility. The AREMA lighting standards are specific for yards. The Federal Railroad Administration also recognizes that hand held lanterns are not sufficient for safe lighting.

My *curriculum vitae* is attached hereto.

Sincerely,

A handwritten signature in cursive script that reads "Lawrence M. Mann". The signature is written in black ink and is positioned above the printed name.

Lawrence M. Mann

Phillip J. Qualy
Legislative Director,
Chairperson

Nicolas J. Katich
Assistant Director

Brian L. Hunstad
Secretary



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Minnesota Legislative Board

A Division of SMART, Sheet metal, Air, Rail and Transit Union
Printed In House

April 18, 2016

Mr. Robert Johnson
U.S. Vice President, Operations
Canadian Pacific Railway
120 South Sixth Street Ste. 1000
Minneapolis, MN 55402

VIA: U.S. Certified Mail.

RE: Canadian Pacific Railway: Carrier Non-Response; BNSF Oakland Crew-change Point.

Dear Vice President Johnson,

I must tell you this is the most difficult letter I have had to address to Canadian Pacific Railway (CP) and your office's attention since end of year 2012. However, I must appeal to CP to cease the current practice of main line train-crew changes at CP River Division MP 407.8 and BNSF Railway St. Paul Subdivision, Oakland Interlocking area, MP 426.7.

With reference to the electronic media segment published on Saturday, April 2, 2016, please be advised UTU-SMART-TD Minnesota participated* as a safety representative for the train crews involved and generally. We work independently from the Brotherhood of Locomotive Engineer-Teamsters representatives and from the independent designated legal counsel for the family of the deceased, who was a member of that organization. I acknowledge the difficult standing CP now holds from the incident of March 26th; yet this state committee must represent our membership's safety concerns going forward now.

Again, I request CP return to changing out mainline train-crews at or near the Hoffman Interlocking area, CP mile post 409. or another safe location. As reported, I understand CP changed this crew change location and operating practice approximately 20 months ago. At that time and ongoing, CP/UTU Local safety committee members and other employees have protested BNSF Oakland as an unsafe location to change mainline train-crews.

Enclosed herewith, please find a copy of UTU-SMART-TD Local 911 Chairman Lucas Baughman's letter regarding this subject area dated March 30, 2016, with emails immediately following the incident of March 26th, addressed to CP St. Paul Terminal General Manager Nettleton. Mr. Nettleton's refused to stop mainline train-crew changes at Oakland and has not resolved other CP safety hazards. Please reference CP St. Paul Safety Committee meeting minutes from February, March, 2016, and prior, regarding this subject area.

An analysis of CP's current operating practice on BNSF property at this location includes:

- 1) BNSF/CP track speed in this territory is 49 mph freight, 69 mph, passenger trains.
- 2) At BNSF Oakland, mainline track has two curves immediately to the east and west.

Mr. Robert Johnson

April 18, 2016

Page two.

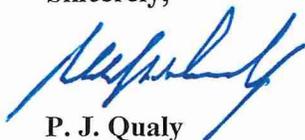
- 1) As set forth in CP safety committee meeting minutes, Oakland Interlocking area has unsafe walking conditions.
- 2) Train-crews currently have to walk across live mainline tracks on a foreign railroad with no advance warning system or radio protocol for oncoming train-crews who are operating at the posted speed for that territory.
- 3) There is no lighting at this location. UTU-SMART-TD members have requested yard lighting to be installed at the CP Dunn Yard and BNSF Dayton's Bluff Yard, east or south end, to the AREMA standard since 2007. CP Dunn is adjacent to, and BNSF Dayton's Bluff extends from, the BNSF Oakland Interlocking. Yard lighting installation at one or both of these locations will provide ambient light.
- 4) CP crews must travel on a BNSF service road which has been reported as having unsafe road surface affecting the entrance to the public roadway at the Highway 61 and Lower Afton Road intersection. Uneven conditions continue to track side.
- 5) CP and BNSF train-crews are often in a process of a train handling procedure causing in-train forces to adjust and/or are moving under a restricting signal.
- 6) CP previously changed mainline train crews at Hoffman Interlocking where the maximum post track speed is 25 MPH, ambient light exists, trains hold for signal.

Under protest from your own employees, our membership, CP continues to order crew-changes at an unsafe mainline track location. Enclosed herewith, please find a copy of the Federal Railroad Administration, Switching Operations Fatality Analysis Working Group, (SOFA) March 2011 Report. From our letter addressed to CP dated September 10, 2015, I once again direct your attention to the finding under SOFA-Five, "Struck by Mainline Train", Chapter 3.7. With this letter, I appeal to you to issue a memorandum to your management team with the appropriate bulletin, system special instruction, and/or Form "C" order, prohibiting CP train-crew changes at BNSF Oakland.

UTU-SMART-TD is the exclusive representative of the Conductor's, Switchmen, Yardmaster's, and Remote Control Locomotive Operator contracts nationwide. The UTU-SMART-TD Minnesota Legislative Board is designated with the responsibility to protect the safety, welfare, and governmental affairs of our membership within the State of Minnesota.

We are attempting to work in partnership with CP to improve safety on your railroad. In the interest of railroad safety, I request your prompt response to this letter regarding this very serious safety exception. Thank you.

Sincerely,



P. J. Qualy
Minnesota Legislative Director
UTU-SMART-TD Minnesota

- We disagree with CP's characterization of UTU's efforts within their response to that media outlet. Again, CP avoids a reported and identifiable safety issue by questioning the motives of the rail union's messenger (s).

Mr. Robert Johnson

April 18, 2016

Page two.

enclosure

**cc: Mr. Steve Fender, Federal Railroad Administration, ARA, Region Four.
Mr. John Previsich, UTU-SMART-TD President
Mr. John Risch, UTU-SMART-TD National Legislative Director
Mr. Chris Bartz, SMART-TD General Chairperson, Yardmasters.
Mr. Matt Marschinke, UTU-SMART-TD GCA-261 General Chairperson
Mr. Tom Behsman, UTU-SMART-TD GCA-64 General Chairperson.
UTU-SMART-TD Locals 64, 525, 911, 1976.**



March 30, 2016

Mr. Steve Nettleton
General Manager Operations US West
1010 Shop Road, Battle Creek Building
St. Paul, MN 55106

Mr. Nettleton,

I have been waiting to write this until my emotions subside, but I now know that will not happen for some time.

Your email message in which you state *"Clearly an emotional rollercoaster for all involved Lucas - I very much appreciate your input and perspective. We work in a very safe industry, however very unforgiving. Compliance to rules will insure we all Go Home safe everyday. It's less about restricting crew changes that are done successfully across the industry and more about compliance to rules."* Offends me deeply.

Your "rollercoaster" reference implies highs and lows. I fail to see what emotional high comes from a man losing his life. Your statement that "we work in a very safe industry", how can you say that the very same day? This is not a safe industry, this is a safer industry than it was in the past, but in no way safe.

I find your comment about rules compliance insuring safety both naïve and irresponsible. Rules are written to mitigate danger. In an industry where we move tens of thousands of tons of steel at high speeds no amount of rules will ever eliminate all danger. In that same regard, CP has the contractual, federal and ethical obligation to provide a safe work place. There in is the true intent of this letter. What is CP doing to "redouble your commitment to safety" as Mr. Harrison asked in his statement on CP Station?

I worked last night on the 1430 top end. Upon arriving at the Island lunchroom before my shift started I briefly spoke with Mr. Castellari about the planned safety brief regarding this tragedy. I did receive any such briefing, in fact not a word was said when I was given initial instructions. Later in the evening I was sent to pull CT35, CT36 and CT37. The lights over the switches governing movement into 36 and 37 have burned out for months, reported numerous times by



me. On the east end of these tracks a rock pile remains making walking in this area impossible. Traffic cones have been in place for months to warn of the danger but no action has been taken to remove it. The swamp tracks continue to have unused air lines coiled and strewn about inviting tripping injuries. Switch points on CT23, the middle switch, east end of the 21 pocket, west end of CT03 have been chipped and damaged for far too long inviting derailments. I took a drive to Oakland after my shift hoping to see some sign of improvement. I was disappointed. No lights have been put up, no ballast put down to improve walking conditions.

Where is CP's commitment to Safety?

Respectfully,
Lucas Baughman
Local Chairman Road
SMART-TD



Transportation Division

Lucas Baughman
Local Chairman Road SMART-TD

If you want to talk feel free to call me or even stop by the office. I will be here most if the afternoon briefing crews.

Sent from my iPhone

On Mar 26, 2016, at 18:01, Lucas Baughman

[REDACTED] <mailto:[REDACTED]> wrote:

Mr. Nettleton

Clearly you know more about what happened than I. My only interest is that this does not happen again. I only ask you refrain from placing more crews in harms way. I do not feel this is an unreasonable request.

On Mar 26, 2016 5:39 PM, "Steven Nettleton"

<Steven_Nettleton@cpr.ca><mailto:Steven_Nettleton@cpr.ca>> wrote:

Clearly an emotional rollercoaster for all involved Lucas - I very much appreciate your input and perspective. We work in a very safe industry, however very unforgiving. Compliance to rules will insure we all Go Home safe everyday. It's less about restricting crew changes that are done successfully across the industry and more about compliance to rules.

On Mar 26, 2016, at 17:08, Lucas Baughman

[REDACTED]
wrote:

Gentlemen,

In light of this morning's tragedy I demand all crew changes at Oakland interlocking be halted until such time as both the carrier and SMART are able to agree that the practice is safe.

Respectfully,
Lucas Baughman
Local Chairman Road

----- IMPORTANT NOTICE - AVIS IMPORTANT -----

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Safety & Health Committee Minutes

March 2016



2016

**CANADIAN
PACIFIC**

March 09, 2016

St. Paul Cross Functional Health and Safety Committee

February 10 th 2016	Evacuation Rally point "Site E" sign needs to be replaced at Dunn. New Sign will be posted ASAP	Peter Stenson Rob Vierling	Ongoing
February 10 th 2016	Bad walking conditions at Oakland crew change location. From R2- Oakland Signal as well.	Charlie Duffy Jeffrey Casteralli	Ongoing
February 10 th 2016	Carmen's crossings are not wide enough to accommodate Carmen ITRV and trailer. Turning at Dunn particularly hazardous. Track conditions and crossings planned to be revamped and regulated in spring. Additional rock to be added as well.	Brian Osborne	Ongoing
February 10 th 2016	On January 15 th , fire trucks were dispatched within the yard responding to leaking car. Fire trucks at the rip tracks asking crews where to go. Rip crew was unaware of incident. Very poor communications within the yard and departments left many employees wondering. Very Poor adherence to the emergency response plan. Additional training is needed.	Jeff Castellari All members of S/H Committee	Ongoing
February 10 th 2016- update March 9 th , 2016	Inaccurate car counts are becoming more frequent on Crew to Crews.	Jeff Castellari Drew Farrer	Ongoing
February 10 th 2016- update March 9 th , 2016	Switch targets when departing on CP2, new east need to be offset, changed. West X-over 1&2, and East X-over when going into the UP.	Charlie Duffy	Ongoing
February 10 th 2016	Committee to produce a tri-fold emergency evacuation quick reference map and instruction guide for all employees. Possible Sub-committee	Rachel Welsh Gordy Kepka	Ongoing
February 10 th 2016- update March 9 th , 2016	No evacuation map posted at the main Entrance of the island. Only 2 total in the Building. Additional and larger maps need to be posted in Building	Gordy Kepka Jeff Schneider	Ongoing
February 10 th 2016- update March 9 th , 2016	West end of Ashland by the runaround, close clearances near fence. Should not ride car along fence. Sign needs to be posted.	Charlie Duffy Rob Vierling	Ongoing
February 10 th 2016- update March 9 th , 2016	Ground is not level enough to properly throw switch at runaround west end at Ashland & Gerdeau 1 and 2 switch	Charlie Duffy	Ongoing
February 10 th 2016- update March 9 th , 2016	Donehower East needs new steps put in.	Charlie Duffy	Ongoing
February 10 th 2016- update March 9 th , 2016	Duke west, road is too narrow to drive on.	Charlie Duffy	Ongoing
February 10 th 2016- update March 9 th , 2016	Road at St Croix needs grading. Very bad potholes. BNSF and CP shared responsibility.	Charlie Duffy	Ongoing

Safety & Health Committee Minutes

February 2016



2016

**CANADIAN
PACIFIC**

February 10, 2016

St. Paul Cross Functional Health and Safety Committee

New Business

Date Identified	New Business Description	Responsible Person(s)	Due Date
February 10 th 2016	Please let your Safety and Health representative know if you are interested in becoming and guest or alternate. All committee members please insure you have an alternate.	All Committee Members - Jason West	
February 10 th 2016	Bad walking conditions at Oakland crew change location. From R2- Oakland Signal as well.	Gordy Kepka Charlie Duffy	
February 10 th 2016	Paynesville North siding, bad roll bye location, barb wire fencing	Charlie Duffy	
February 10 th 2016	Conductors requesting hat strap lights to be available in brown bags as additional source of light with the lanterns.	Jeff Castellari	
February 10 th 2016	Committee to produce a tri-fold emergency evacuation quick reference map and instruction guide for all employees. Possible Sub-committee	Rachel Welsh Gordy Kepka	
February 10 th 2016	BNSF East Hump dispatch complaining to train crews about being held out at Jackson St.	Gordy Kepka	
February 10 th 2016	Locomotive CP2299, air driers are blowing straight down, possibly all locomotives in this 2200 series. Locomotives will be monitored at the roundhouse as they arrive.	Al Borth	
February 10 th 2016	NS locomotives have very high squelch in radio system. Locomotives will be monitored at the roundhouse as they arrive.	Al Borth	
February 10 th 2016	CP 6028 requested to not be used as a switch locomotive. Seat does not revolve and no rear view mirror to view crew members	Gordy Kepka Al Borth Jeff Castellari	
February 10 th 2016	GP 40's – specific seats are wearing out on Locomotives. Please report to Roundhouse foreman upon arrival for replacement.	Al Borth	
February 10 th 2016	Roll by inspections are not being completed on Main line trains on account of short drivers & vehicles. Drivers are being pulled to go drive other crews rather than stay with crews and complete required inspections.	Jeff Castellari	
February 10 th 2016	Crews are reporting being told high ball the roll bys when departing. All trains departing out of St Paul Yard are required to have roll by from mechanical employee no exceptions.	Jeff Castellari	
February 10 th 2016	Switch targets when departing on CP2, new east need to be offset, changed. West X-over 1&2, and East X-over when going into the UP.	Charlie Duffy	
February 10 th 2016	Specifics for drawing down a train and cutting away were revisited. Superintendent notice was re-issued.	Jeff Castellari	
February 10 th 2016	Inaccurate car counts are becoming more frequent on Crew to Crews.	Jeff Castellari Drew Farrer	
February 10 th 2016	TGBO's need Updated; corrected items need to be updated or removed.	Charlie Duffy	

3.7 Struck by Mainline Trains – A Growing Issue

3.7.1 Finding

Struck by Mainline Trains, with 20 cases, is tied for the sixth largest category of SOFA fatalities. Figure 3-8 displays the number of struck by mainline train fatalities over two nine-year periods (Pre-SOFA versus Post-SOFA). It shows fatalities for TY&E employees who are struck by mainline trains is a growing issue and a cause for concern. It implies the guidance provided in the August 2004 SOFA Update (see Section 3.7.2 below) has had little or no effect.

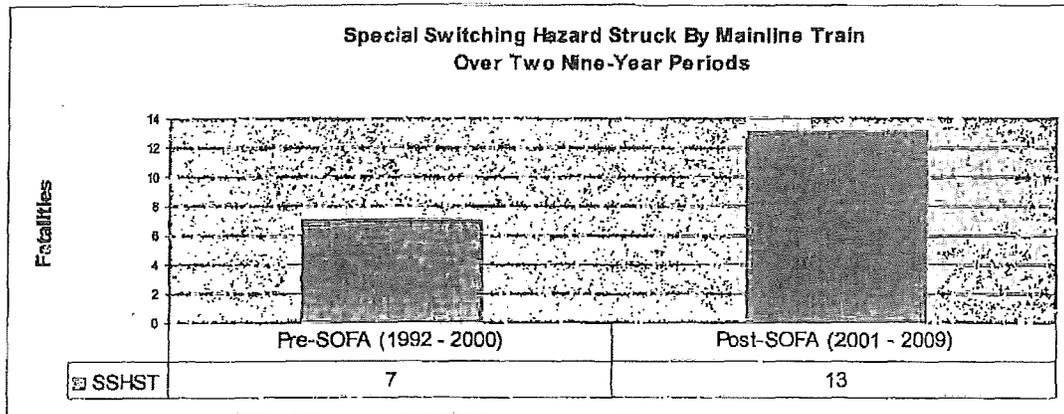


Figure 3-8: Special Switching Hazard Struck By Mainline Trains Over Two Nine-Year Periods

3.7.2 Background

The SWG identified this issue in the August 2004 SOFA Update Chapter 4 titled *SWITCHING FATALITIES – UNDERSTANDING AND PREVENTION*. In this chapter, the update discussed cases in which employees were fatally struck by mainline trains. The update provided no recommendation except to say, “Other than general vigilance, awareness, and alertness to the switching environment, it is difficult to prescribe a preventive measure.”

The case numbers for the fatalities involving employees struck by mainline trains are shown in the Table 3-17 below. Pages 54 – 58 in Appendix A of this report provide the narratives for these cases.

Exhibit 4

Table 3-17 - 20 Cases For Employees Struck By Mainline Trains

Case Number	Incident Date	Railroad	City	State	Job Description	Age
FE-1992-20	07-Jul-92	SSW	Conlen Siding	TX	Freight Engineer	58
FE-1993-13	13-Apr-93	CSX	Dwale	KY	Freight Brakeman/Flagman	44
FE-1996-17	07-Jul-96	NS	Sidney	IN	Conductor	29
FE-1997-22	18-Jul-97	MNCW	Stamford	CT	Conductor	40
FE-1997-36	02-Dec-97	BNSF	Emporia	KS	Freight Conductor	50
FE-2000-32	28-Dec-00	UP	Dupo	IL	Switchman	52
FE-2000-33	29-Dec-00	BNSF	Gillette	WY	Conductor	29
FE-2001-02	10-Jan-01	CSX	Chicago	IL	Conductor	42
FE-2001-03	11-Jan-01	NS	South Fork	PA	Engineer	52
FE-2001-40	24-Dec-01	NS	Lynchburg	VA	Conductor	30
FE-2002-09	21-Mar-02	NS	Claymont	DE	Engineer	45
FE-2004-28	01-Nov-04	BNSF	Bowdoin	MT	Conductor	45
FE-2004-30	17-Dec-04	BNSF	Radium	CO	Conductor	44
FE-2005-02	10-Jan-05	UP	Buena Vista	AR	Conductor	52
FE-2008-01	08-Jan-08	UP	Waukegan	IL	Passenger Brakeman	59
FE-2008-03	03-Feb-08	NS	Chicago	IL	Freight Conductor	28
FE-2008-33	23-Sep-08	CSX	Darby	PA	Freight Conductor	46
FE-2009-06	28-Jan-09	UP	Council Bluffs	IA	Yard Foreman	41
FE-2009-08	07-Feb-09	BNSF	Holbrook	AZ	Freight Conductor	43
FE-2009-09	08-Feb-09	UP	Herington	KS	Freight Conductor	26

3.7.3 Statistical Background

Tables 3.18 shows fifteen of the 20 cases (75%) involving strikes by mainline trains occurred in the dark²³. This is well above the percentage (40%) that occurred for other, non-Struck by Mainline Trains cases.

²³ For this study, the SWG defined "dark" as the period from ½ hour after sunset to ½ hour before sunrise.

Table 3-18 Struck by Mainline Trains - Dark

	Struck by Mainline Train Cases	Non-Struck by Mainline Train Cases
Cases occurring in the dark (78)	15	63
Total cases (179)	20	159
Percentage for cases in the dark	75%	40%

Thirteen of the 20 cases (65%) involving strikes by mainline trains occurred during December, January, and February. This is more than twice the percentage (27%) for other, non-Struck by Mainline Trains cases (see Table 3-19).

Table 3-19 Struck by Mainline Trains During Dec, Jan, and Feb

	Struck By Mainline Train Cases	Non-Struck by Mainline Train Cases
Cases occurring Dec - Feb (56)	13	43
Total cases (179)	20	159
Percentage for cases Dec - Feb	65%	27%

Appendix G in Volume II provides additional statistics on struck by mainline train cases.

3.7.4 Discussion

The issues with Struck by Mainline Trains were discussed thoroughly at the SSF and during SWG meetings. The following are issues and remedies for the railroad industry to consider.

3.7.4.1 Issue: Working Conditions May Compromise Employee Awareness

Working conditions, specifically darkness and winter months, compromise employee awareness. Darkness is clearly an issue: 75% of Struck by Mainline Trains fatalities occurred in the dark. Winter months are also clearly an issue: 65% of the Struck by Mainline Trains fatalities occurred from December through February. Together, 55% of Struck by Mainline Trains occurred in the dark and during winter months.

Risk to train-crew members increases in the dark, but they may not fully understand the extent to which "darkness" contributes to fatalities. Some job procedures or the design of personal protective equipment may not be adequate to address issues confronting train-crew members while working in the dark. Moreover, outer clothing worn during winter months can restrict hearing and peripheral vision; therefore, extra caution should be exercised.

Remedy: Use multiple warning methods. A single audible or a visual warning by itself may not be enough. A warning from one device can be misconstrued or forgotten by an employee highly focused on the task at hand. Use of multiple methods (radio, horn, bell, headlight, high-visibility clothing, etc.) reduces the likelihood for the employee to misinterpret or forget, and increases the chance the warning gets through to the employee.

3.7.4.2 Issue: Current Procedures and Training for Stopping Along the Mainline May Be Inadequate

Current procedures and training for stopping along the mainline to do work could be inadequate. In particular, mandatory inspection procedures, such as locomotive, roll-by, and hotbox inspections, can put locomotive engineers and trainmen at risk when there is no safe location to conduct the inspection. Depth perception and recognition of train speed may contribute to a

fatality when working in the dark due to impaired awareness of an approaching train. Struck by Mainline Trains is the most likely cause of fatal injuries to locomotive engineers.

Remedy: Develop, implement, and/or improve procedures for stopping to do work along mainline track.

- Encourage Train, Yard, and Engine (TY&E) employee use of current job briefing procedures for stopping to do work along mainline track. A job briefing in this situation should include this progression:
 - Determine a safe location to stop.
 - Assess if inspection can be conducted from the field side (i.e., the safe side).
 - Decide if necessary to dismount from the locomotive.
 - When an employee dismounts, dismount to the field side.
 - If unable to dismount to the field side, do the following:
 - Identify all approaching on-track movements in immediate work location, if applicable.
 - Decide the safest time to dismount.
 - Stay out of the foul of the mainline track.
 - Be alert because adequate warning may not be provided.
 - Plan for the worst case scenario, and plan an escape strategy.
 - Provide employees the discretion to determine the first safe location or time to conduct mandatory inspections.

3.7.4.3 Issue: Occasional Inadequate Communication Between Crew Members, Crews, Dispatchers, and Yardmasters

Communication is inadequate at times between crew members, crews, dispatchers, and yardmasters when stopped or when doing work on or near the mainline track. Lack of communication places crew members in peril of being struck by on-track movements.

Remedy: Improve communication at all levels. Comprehensive and ongoing communication between all involved employees is vital before a crew member dismounts the locomotive to do required work.

- Promote effective communication among and between crew members by utilizing established programs, such as Train Crew Resource Management²⁴.
- Employees should not leave the cab without first communicating intentions. *Think outside the cab by communicating within.*
- Encourage crews to communicate with, and provide warnings to, fellow crew members working outside of the cab.

²⁴ Appendix I provides materials on Train Crew Resource Management.

Phillip J. Qualy
Legislative Director,
Chairperson

Nicholas J. Katich
Assistant Director

Brian L. Hunstad
Secretary



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Minnesota Legislative Board

A Division of SMART, Sheet metal, Air, Rail and Transit Union
Printed In House

July 15, 2016

Mr. Chad Sundem
General Manager,
BNSF Twin Cities Division
80 44th Avenue NE
Minneapolis, MN 55421

VIA: U.S. Express Mail.

RE: BNSF Railway: East Oakland Interlocking Service Road, State Highway 61, Walkway.

Dear Mr. Sundem,

Thank you for your responsive letter dated June 21, 2016, regarding walkway and service road conditions at BNSF East Oakland Interlocking with access to Highway 61 at Lower Afton Road. At the risk of belaboring the safety issues at this location, please be advised:

- 1) Canadian Pacific(CP) train crews continue to change-out road trains at this location regularly despite our protest that Oakland is an unsafe location do to so.

(CP crews must cross BNSF mainline tracks, multiple radio channel area, high speed mainline for freight and passenger, curvature in track, with minimal ambient light despite our request for lighting at adjacent CP Dunn and BNSF Dayton's Bluff East yard lead areas).

- 2) We agree the service road entrance at Lower Afton Road is protected by traffic signals on Highway 61.
- 3) After recent inspection, the actual BNSF service road remains a dirt road. With rain, snow, or ice, vehicles have little traction on the service road. We see some ballast has been dropped at the entrance to Highway 61. However, our CP crews tell us the area is still muddy after rain causing vehicles to spin-out and stall in the mud while entering the highway intersection. Please see attached recent photo.

We recommend and request BNSF drop and grade out a large amount (dump-truck) of road gravel on the BNSF Oakland service road. We again emphasize the approach to the pavement at Highway 61. Finally, we strongly recommend and request BNSF to prohibit the CP's operating practice that regularly directs CP crews to change-out crews from BNSF property and over BNSF mainline track. Unless there is an emergency, CP has other and more safe locations they can change-out mainline train crews.

Perhaps we should inspect the BNSF Oakland Interlocking area together in the near future. I am confident the BNSF Twin Cities Division has the resources and can finally complete this task that affects the safety of our membership on both BNSF and CP Railways.

Mr. Chad Sundem
July 15, 2016
Page two

I look forward to your response to inspect and improve this ongoing safety issue. Thank you.

Sincerely,



P. J. Qualy
Minnesota Legislative Director
UTU--SMART-TD Minnesota

enclosure

cc: Mr. Dave Freeman, BNSF Vice President, Chief Operating Officer
Mr. Rance Randell, BNSF Vice President, Northern Region
Mr. William Gardner, MnDOT Director of Commercial Freight and Waterways.
Mr. John Previsich, UTU-SMART-TD President.
Mr. John Risch, UTU-SMART-TD National Legislative Director.
Mr. Joseph LePresta, UTU-SMART-TD General Chairman
Mr. Lawrence Miller, UTU-SMART-TD General Chairman
UTU-SMART-TD Locals 832, 311, 1000, 1175 and 1177 Local Officers.



Chad Sundem
General Manager
Twin Cities Division

BNSF Railway Company
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Minneapolis, MN 55421
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Chad.Sundem@bnsf.com

July 29, 2016

Certified 9171 9690 0935 0127 3399 50

Mr. Phillip J. Qualy
SMART-TD Minnesota Legislative Board
Minneapolis United Labor Centre, Suite 456
312 Central Avenue S.E.
Minneapolis, MN 55414

RE: **BNSF Oakland Service Road, State Highway 61 access, Unsafe Walkways**

Dear Phil:

I trust this finds you well. I would like to acknowledge that I am in receipt of your letter dated July 15, 2016 expressing concerns over the Oakland Interlocking service road at U.S. highway 61 and lower Afton Road, in St. Paul, Minnesota.

At my request, the Assistant Superintendent of Northtown Terminal Complex and the Director of Administration completed an onsite audit of the Oakland Interlocking service road. They have recommended that we dump additional road gravel/ballast. I have asked the engineering team to add additional fill and they expect to have this completed within the next 45 days.

Additionally any concerns about CP crew change-out locations should be addressed directly to the CP.

Should you have any questions or would like to discuss this in further detail, please contact me at your convenience.

Sincerely,

Chad Sundem
General Manager
Twin Cities Division

Memo

Date: 2/24/2017

To: Phillip Qualy
State Legislative Director
United Transportation Union-SMART-TD Minnesota

From: Maureen Jensen
Assistant Office Director, Office of Freight and Commercial Vehicle Operations

RE: 2016 Yard Lighting Report

Minnesota Statutes Section 219.375 requires Class I and Class II railroad common carriers and the union representative of the workers at each railroad to submit railroad yard lighting reports described under Subdivision 1 and 3 of the statute. Under Subdivision 4, the commissioner reviews the reports, investigates discrepancies and report findings to the yard owner and worker representative. This memo reports MnDOT's findings based on our analysis and investigation of the information provided by your organization and will become part of our report back to the legislature. If you have any corrections to this document regarding your previous submittals we will consider them if postmarked by March 10, 2017.

UTU-SMART-TD submitted a report on January 27, 2016 in response to its obligations as worker representative under M.S. 219.375, Subdivision 3. The UTU-SMART-TD submittal identified yards it believed fell under the requirements of Subdivision 1, if the lighting is installed in all required areas, if the lighting is operational at the yard, if the lighting is safe for working conditions at night, if the carrier repairs or replaces broken lighting within 48 hours, if the lighting equipment has changed since last year's report, and a description of the type and placement of lighting.

Three of the four Class I railroads submitted yard lighting reports in response to M.S. 219.375, Subdivision 1. There are several locations where UTU's submittal disagrees with railroad submittals on where lighting is required and the adequacy of the lighting.

The charts on the following pages compare railroad submittals with the UTU's submittal. Please review this information and provide any corrections or clarifications by March 10, 2017 for consideration in the final Legislative Report.

BNSF Rail Yards Chart: Comparison of Yard Lighting Status

Yard	Carrier	Does the yard fall under the operation requirements of Subd. 1		Is lighting installed at the yard in all required areas?		Is lighting operational at the yard?		Is the lighting AREMA Compliant?	Describe type and placement of lighting
		Railroad	UTU	Railroad	UTU	Railroad	UTU	Railroad	
Dayton's Bluff	BNSF	No	Yes		No ¹		Yes ²		
Duluth Rice Point	BNSF	No	Yes		Yes		No		
Northtown	BNSF	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	Overhead lighting evenly dispersed throughout yard
Willmar	BNSF	Yes	Yes	Yes	No ³	Yes	Complaint Filed	Yes	Overhead lighting evenly dispersed throughout yard
Dilworth	BNSF	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	Overhead lighting evenly dispersed throughout yard
Midway	BNSF	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	Overhead lighting evenly dispersed throughout yard
East Grand Forks	BNSF	No	Yes		Yes		Unknown		
St. Cloud	BNSF	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	Overhead lighting evenly dispersed throughout yard
Staples	BNSF	No	Yes		Yes		Unknown		

¹ UTU indicates "East End – No"

² UTU indicates "West End - Yes"

³ UTU indicates "Complaint Filed"

CN Rail Yards Chart: Comparison of Yard Lighting Status

		Does the yard fall under the operation requirements of Subd. 1		Is lighting installed at the yard in all required areas?		Is lighting operational at the yard?		Is the lighting AREMA Compliant?	Describe type and placement of lighting
Yard	Carrier	Railroad	UTU	Railroad	UTU	Railroad	UTU	Railroad	Railroad
Proctor	CN	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Overhead lighting (pole) positioned 100' from the track and 400' pole to pole. Lighting type is mixed: Original lighting consists of High Pressure Sodium. Newer style converted to ballast, metal halide and most recently to LED lighting.
Rainier	CN	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Keenan	CN	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	
Missabe	CN	No	Yes		No		No		
Wilpen	CN	No	Yes		No		No		
Two Harbors	CN	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	
Biwabek	CN	No	Yes		No		No		
Virginia	CN	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	

CP Rail Yards Chart: Comparison of Yard Lighting Status

Yard	Carrier	Does the yard fall under the operation requirements of Subd. 1		Is lighting installed at the yard in all required areas?		Is lighting operational at the yard?		Is the lighting AREMA Compliant?	Describe type and placement of lighting
		Railroad	UTU	Railroad	UTU	Railroad	UTU	Railroad	
St. Paul including Dunn	CP	Yes	Yes	Yes	Yes/No	Yes	Yes/No	Yes	Combination of HPS, MH and LED lighting on wood poles/high mast and buildings throughout yard
New Ulm	CP	No	Yes		No		No		
Hastings	CP	No	Yes		No		no		
Thief River Falls	CP	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	HPS, MH and LED lighting on wood poles
Humboldt	CP	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	Combination of HPS, MH and LED lighting on wood poles/high mast and buildings throughout yard
Shoreham	CP	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	Combination of HPS, MH and LED lighting on wood poles/high mast and buildings throughout yard
Glenwood	CP	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	
Waseca	CP	Yes	Yes	Yes	Yes	Yes	Unknown	Yes	HPS, MH and LED lighting on wood poles
River Junction	CP	No	Yes		No		No		
Winona	CP	No	Yes		No		No		
Austin	CP	No	Unknown		Unknown		Unknown		

Wells	CP	No	Unknown		Unknown		Unknown		
Tracy	CP	No	Unknown		Unknown		Unknown		

UP Rail Yards Chart: Comparison of Yard Lighting Status

Yard	Carrier	Does the yard fall under the operation requirements of Subd. 1		Is lighting installed at the yard in all required areas?		Is lighting operational at the yard?		Is the lighting AREMA Compliant?	Describe type and placement of lighting
		Railroad	UTU	Railroad	UTU	Railroad	UTU	Railroad	
Roseport	UP		Yes		Yes/No ⁴		Yes/No		
Western Avenue	UP		Yes		No		No		
Merriam	UP		Yes		No		No		
St. Paul Hoffman	UP		Yes		Yes		Unknown		
East Minneapolis	UP		Yes		Yes		Unknown		
Albert Lea	UP		Yes		No		Unknown		
So. St. Paul	UP		Yes		Yes		Yes		
Valley Park	UP		Yes		Yes		Yes		
Mankato	UP		Yes		Yes		Yes		
Elk Creek	UP		Yes		Yes		Yes		
Worthington	UP		Yes		Yes		Yes		
Winona	UP		No		No		Unknown		
Elk Creek	UP		Yes		Yes		Yes		
Hazel Park	UP		No		No		Unknown		

⁴ UTU indicates "North-Yes/South-No"