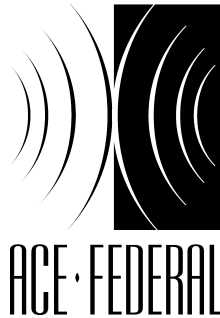


Date: February 14, 2024

Case: Post-Evidentiary Hearing Conference

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SURFACE TRANSPORTATION BOARD

AMTRAK OPERATIONS IN GULF COAST

DOCKET NO. 36496

PUBLIC HEARING

"Application of the National Railroad Passenger Corporation under 49 U.S.C. Section 24308(e) - CSX Transportation, Inc., and Norfolk Southern Railway Company"

Settlement Status Hearing

In Person and via YouTube

Wednesday, February 14, 2024

The above-entitled matter came on, pursuant to notice, at 11:13 a.m., Chairman Martin Oberman, presiding.

1 P R O C E E D I N G S

2 CHAIRMAN OBERMAN: Thank you.

3 Good morning, everybody, and welcome.

4 Before I start, I think in the interest of
5 full disclosure, I should tell you what one of my
6 board members just noted for the record, that I am
7 from Chicago and we set this hearing on Valentine's
8 Day. So he wanted to make sure nobody was drawing
9 any inferences from that. I think that's why you
10 said that.

11 (Laughter.)

12 CHAIRMAN OBERMAN: Don't expect any
13 massacres.

14 Robert, I'm glad your mind goes in those
15 directions. Keeps me grounded.

16 We're here today on the Amtrak Gulf Coast
17 case petition, we all know the number, I don't need
18 to identify it for the record, to discuss the status
19 of the settlement agreement that we were informed
20 on.

21 But why exactly are we having this
22 hearing? The Gulf Coast line has been without

1 passenger service for 19 years since Hurricane
2 Katrina. Amtrak initiated this case in 2021, 16
3 years later.

4 The Board devoted substantial attention to
5 hearing the case in 2022 and completed a lengthy
6 11-day hearing on the record, the first under that
7 statute in the history of the statute.

8 The parties announced to us and notified
9 the Board that on November 21, 2022, you had all
10 reached a settlement and asked us to hold the case
11 in abeyance while you worked out the details.

12 The Board agreed. The Board encourages
13 settlements, still encourages settlements and is
14 happy you've all settled, and we've held the
15 proceeding in abeyance, receiving very cursory
16 status reports up until now from the parties.

17 That was 15 months ago. Many people are
18 wondering when the trains are going to begin
19 running, which is why we asked a few weeks ago for a
20 more detailed accounting of the status of the
21 settlement.

22 We're here today because we still haven't

1 received all those details. Frankly, I get more
2 information from the Alabama media group about
3 what's happening with this proposed line than I got
4 even in the somewhat more detailed most recent
5 status report.

6 So today we will be exploring what is
7 holding up the final disposition of this case and,
8 equally importantly, useful information for the
9 public as to when these trains will begin running.

10 I was going to say "if ever," but I am
11 confident the trains will be running and I believe
12 everybody in this room is as well. It's just a
13 question of when.

14 Before we begin, I want to just cover a
15 few procedure and technical matters. To use the
16 microphones, hopefully you will all remember this,
17 at least those of you at the table, you have to
18 press the button once. There may be a very slight
19 delay so remember that before you start speaking.

20 Only one of these microphones can be on at
21 a time, so when you finish speaking, remember to hit
22 the button. If you don't, I will try to remind you

1 because we're all guilty of it up here as well.

2 You may be asked to repeat yourself if you
3 say something when somebody else's microphone was
4 on, so the court reporter gets everything down. And
5 the court reporter I'm sure will feel free to
6 interject if she can't hear what's going on.

7 If we do need to go into a confidential or
8 highly confidential session, which I do not
9 anticipate, I will ask any members of the public who
10 are not authorized to be in such a session to step
11 out of the hearing room temporarily. You will need
12 to go out and wait in our lobby and you can monitor,
13 there will be a YouTube stream which will have a
14 placeholder on it so you will know when to come back
15 in, and also if there's staff here, we will send
16 somebody out to get you.

17 Those who are -- this is being streamed on
18 our YouTube site, and for those of you who are
19 watching on YouTube, you will get this placeholder
20 if we go into a confidential session.

21 As I mentioned, we are on YouTube, and the
22 link is available on the Board's Web site. The

1 transcript of the hearing will be placed on the
2 Board's Web site after the close, and the
3 recording -- a recording of the hearing will also be
4 available.

5 With that, I know I have a number of
6 questions and I know other board members do as well.
7 But if any of you, and I think we'll just go from my
8 left to right, want to make an initial statement
9 before we get started, I would like to give you that
10 opportunity.

11 Otherwise, we will have some questions I'm
12 sure for all of you.

13 So with that, Matt. Anybody want to speak
14 up?

15 MR. WARREN: Mr. Chairman, I think Amtrak
16 should speak first and then we can speak after them.

17 CHAIRMAN OBERMAN: Okay. That would be
18 fine.

19 Is that okay with you?

20 MS. AMUNSON: That's fine, Mr. Chairman.

21 CHAIRMAN OBERMAN: Go ahead.

22 BOARD MEMBER HEDLUND: Could you introduce

1 yourself?

2 MS. AMUNSON: Sure. Jessica Amunson for
3 Amtrak. Thank you, Mr. Chairman, and members of the
4 Board.

5 Amtrak very much appreciates the Board's
6 continued interest in and engagement with the issues
7 surrounding the restoration of passenger rail
8 service to the Gulf Coast. Amtrak recognizes that
9 the Board invested significant time and effort in
10 this proceeding and understands there's great public
11 interest in the resolution of the matter before the
12 Board.

13 As the Board is aware, when the parties
14 entered into a confidential settlement agreement, we
15 requested that the Board hold this matter in
16 abeyance pending notification from the parties that
17 settlement terms had been fulfilled.

18 Since that time, as we reported in our
19 status report and as I want to reiterate today, the
20 parties have been working together diligently,
21 cooperatively and in good faith toward
22 implementation of the settlement.

1 Although specific terms and conditions of
2 the settlement remain confidential -- although
3 specific terms and conditions of the settlement
4 remain confidential, one of the major components was
5 a submission of an application for a CRISI grant to
6 fund a number of agreed-upon infrastructure projects
7 associated with restoration of the Gulf Coast
8 service.

9 The parties cooperated extensively on the
10 submission of the CRISI grant, which was submitted
11 on December 1, 2022.

12 On September 21, 2023, the FRA announced
13 that the \$178 million grant had been awarded to
14 Amtrak. Since that announcement, Amtrak has been
15 working closely with the FRA towards execution of
16 the grant agreement and obligation of the funds.

17 This process is proceeding well, and the
18 FRA and Amtrak are actively involved in discussions
19 about the terms and conditions of that grant, which
20 Amtrak received in December 2023.

21 The parties have agreed that dismissal of
22 the proceedings before the Board is not appropriate

1 unless and until funding for the agreed-upon
2 infrastructure projects is set forth in an executed
3 funding agreement.

4 To be clear, execution of the funding
5 agreement is the only step that remains outstanding
6 for dismissal of these proceedings before the Board.

7 As to the start of service, the parties
8 have agreed that twice daily Gulf Coast service can
9 begin as soon as the Mobile station track project is
10 complete. This project involves installing
11 approximately 3000 feet of layover track and Amtrak
12 is funding this separately from the CRISI grant.

13 Amtrak and CSX have already executed a
14 design and construction agreement and have been
15 working diligently on all design and
16 pre-construction activities over the last few
17 months.

18 The Mobile station track project also
19 depends upon Amtrak successfully negotiating a land
20 use agreement with the City of Mobile.

21 As the mayor reported in his letter to the
22 Board this week, Amtrak and the city are actively

1 engaged in forward-moving negotiations on a weekly
2 basis. Amtrak personnel met with the mayor and his
3 staff in Mobile in December, and Amtrak has reached
4 out to Mobile to set up additional meetings to
5 address Mobile's questions and requests for
6 information.

7 The port has agreed to facilitate
8 discussions and provide support for all efforts
9 Amtrak undertakes with local authorities in Mobile
10 to promptly reach an agreement to secure the
11 property necessary for the Mobile station track
12 project.

13 This matter is a high priority for all
14 parties and for the FRA. The FRA administrator is
15 convening regular meetings of the principals and
16 each of the parties to assess and facilitate project
17 advancement. The first such meeting was held in
18 December 2023 and was attended by the parties' CEOs
19 or their representatives. The parties greatly
20 appreciate the FRA's ongoing leadership and
21 stewardship.

22 Amtrak is committed to working with all

1 parties to take the needed steps to start the
2 service in 2024. As we stated in our filing, we
3 respectfully request that the Board continue to hold
4 this matter in abeyance pending notification that
5 the matter can be dismissed following the execution
6 of the CRISI grant agreement.

7 If we do not file such a notice on or
8 before May 1, we can submit a further joint status
9 report to the Board.

10 CHAIRMAN OBERMAN: Before questions, does
11 anybody else want to add anything? Anybody else?

12 MR. ATKINS: For CSX if I could add a few
13 additional comments and then we'll answer questions.

14 First, we would like to echo the
15 sentiments that are expressed by Amtrak in their
16 opening remarks about the collaborative and
17 cooperative nature of the work between the parties.
18 This is almost two years to the day from when we
19 kicked off this proceeding with a public hearing,
20 and at that time the parties weren't agreeing on
21 much of anything.

22 We have made a great deal of progress, and

1 are grateful for the assistance of the Board itself,
2 who did encourage the parties at the end of the
3 11-day hearing to put their heads together to find a
4 cooperative solution that would allow the Gulf Coast
5 service to be implemented safely, while both
6 passenger and freight are effectively using the
7 corridor.

8 As you know, the timetable, there was a
9 CRISI grant application, took about nine months or
10 so for that application to be awarded and things are
11 now accelerating.

12 The key -- a couple of key facts, FRA has
13 really taken the lead in helping to Shepardize this
14 project. This is a large CRISI grant award, so the
15 administrator brought all the parties together, not
16 just the four of us here but other stakeholders,
17 which was attended by the top leadership of the
18 companies which is an indication of the priority
19 that this project is being given.

20 Since then, CSX and Amtrak have been
21 working cooperatively to do what we can in advance
22 of some of the key milestones. As was already

1 mentioned, the most significant one is the execution
2 of the technical funding agreement with FRA, which
3 is what actually is some sort of formal agreement
4 that permits the parties to proceed forward. That's
5 being done through Amtrak in cooperation with FRA.

6 I just wanted to share a couple of the
7 details of what CSX has been doing to help
8 facilitate and I'll focus just on the Mobile
9 station.

10 Since the award has been granted, we have
11 executed an agreement with Amtrak. We hosted a
12 meeting for all the interested parties to come to
13 the Mobile station and look at the property in
14 question. We've been working on the design of the
15 Mobile station track. We got to about a 30 percent
16 design of the track and then working with FRA, we
17 had to pause that while the FRA performed its review
18 in accordance with its procedures and NEPA.

19 Just last week or the week before that, we
20 were authorized to move forward to 60 percent
21 design, which we're undertaking. And CSX is also
22 preplacing equipment and some construction materials

1 on site in order to facilitate the construction of
2 the track once the process continues to proceed
3 forward through FRA and Amtrak.

4 They are also taking other steps, whatever
5 required permits, things of that sort.

6 So I just want to reiterate how
7 productively the parties have been working together.
8 This is not just Amtrak and CSX but Norfolk Southern
9 and the port as well.

10 We do appreciate the Board's patience in
11 understanding, we haven't actually asked for the
12 outright dismissal of the case, and that's awaiting
13 the tactical funding agreements between the parties.

14 We're happy, Matt and I are happy to
15 address any questions we can offer you about the
16 status of those activities, with the important
17 caveat that the terms of the settlement agreement
18 remain confidential and can't be disclosed with the
19 Board.

20 With that, we'd be pleased to answer your
21 question.

22 CHAIRMAN OBERMAN: Thank you, Ray.

1 I meant to say at the outset so I'll
2 interject it here now, I don't know how long we're
3 going to be here, I don't anticipate that we'll be
4 here that long. But depending on how long we are
5 here, we will take a lunch break, although we may or
6 may not need to. I meant to say that at the outset.

7 Anyone else have anything they want to
8 add?

9 MR. MULLINS: Well, CSX has -- we have to
10 put in our statement too.

11 I think Jesse and Ray said it well. I
12 just want for the record to indicate that first off
13 Norfolk Southern was very appreciative of the Board
14 trying to encourage settlement, and that was
15 something that was very important. And we're also
16 appreciative of all the other parties here that
17 encouraged the settlement.

18 And I think an important component too was
19 the FRA grant, and we really wanted -- Norfolk
20 Southern is very appreciative of the FRA and the
21 efforts that we have undertaken. And we think it's
22 a very positive approach.

1 We are moving forward. We have
2 participated in all the meetings. We are prepared
3 to implement our infrastructure as soon as we can
4 get a funding agreement. We too have done
5 preliminary design work, and Norfolk Southern is
6 very supportive of all the efforts of the parties
7 here and stand ready, willing and able to go as fast
8 as possible.

9 CHAIRMAN OBERMAN: Thank you, Bill.
10 Robert?

11 MR. WIMBISH: Thank you.

12 Good morning, Board members.

13 Obviously, Rob Wimbish here on behalf of
14 the Port and the Terminal Railway and Alabama State
15 Docks, the rail carrier division of the Port.

16 I wanted to start by just quickly thanking
17 the Board for deciding to schedule the hearing
18 today, notwithstanding it being Valentine's Day.

19 As you may know, Mobile is the birthplace
20 of Mardi Gras in the United States. That was
21 yesterday. I know that the port officials are
22 participating in this meeting on line. I think it

1 would have been difficult for them to have been
2 paying much attention to this yesterday. So
3 grateful for the scheduling in light of that. I
4 don't know if it was fortuitous or not, but thank
5 you all the same.

6 The port, as with everyone else here at
7 this table, is very heavily engaged in seeing this
8 matter through.

9 This proceeding started as a request to
10 compel access over CSX and Norfolk Southern lines.
11 After considerable testimony and evidence, you would
12 have still been faced with that decision had we not
13 been able to reach an accord. I think that would
14 have been a very difficult decision. I think from
15 all of the reports today, you will see that we are
16 very close to a settlement that will eliminate the
17 need for this agency to reach the decision that was
18 put before you.

19 As I've mentioned, the port has engaged in
20 those efforts. We have a fairly limited role in the
21 sense -- well, we have two roles, but limited in the
22 sense that the infrastructure that is the subject of

1 others' discussions here today was -- none of it is
2 taking place on port property, so none of this will
3 end up being port infrastructure. But it will be
4 infrastructure that will protect port operations.
5 So that's the first thing.

6 Second thing is obviously, we had
7 committed to be the point of contact and the
8 principal source of support to the City of Mobile
9 with respect to the station track project.

10 As you can imagine, the port and the city
11 remain in regular contact on a variety of topics,
12 not just rail operations. And this is among the
13 things that we have strenuously encouraged with the
14 port that Mobile engage in these discussions and
15 reach a fruitful result from that.

16 I will point out that roughly two years
17 ago, and I think this is symbolic of the
18 significance of the progress that was made, almost
19 exactly two years ago to the day, Mayor Stimpson,
20 and I am pointing this out from the transcript that
21 I happen to have, was here before you, here in the
22 virtual sense, and at that time, his focus was

1 strictly on the Brookley Aeroplex station, not a
2 downtown station. In fact, his testimony to you at
3 the time said that a downtown station would be, in
4 his words, a mistake.

5 We have moved significantly off of that
6 since that position, and I think part of that is
7 because the port has been instrumental in
8 facilitating steps toward a settlement that achieves
9 what Amtrak is looking to accomplish.

10 I think that's all I have to offer for
11 now. I'd be happy to answer any other questions. I
12 think that the report that was provided pretty well
13 synthesizes the port's role and what it's been
14 doing, but I'm happy to answer any other questions.

15 CHAIRMAN OBERMAN: Thank you, Rob.

16 So let me start off here, I'm sure other
17 members have some things to add. First of all, I
18 accept what all of you have said about appreciative
19 of the Board encouraging settlement. We always
20 encourage settlement, and we still do, and we don't
21 have any interest in not having you carry out this
22 settlement, bring it to fruition as soon as

1 possible.

2 I do have a memory that the real
3 encouragement of the settlement was when we
4 announced we were going to have a voting conference.
5 Seemed to be somewhat of a stimulus. And I hope we
6 don't have to get there again. It's not my intent
7 anyway to do that, but rather to do what all of you
8 have said, and that is you're rapidly working
9 towards bringing this to a conclusion.

10 Rob, I wanted to focus in particular on a
11 number of things, but I have received a letter from
12 one of your United States senators, Senator Britt,
13 which we've published in our public availability
14 correspondence last week, emphasizing the importance
15 of the port to the economy of not only Mobile but
16 all of Alabama, in her view, and otherwise being
17 generally supportive of what the Board has done to
18 try to move this project forward.

19 I think it's fair to say. Just to be
20 clear, I think you've said it, but the concerns that
21 the port had all during the hearing, the issues that
22 you raised, I take it from what you have said the

1 port, with the proposed projects and the settlement,
2 is satisfied that the port will not suffer all of
3 the harms that you had raised and that the Senator
4 had asked us to be sure we're concerned about.

5 Is that a fair statement?

6 MR. WIMBISH: I think, Chairman, that's a
7 fair statement.

8 I mean, obviously, what we have achieved
9 here was a settlement. A settlement is a form of
10 compromise. But I think that compromise has to take
11 into account all the stakeholders. I think it did.

12 And I think as far as kind of the path
13 ahead with this, the notion here I think has got to
14 be coexistence. I think that was sort of the
15 concept from the very beginning, is that all of
16 these parties ultimately have to coexist, and that's
17 especially the case as long as the federal statutory
18 regime for passenger service remains as it is. That
19 concept of coexistence has to prevail.

20 I think it has. I think in some ways,
21 this solution that we've achieved was something that
22 I would have in retrospect like to have seen be

1 accomplished in the absence of an STB proceeding.

2 But I do think, going back to your very
3 specific question about this, that the
4 infrastructure that's in place should protect the
5 port's operational interests in the Mobile terminal.

6 CHAIRMAN OBERMAN: When you say "in
7 place," you mean that is proposed to be put in
8 place?

9 MR. WIMBISH: Proposed to be put in place.
10 Would that it were.

11 CHAIRMAN OBERMAN: I think we all feel
12 that way. I do have a number of questions as they
13 relate to Amtrak and the City of Mobile. So let me
14 just jump right into that and I guess somewhat as to
15 CSX as well.

16 In the original application and in the
17 evidence at the hearing, Amtrak said that it would
18 be able to start running trains by using layover
19 area in the Choctaw Yard while the station track was
20 being built. You haven't given us all the details
21 of the settlement, but I am wondering why it
22 appears, I infer, that you will not start running

1 the trains until a 3000 foot layover track is built,
2 which was -- I think a layover track downtown was
3 always in the works or was part of the permanent
4 plan.

5 But why not use the intermediate plan that
6 was originally talked about so trains can get
7 running sooner?

8 MS. AMUNSON: Mr. Chair, as we reported,
9 the parties have agreed that the Gulf Coast service
10 can resume as soon as the Mobile station track
11 project is complete. That was the parties'
12 agreement.

13 CHAIRMAN OBERMAN: So you're saying that
14 that precondition is one of the terms of the
15 settlement?

16 MS. AMUNSON: That's correct,
17 Mr. Chairman.

18 CHAIRMAN OBERMAN: I'm not sure at this
19 point, since a great deal of information is laid out
20 in the CRISI application and will be part of any
21 agreement, what's so secret about the settlement
22 agreement. I'm not pressing you to reveal anything

1 else that's in it, but I can't figure for the life
2 of me what any of these parties have as an interest
3 in keeping any of the other terms secret.

4 Who is paying what is all in the CRISI
5 grant, that's usually a matter of some concern.
6 People don't want to know what they're paying, I
7 respect that. But we know that.

8 So why is the rest of this confidential?
9 Does anybody want to address that? Without telling
10 us what's in it, what is the concern?

11 MR. WARREN: Without telling you what's in
12 it, I can say, Mr. Chairman, there are a number of
13 provisions of the settlement agreement that go
14 beyond what is in the public CRISI grant, which is
15 now public on the FRA's FOIA Web site and available.

16 We've gone -- we've worked closely
17 together and gone as far as we can, but we would ask
18 the Board not to inquire into -- further into the
19 terms of the settlement agreement and, you know,
20 just adhere to your usual practice and the practice
21 in most federal courts that settlement agreements
22 are going to be respected and confidential.

1 CHAIRMAN OBERMAN: I appreciate that, and
2 I'm not pressing it.

3 I just would note that there are at least
4 four parties to this agreement, two of which are
5 public bodies and spend public money, and there's a
6 fifth party, the City of Mobile, which is not a
7 party and the Southern Rail Commission, I guess,
8 which is not a party. But all spend public moneys.

9 And I think the public has some right to
10 transparency in this transaction that involves
11 millions and millions of dollars of public funds.

12 So I would encourage at some point in this
13 process that the parties make as much as they
14 possibly can transparent. I'm not going to ask the
15 Board to order it or delve into it, but I think
16 it's -- there is an overuse of confidentiality
17 generally, in my view, when we're involving public
18 bodies. This is not just a private business
19 transaction.

20 Let me get back to Amtrak and the City of
21 Mobile. I have to say, Jesse, that I noted in the
22 status report that Amtrak -- well, Amtrak said that

1 it is giving this matter its highest priority, the
2 matter is receiving the "highest levels" of
3 attention from each party.

4 As Ray pointed out, this started two years
5 ago in its formal process. I'm wondering how slow
6 this would be if you weren't giving it your highest
7 priority.

8 First of all, the design of the station
9 track, this is not a mystery, this has been on the
10 proposal for years. Why are we still waiting for
11 design to be completed on a station track, and when
12 is the construction going to start on that track and
13 when will it be finished?

14 I mean, you're talking about running
15 trains in 2024. You going to finish that track this
16 year?

17 MS. AMUNSON: Mr. Chair, as we both
18 reported, Amtrak and CSX have signed a design and
19 construction agreement for the construction of the
20 Mobile station track. CSX is responsible for that
21 construction, and I'm happy to have Mr. Atkins
22 report further on the proceedings with respect to

1 the construction.

2 CHAIRMAN OBERMAN: But when did you start
3 working on the design? You know, you settled the
4 case 15 months ago, and it involved this track.

5 MR. ATKINS: So, Chairman, so we started
6 right away working together, almost as soon as we
7 inked it in anticipation of the CRISI grant being
8 awarded. We were optimistic.

9 But you need to understand, like the
10 design of it has to go through FRA. So it's part of
11 their NEPA process, it is being funded by FRA, so
12 there's steps that have to be taken.

13 So the 30 percent design is one threshold.
14 Once you get to 30 percent design, you submit it to
15 FRA, FRA is reviewing it. We couldn't proceed past
16 30 percent design until two weeks ago.

17 So I appreciate that everyone wants to
18 move it forward as quickly as possible, and I really
19 feel like we've been moving it expeditiously from
20 pretty much the moment that we all signed the
21 settlement agreement. I mean, the first effort was
22 getting the CRISI grant in, that was a huge

1 undertaking on our part to do that in the span of
2 like three weeks.

3 Then once that happened, we put in place
4 agreements to govern the actual design and
5 construction of it.

6 But -- so in terms of like the speed of
7 it, there are certain requirements that we were told
8 to adhere to from FRA.

9 I don't want to point blame at FRA. They
10 have been working super fast as well. I really feel
11 like everyone has been working quickly and
12 expeditiously. At the moment we're proceeding to
13 the 60 percent design of it, which I don't
14 anticipate is going to take a great deal of time,
15 and then we'll be sharing that with FRA.

16 Once the funding agreement is executed,
17 then the construction of the project will begin.

18 CHAIRMAN OBERMAN: How long will it take
19 to build the track?

20 MR. ATKINS: So I'm hesitant to give --

21 CHAIRMAN OBERMAN: Ballpark.

22 MR. ATKINS: I'd say a year, less. The

1 key question is NEPA.

2 So there is work that's being done by --

3 CHAIRMAN OBERMAN: We live with NEPA too.

4 MR. ATKINS: But it also affects the
5 timetable. So you appreciate like we need to
6 understand the parameters of what is required of the
7 parties.

8 But I think the thought is if we get a
9 green light, that it would be a year, 12 months.

10 CHAIRMAN OBERMAN: So the trains are not
11 going to run in 2024?

12 MR. ATKINS: We're pre-putting in place
13 equipment and the like. I just -- you're asking me
14 for -- I'm going to give a conservative estimate
15 because if I tell you something quicker and we don't
16 meet it, people will be pointing fingers.

17 But I can tell you, CSX, it's a top
18 priority to get to done as soon as the funding
19 agreement is executed.

20 CHAIRMAN OBERMAN: I'm appreciative of
21 that, and an conservative estimate is wise. I would
22 like a conservative estimate, but it seems at best

1 we're looking at 2025.

2 MR. ATKINS: Let me just clarify. We have
3 schedules that the parties share with us each other
4 all the time and Jesse just shared with me, I'm sure
5 this is right, that currently if everything goes
6 according to plan October is the scheduled
7 completion of the station track.

8 CHAIRMAN OBERMAN: But that assumes
9 beginning construction when? You can't do that
10 until --

11 MR. ATKINS: It has timetables for all of
12 the expected milestones, which includes the FRA
13 approvals and the like.

14 CHAIRMAN OBERMAN: So less than 12 months?

15 MR. ATKINS: I know I've seen that
16 document and I know they have been sharing on almost
17 a weekly basis or biweekly basis updated schedules
18 between the two parties trying to promote the
19 construction of the project.

20 BOARD MEMBER HEDLUND: Thank you.

21 Just a point of clarification. The costs
22 of the Mobile track and the station are not being

1 paid through the CRISI grant; is that correct?

2 MR. ATKINS: That's correct. It's a
3 separate --

4 BOARD MEMBER HEDLUND: So you made some
5 reference to the grant, but that doesn't impact the
6 design, construction and moving forward with the
7 station?

8 MR. ATKINS: That's right. Jesse can
9 answer that question. There's a separate funding
10 source for the Mobile station which also requires us
11 to go through this -- to work with FRA. But it's
12 not the CRISI grant, that's correct.

13 BOARD MEMBER HEDLUND: It's not the CRISI
14 grant. Is it another grant that's subject to the
15 agreement?

16 MS. AMUNSON: Member Hedlund, if I may,
17 Amtrak is funding that separately through Amtrak's
18 own national network grants.

19 However, construction -- the actual
20 construction of the track is tied to the execution
21 of the funding agreement, even though it's being
22 funded separately, the actual construction as agreed

1 among the parties cannot start until the CRISI
2 funding agreement is fully executed.

3 BOARD MEMBER HEDLUND: Okay. So you can
4 do all of the engineering, you just can't start the
5 civil works until the funding agreement, which is
6 not funding the station, but that's part of your
7 agreement?

8 MS. AMUNSON: That's correct.

9 BOARD MEMBER HEDLUND: Okay. Thank you.
10 I was confused about that.

11 CHAIRMAN OBERMAN: Thank you, Karen.
12 That's helpful to have clarified that.

13 Does that construction of the station
14 through the other funds also require a NEPA review?

15 MS. AMUNSON: Yes, there is NEPA review
16 undergoing for both the platform and the layover
17 track.

18 CHAIRMAN OBERMAN: So according to media
19 reports, I guess it was alluded to in the status
20 report, you're still negotiating with the City of
21 Mobile over the terms of the station; is that right?

22 MS. AMUNSON: As we reported to the Board,

1 we need to reach agreement with Mobile on some of
2 the property that is necessary for the layover
3 track, that's correct.

4 CHAIRMAN OBERMAN: For the track or for
5 the station?

6 MS. AMUNSON: We are negotiating with
7 Mobile on the track and the platform.

8 CHAIRMAN OBERMAN: So if you don't have a
9 deal yet with Mobile, how are you doing a NEPA
10 review if you don't even know where the station is
11 going to be?

12 MS. AMUNSON: There is a review underway
13 for a temporary platform in Mobile.

14 CHAIRMAN OBERMAN: Do you have agreement
15 with Mobile for a temporary platform?

16 MS. AMUNSON: As the mayor reported, we
17 are engaged in forward-moving negotiations on a
18 regular basis.

19 CHAIRMAN OBERMAN: Let me ask you this
20 question. There's two issues involving the City of
21 Mobile, one of which the status report is completely
22 silent on. And I have to say since it's been widely

1 reported in the media, and I'm speaking for myself
2 now -- other Board members can speak for
3 themselves -- I found the status report in this
4 regard to be significantly misleading in the fact
5 that it fails to mention in any way an ongoing,
6 unresolved matter according to media reports with
7 the City of Mobile over the operating subsidy.

8 The concept isn't even mentioned, and yet
9 in the status report -- and I don't know who wrote
10 it, I assume it was a joint project -- it says we
11 have no further information to offer.

12 As I said at the outset, we have a case
13 that's pending. We understand the limits of that
14 case. Your negotiations with the City of Mobile
15 were not in that case. But the case is about
16 whether the trains are going to run, that's why
17 we're here, that's why the Board devoted the effort
18 to it.

19 And I think the public, if we're going to
20 have a report on where this stands, should have a
21 full report on what's holding things up.

22 According to Alabama media, you all have

1 it I'm sure, in September of last year when the
2 CRISI grant was approved, September 26, there was a
3 report about the need stated by the City of Mobile
4 to resolve the focus on the lease agreement for the
5 station or the temporary platform, apparently both,
6 it doesn't specify, and the operating agreement.
7 That was in September.

8 Now we're in the middle of February.
9 Amtrak has known for years that it needed to work
10 out an operating agreement. The same report noted
11 that in 2020, the Mobile city council had approved a
12 \$3 million operating support agreement for Amtrak
13 before you even brought this case.

14 So let's explore these one at a time.
15 When did you start negotiating the lease with the
16 City of Mobile?

17 MR. AMUNSON: Mr. Chair, we started
18 negotiating the lease very quickly after the
19 parties' settlement was reached, but I don't think
20 it's appropriate to go into all of the back and
21 forth with the City of Mobile.

22 CHAIRMAN OBERMAN: I'm not asking you

1 about the back and forth. I'm asking you when you
2 started. You started in November of 2022?

3 MS. AMUNSON: Probably not exactly
4 November because of course all the parties were then
5 working on submitting the CRISI grant application.
6 But shortly thereafter.

7 CHAIRMAN OBERMAN: So you start
8 negotiations, let's say, the first of the year 2023.
9 At the end of September, the City of Mobile is
10 saying we still need to figure out a lease.

11 Now it's the middle of February, so it's
12 at least 13 months or 14 months after you started
13 negotiating a lease. I've negotiated leases. I've
14 been in a city council which has negotiated leases.
15 I've been at a commuter railroad which has
16 negotiated leases. Karen has probably negotiated as
17 many leases as anybody in this room.

18 It doesn't take 14 months to negotiate a
19 lease if you really want to reach an agreement.
20 What is going on?

21 MS. AMUNSON: Mr. Chair, as I said, I
22 don't think it's appropriate for me to go into the

1 back and forth between Amtrak and Mobile in this
2 public forum. But as the mayor reported, we are
3 engaged in ongoing, forward-moving negotiations with
4 respect to the lease and other issues.

5 CHAIRMAN OBERMAN: Well, it's very
6 frustrating for me sitting up here to get a report
7 that says we're ongoing, we've been ongoing for 14
8 months, and we may or may not have an answer by May
9 1, which is another two months from now, 2-1/2
10 months, and we'll give you another report then.

11 You can't start running the trains, I
12 assume, until you have an agreement with Mobile
13 where the people are going to step off the train
14 onto a platform.

15 So how are we supposed to take -- why
16 should the public feel any assurance that you're
17 ever going to reach an agreement with Mobile? I
18 mean, it's extraordinarily frustrating. We're
19 talking about a piece of concrete for people to step
20 on. It's not that hard if you really want to reach
21 an agreement.

22 Quite frankly, I'm quite skeptical of it,

1 and I think you owe the public a little more of an
2 explanation.

3 MS. AMUNSON: Mr. Chair, I can just assure
4 you that Amtrak is committed to working with all
5 parties, including the City of Mobile, to ensure
6 that service can start in 2024. Amtrak is giving
7 this a very high priority, and Amtrak is committed,
8 as the mayor of Mobile reported to you, to
9 continuing to engage in forward-moving negotiations
10 with the city.

11 CHAIRMAN OBERMAN: Well, I would say
12 again, a high priority has resulted in 14 months.
13 I'm glad it's not a low priority.

14 What about the operating agreement? Do
15 you have an operating agreement with the City of
16 Mobile, subsidy agreement?

17 MS. AMUNSON: Mr. Chair, with respect to
18 operating costs and an operating agreement, those
19 negotiations are also ongoing. You noted that we
20 did not report on operating costs and operating
21 agreements in the status report. That is because
22 the status report asked the parties to report on

1 implementation of the settlement terms.

2 The issues regarding operating costs and
3 operating support do not implicate the parties
4 before the Board or the proceeding before the Board.
5 In fact, you may recall that when we had the virtual
6 public hearing almost two years ago to the day,
7 Member Hedlund made exactly that observation in
8 response to the testimony from one of the
9 participants.

10 So that said, Amtrak is continuing to work
11 with the Southern Rail Commission and with its state
12 and local partners to address issues of operating
13 costs and operating support.

14 CHAIRMAN OBERMAN: Well, the Southern Rail
15 Commission sent us a letter on this point and
16 said -- Mr. Knox says, it is noted that the matter
17 of operating costs remains unaddressed within the
18 submission, referring to the February 1 status
19 report.

20 As such, the SRC is respectfully
21 requesting further inquiry into outstanding support
22 needs that would be required to ensure successful

1 restoration of Gulf Coast services.

2 So you say you're working with the SRC.
3 They have asked us to bring it up at this hearing.
4 That's one of the reasons I brought it up. As did
5 Senator Britt, who specifically mentions in her
6 letter of February 9, while the CRISI grant funding
7 will be -- I'm reading, will be impactful to
8 realizing the return of service, I appreciate the
9 consideration of ongoing -- by us, that's who she is
10 writing to, ongoing costs associated with starting
11 the service that are outside the scope of the grant.

12 So I think whether you reach operating
13 cost agreements is certainly something that we need
14 to explore.

15 Let me ask this question, Jesse. If you
16 never reach an operating cost agreement with the
17 City of Mobile, are you going to run the trains,
18 assuming you get the station lease resolved?

19 MS. AMUNSON: Amtrak is committed to
20 running the trains in 2024. We brought this
21 proceeding, Mr. Chair, because there was no
22 agreement among the parties. We now have an

1 agreement among the parties. We are working with
2 these parties on implementing that agreement, and we
3 are working with parties that are not before the
4 Board and not involved at all in the actual legal
5 issues that are before the Board on working together
6 to ensure that the trains can run and that we have
7 operating support and are addressing all of the
8 operating costs.

9 CHAIRMAN OBERMAN: Will you not run the
10 trains until you resolve the operating cost
11 agreement with the City of Mobile?

12 MS. AMUNSON: I believe that under PRIIA
13 209 for a state-sponsored service, we need to have
14 operating agreements in place in order to run the
15 trains.

16 CHAIRMAN OBERMAN: Don't you have them
17 with the other states, Mississippi and Louisiana?

18 MS. AMUNSON: There are operating
19 agreements with, I believe, Louisiana in place and
20 Mississippi is still being negotiated.

21 CHAIRMAN OBERMAN: Is it not the case that
22 you can run the trains with those two states, even

1 if you don't have an agreement with Alabama or
2 Mobile?

3 MS. AMUNSON: Mr. Chair, as I said, we are
4 still working through all of these issues and I do
5 not have an answer for the Board on that today.

6 CHAIRMAN OBERMAN: Did you not have an
7 agreement with the City of Mobile back in 2020 when
8 the city council approved \$3 million? Was that just
9 a one-sided offer on their part, or was it pursuant
10 to an agreement with Amtrak?

11 MS. AMUNSON: The city in 2020 approved \$3
12 million as a match grant to a restoration and
13 enhancement grant that the Southern Rail Commission
14 received.

15 And yes, they did approve that in 2020 for
16 operating costs for the Gulf Coast service.

17 CHAIRMAN OBERMAN: And was that by
18 agreement with Amtrak?

19 MS. AMUNSON: That was through -- it was
20 match grants with the Southern Rail Commission.

21 CHAIRMAN OBERMAN: Did Amtrak agree to a
22 \$3 million operating subsidy with the City of Mobile

1 at that time?

2 MS. AMUNSON: There was no actual
3 operating agreement in place at the time.

4 CHAIRMAN OBERMAN: Was the amount --

5 MS. AMUNSON: Because the service had
6 obviously not yet been restored.

7 CHAIRMAN OBERMAN: Was the amount
8 acceptable that the City of Mobile appropriated at
9 that time?

10 MS. AMUNSON: At that time, the City of
11 Mobile and the states of Louisiana and Mississippi
12 each put up a one-third share against the
13 restoration and enhancement grant that was received
14 by the Southern Rail Commission and it fully matched
15 the Southern Rail Commission.

16 CHAIRMAN OBERMAN: I'm trying to find out,
17 Jesse, if Amtrak was on board with that amount at
18 that time and why it isn't still acceptable, what's
19 holding up the operating agreement. You had an
20 agreement, why don't you have one now? If you
21 didn't have an agreement in 2020, tell me.

22 MS. AMUNSON: Mr. Chair, the amount

1 was the amount that was needed for a one-third match
2 in 2020. The parties are continuing to work through
3 issues relating to operating costs and ongoing
4 operating support for the service.

5 CHAIRMAN OBERMAN: Are you telling me that
6 the amount is no longer acceptable, that what was
7 acceptable four years ago is no longer acceptable?

8 MS. AMUNSON: The parties are continuing
9 to work through issues related to operating costs,
10 which also implicate, of course, cost methodologies
11 that are set by the state Amtrak inner city
12 passenger rail committee.

13 CHAIRMAN OBERMAN: I'm having trouble
14 getting an answer to the question. Was there
15 something that was acceptable four years ago --
16 you're saying you're still working it through. My
17 inference is therefore you haven't got something
18 that's now acceptable, even though you had something
19 that was acceptable before. Is that a fair
20 statement?

21 MS. AMUNSON: The parties are working
22 through the issues of rising operating costs and how

1 to address them.

2 CHAIRMAN OBERMAN: You know, every time I
3 ask you, Jesse, you say you're working it through.
4 Working it through sounds to me like you don't have
5 an agreement today. Is that a fair statement?

6 MS. AMUNSON: There is no operating
7 agreement in place with the City of Mobile, that's
8 correct.

9 CHAIRMAN OBERMAN: Even though you didn't
10 have an operating agreement, apparently, in place in
11 2020, is what you say, my inference was you had --
12 you tell me if it's wrong, that's why I'm asking the
13 question, that you were at least in agreement on the
14 amount that would be provided by the City of Mobile
15 at the level of \$3 million, and that \$3 million is
16 no longer acceptable to Amtrak.

17 Can you answer that question?

18 MS. AMUNSON: Mr. Chair, I want to be
19 clear, Amtrak is not saying that the \$3 million is
20 not acceptable to Amtrak. The \$3 million is part of
21 ongoing negotiations with the City of Mobile that
22 are -- involve multiple issues.

1 So I also want to be clear, we did not
2 have an operating agreement in place with the City
3 of Mobile in 2020. As I said, the \$3 million that
4 the city council passed in 2020 was the one-third
5 match grant -- one-third match to the restoration
6 and enhancement grant received by the Southern Rail
7 Commission.

8 CHAIRMAN OBERMAN: The reason I keep
9 pressing on this, Jesse, is that the -- reports have
10 people in the City of Mobile saying they don't know
11 how much they are going to have to spend, and they
12 don't want to have an open-ended or a pig in a poke
13 agreement with Amtrak.

14 Do they know how much they have to spend
15 or do they not? Can you answer that question?

16 MS. AMUNSON: Amtrak met with the City of
17 Mobile down in Mobile in December and has reached
18 out to the City of Mobile for -- to address Mobile's
19 concerns with respect to operating agreements and
20 operating costs.

21 As the mayor reported, we are continuing
22 to meet and we hope to be able to address those

1 concerns.

2 CHAIRMAN OBERMAN: When you began
3 negotiating the lease around the end of 2022 or
4 early 2023, I gather, it's the best I can gather
5 from your statements, did you also begin negotiating
6 the operating agreement?

7 MS. AMUNSON: I don't know the answer to
8 that, Mr. Chair.

9 CHAIRMAN OBERMAN: Because I'm wondering
10 how long it takes to negotiate an operating
11 agreement, something that's been in discussion for
12 years and years. And you still don't have one.

13 Because as I sit up here, I'm waiting for
14 and I hope -- Karen is going to ask some questions
15 that will enlighten us on this, what's involved with
16 the CRISI agreement. That's not done. I'm waiting
17 for the NEPA review to be done, which doesn't sound
18 like it should be very challenging, building a track
19 along a right-of-way that's had tracks for years.

20 There's a lease agreement which has been
21 known to be needed for years, and an operating
22 agreement. None of those are done.

1 So it's very hard for me to sit up here
2 and say yeah, those trains will be running in
3 October, particularly when I get a report that says
4 we may be back on May 1 with another status report.

5 So it really leaves a lot to be desired, I
6 have to say, Jesse, in terms of bringing this case
7 to a conclusion. I've negotiated a lot of
8 settlements in my time, many more complicated than
9 this, and if people really want to make a deal, it
10 doesn't take 15 months to make a deal.

11 MS. AMUNSON: Mr. Chair, if I can just
12 address that for a moment. I certainly appreciate
13 the sentiment and just want to reiterate Amtrak's
14 strong commitment to working with both the parties
15 that are before the Board as well as parties that
16 are not before the Board and are not involved in the
17 legal issues before the Board and are instead
18 involved in issues related to lease agreements and
19 operating costs, et cetera.

20 Amtrak brought this whole proceeding
21 because Amtrak wants to restore Gulf Coast service.
22 That was why Amtrak brought this proceeding to the

1 Board. Amtrak is fully committed to doing that and
2 is working as expeditiously as possible to make that
3 happen.

4 CHAIRMAN OBERMAN: And the Board devoted
5 an enormous amount of effort, which is our statutory
6 obligation, so I'm not complaining about it, to
7 hearing the case, so that you could restore service.
8 And here we are 15 months later and I would say we
9 are on a wing and a prayer, except it's a railway,
10 as to when this is going to -- trains are going to
11 start running.

12 Karen?

13 BOARD MEMBER HEDLUND: Thank you.

14 Let me continue with a few questions about
15 the operating agreement. And thank you for
16 refreshing my recollection that I had actually asked
17 about it.

18 But just so everybody understands, the two
19 round trips from New Orleans to Mobile are what is
20 referred to as state-supported routes, they are
21 under 750 miles. And as state-supported routes by
22 federal law, they are required to be -- the

1 operating costs -- some allocable portion of the
2 operating costs are required to be paid for by the
3 state sponsors, state sponsors, okay.

4 So when you filed your application in
5 March of 2021, you represented that service could
6 commence by January 1, 2022. At the time you filed
7 the application, it sounds like you did not have an
8 agreement as to the payment of operating costs; is
9 that correct? When you filed the application, you
10 did not have an agreement as to operating costs?

11 MS. AMUNSON: At the time we filed the
12 application, there were operating costs already
13 obligated, both through the Southern Rail Commission
14 and then through the funds that the one-third
15 matches from Mobile, Mississippi and Louisiana.

16 However, you are correct that there were
17 not actual PRIIA 209 operating agreements in place.

18 BOARD MEMBER HEDLUND: Well, under current
19 law, 49 USC 24712(g), it requires that before
20 beginning construction or operation, you have to
21 have an MOU or an agreement with the states for
22 sharing ongoing operating and capital costs.

1 It says "Notwithstanding any other
2 provision of law, before beginning construction
3 necessary for or beginning operation of a
4 State-supported route that is initiated on or after
5 the date of enactment of the Passenger Rail
6 Expansion and Rail Safety Act of 2021" -- which I
7 think is part of the IIJA and was enacted in
8 November of 2021, is that correct, November of
9 2021 -- "Amtrak shall enter into a memorandum of
10 understanding or otherwise secure an agreement with
11 each State that would be providing funding for such
12 route for sharing ongoing operating and capital
13 costs," so forth.

14 I think what is of concern here is that
15 Amtrak initiated a proceeding with us that took 11
16 days of Board time to go through the hearing. We
17 were solely focused on the issue of capital costs.
18 We should have been focused on the operating costs.
19 Whether or not subsection G applies to this
20 transaction, I don't know what the word "initiated"
21 means.

22 If you bring another case like this, don't

1 bring it until you have an operating agreement in
2 place. That's a real concern here.

3 It's very disappointing to get to this
4 point where you have an agreement on capital costs,
5 the capital costs are funded, it's been six months
6 since FRA announced the CRISI grant.

7 When I was at FRA, you could get a
8 CRISI -- you could get the equivalent, we've
9 negotiated a lot of agreements under the recovery
10 act in less than six months with the states for
11 improvements of Amtrak service. They know how to
12 get this done. Terms and conditions are not new.
13 They're the biggest grantee of the federal
14 government.

15 It just shouldn't take that long to get an
16 agreement in place. There are standard terms and
17 conditions that they have negotiated numerous times.
18 This isn't like bringing in somebody that's never
19 seen a CRISI grant before.

20 And so I'm hopeful it's not going to take
21 another six months to get those in place. They know
22 what they're doing. They just sit down and they

1 should be able to hammer it out.

2 But again, I'm very disappointed that we
3 are here today not talking about really concerns
4 other than getting a final agreement executed about
5 the capital costs. We are delighted that that issue
6 has been put to bed, but we are now -- you
7 apparently are dealing with an issue that should
8 have been resolved before you filed your papers
9 here.

10 I have another general comment, and it
11 goes to the point I think the chairman was making
12 about, you know, why is this taking so long,
13 Amtrak's president Stephen Gardner recently said in
14 Baltimore, which I guess they broke ground for the
15 big project in Baltimore, he said Amtrak has
16 rebounded from the pandemic and is growing again, as
17 part of our plan to double ridership by 2040. With
18 funding from the infrastructure bill in hand, we and
19 our partners are transforming inner city passenger
20 rail across the country in a big way.

21 Amtrak has also put out its Connects US or
22 connects U.S. vision, 75-page report for new

1 services by 2040.

2 Its \$25 billion expansion plan proposes
3 service improvements to 25 existing routes, and the
4 addition of 39 entirely new routes. If the vision
5 were to be fully realized, it would bring passenger
6 rail to almost every major city in the U.S. in 15
7 years.

8 Right now, according to this report, only
9 27 of the top 50 metros are currently served.
10 Amtrak estimates this would add 20 million trips
11 annually, about double the number currently served
12 on state-supported routes or those less than 500
13 miles.

14 I am a big champion of Amtrak's vision. I
15 have been for years. It's one of the reasons I
16 wanted to be on this Board, was to see what I could
17 do to help further that vision.

18 But doing all this is going to require a
19 lot of effort in partnerships with the class 1s.
20 But those who are looking to Amtrak to bring new
21 service as outlined in its plans may find that the
22 progress you have made over the last couple of years

1 in this proceeding to be a little bit disheartening.

2 I'm a Chicagoan, a native, and
3 Mr. Chairman, you know that Chicagoans believe in
4 what Daniel Burnham, who designed Washington Union
5 Station here, said years ago. "Make no little plans
6 for they have no magic to stir men's blood and
7 probably themselves will not be realized. Make big
8 plans, aim high in hope and work, remembering that a
9 noble logical diagram once reported will never die,
10 but long after we are gone will be a living thing
11 asserting itself with ever-growing insistency." Not
12 many people know the full quote, but that's it.

13 That's what Daniel Burnham said, "make no
14 little plans." Amtrak is making no little plans,
15 but it has to figure out how to implement them.

16 That's all I have.

17 CHAIRMAN OBERMAN: Patrick?

18 BOARD MEMBER FUCHS: Thanks, Marty.

19 I just want to probe a little bit on the
20 status of environmental review.

21 Jesse, they're all categorical
22 conclusions, for the projects, or are there more

1 intensive environmental review procedures necessary?

2 MS. AMUNSON: It's my understanding with
3 respect to the Mobile NEPA review that's ongoing,
4 it's categorical exclusions.

5 BOARD MEMBER FUCHS: Okay. And is there
6 anything else that does not -- any other form of
7 environmental review that could hold up service that
8 doesn't involve a CATEX?

9 MS. AMUNSON: I'm not aware of any, but I
10 will admit I am not immersed in the details of NEPA
11 review.

12 BOARD MEMBER FUCHS: Was Amtrak
13 responsible for submitting the categorical exclusion
14 to FRA for review?

15 MS. AMUNSON: Yes.

16 BOARD MEMBER FUCHS: When did Amtrak first
17 do that?

18 MS. AMUNSON: I do not have that
19 information.

20 BOARD MEMBER FUCHS: Did Amtrak submit --
21 I would appreciate in a future status report if you
22 could provide that information.

1 Is any of that public in terms of the
2 environmental review process?

3 MS. AMUNSON: I'm not aware of that
4 either. I confess, I am not a NEPA lawyer, so --

5 BOARD MEMBER FUCHS: Okay. So for CSX,
6 you know, one of the things that stands out to me is
7 after Hurricane Katrina and the devastation that was
8 wrought, I think it was 40 miles of CSX track, six
9 bridges or something of that nature, you all
10 reconstructed the infrastructure in four months.
11 And I've seen freight railroads do incredible things
12 after catastrophes, Dry Canyon Bridge with UP comes
13 to mind as well.

14 If there weren't constraints on review,
15 and I'm not suggesting that there ought not to be,
16 how much time would CSX take to construct, say, the
17 station track?

18 MR. ATKINS: I'm not an expert on
19 construction either. I don't know how long it would
20 take them if the track were wiped out and it was
21 holding up the entire network, they devoted every
22 resource they had to it.

1 All I can tell you is we're working with
2 Amtrak to put in place a construction plan. We are
3 mindful, you know, there are cost components to
4 this, so we have cost constraints, we're going to be
5 sharing -- there's -- but I'm not a construction
6 guy, I can't tell you if it's two weeks, two months
7 or 12 months.

8 BOARD MEMBER FUCHS: And Jesse, I know
9 that you said that you can't get too detailed about
10 NEPA, but it does seem that the NEPA process is at
11 least slowing things down or at least you seem to
12 suggest that it was slowing things down with the 30
13 and 60 percent review.

14 So maybe just a little bit more detail.
15 Is it the section 106 component of overall
16 environmental review and it's that portion or
17 historic preservation law and not necessarily, you
18 know, traditional NEPA analysis that's slowing
19 things down, including the consultation process
20 under section 106?

21 MS. AMUNSON: It's my understanding that
22 both NEPA and Section 106 review are ongoing and

1 that Amtrak has made submissions to the FRA, the FRA
2 has granted Amtrak permission to proceed with
3 project design but has said that no groundbreaking
4 activity can take place until the NEPA review is
5 complete.

6 BOARD MEMBER FUCHS: Right. And that
7 tends to be typical. Typically Section 106 involves
8 a consultation process. Do you know what's going on
9 in terms of the status of consultation, who is being
10 consulted and what the time frame is for that?

11 MS. AMUNSON: I do not have that
12 information. I can obtain it and provide it if that
13 would be helpful.

14 BOARD MEMBER FUCHS: It would be. I mean,
15 typically grantees submit the environmental
16 documentation, and it's my understanding, and this
17 could be wrong, but, you know, this is through
18 public bodies, that Amtrak did not submit some of
19 the categorical exclusion documentation until last
20 month.

21 And then the categorical exclusion comes
22 with, oftentimes, even if you get a CATEX, which is

1 pretty much the fastest form of environmental
2 review, you have a Section 106 obligation, which
3 involves consultation. And perhaps Amtrak isn't
4 engaged in consultation, and the process for
5 consultation, you know, contingent on the CATEX, as
6 quickly as one might expect.

7 So in fact I'm not even sure it was last
8 month, it might have even been earlier this month,
9 that Amtrak didn't submit the environmental
10 documentation.

11 So if the primary holdup for the
12 construction side is environmental review, and
13 Amtrak is waiting several months to do its duty
14 under the environmental review processes, I do
15 wonder whether or not it's consistent with your
16 statement about the highest priority.

17 So, you know, in a future status report,
18 if you could detail specifically how Amtrak has been
19 fulfilling its environmental review obligations, or
20 what's necessary for environmental review, that
21 would be very helpful because I think it would shed
22 light on the delays here.

1 BOARD MEMBER PRIMUS: I really don't have
2 any questions. Just a statement saying that I think
3 judging by the tone this morning, everyone sort of
4 understands that -- I know most of us didn't want to
5 have this hearing, but at the same time there's
6 still a lot of questions that remain.

7 I join my fellow members, especially Karen
8 before, saying that very strongly supportive of
9 passenger rail but very disappointed in sort of a
10 timeline. Sort of reminds me of an old Supreme
11 Court decision where they said -- announced a
12 decision with all deliberate speed, and, you know,
13 we all know what that meant.

14 And I just don't want to see that happen
15 here. We all want to see -- on this Board would
16 like to see service up and running. Again, I
17 respect the right of negotiation and what you're
18 doing now. I think -- I'm hopeful that what is
19 happening behind the scenes, behind closed doors,
20 actually is progress to bring us closer.

21 But I also have to say that again I join
22 in saying is this too long, and what is the

1 stumbling block. And if there is a stumbling block,
2 I think we should know about it, and maybe we can
3 try to help resolve it, if there is something out
4 there.

5 Something tells me there is. Again, it
6 may be confidential, it may not be something that's
7 shared today, but there is something out there.

8 Again, I have heard from people here this
9 morning, we're going to start in 2024. And I've
10 underlined that, because we've got -- you know,
11 we're just into this year, but if we go down towards
12 the end of this year and we're not there, and trains
13 aren't running, I would hate to have to call all of
14 you back in, other representatives back, and ask
15 that question, why not.

16 And I think we deserve to do that. Even
17 if you say you're still negotiating, we deserve to
18 do that. I think we need to get to the bottom of
19 it. I think it's -- we're past due for getting it
20 done. I applaud everybody here for negotiating, for
21 coming to an agreement. But now it's time to stop
22 shaking hands and start moving trains.

1 CHAIRMAN OBERMAN: Thanks, Robert.

2 Michelle?

3 BOARD MEMBER SCHULTZ: I would just echo
4 the comments that my colleagues have made, that the
5 Board has dedicated 11 days and now 12 to this
6 matter. And, you know, I appreciate that you've all
7 indicated that you're working expeditiously towards
8 a settlement, and I would just continue to encourage
9 you to do so, because it is a significant amount of
10 Board resources that have been dedicated to this
11 matter, and we're hopeful that we can reach a
12 conclusion.

13 CHAIRMAN OBERMAN: Let me see if we can
14 bring this to a close.

15 A couple of questions. How long -- you
16 say in your status report you expect the CRISI grant
17 agreements to be done soon, but there's no
18 estimation of time.

19 Given the fact that we're not reinventing
20 the wheel here in resolving CRISI grant agreements
21 with FRA, as Karen pointed out, what is a realistic
22 time frame when you're going to have these

1 agreements done?

2 And I guess it's the SRC that's going to
3 be the receptacle of the grants; correct?

4 MS. AMUNSON: No, Amtrak is the recipient
5 of the CRISI grants.

6 And Amtrak and the FRA are working very
7 closely together on the -- as I mentioned, Amtrak
8 just received the terms and conditions from the FRA
9 in December 2023. We're working through those
10 quickly.

11 The date that we chose for our future
12 status report is with the hope that we can tell the
13 Board by then that we have executed the funding
14 agreement and are ready to dismiss the proceedings.

15 CHAIRMAN OBERMAN: So you're telling me it
16 takes from December to May to finish a CRISI
17 agreement?

18 MS. AMUNSON: Mr. Chair, as I understand
19 it, this is not at all uncommon. This is a \$178
20 million CRISI grant that involves multiple projects
21 and multiple stakeholders. And Amtrak and the FRA
22 are working through it as quickly as possible.

1 As you are well aware, the FRA is also
2 administering lots of other grant agreements as
3 well, and so the FRA is giving this an extremely
4 high priority. The administrator has convened the
5 principals of all of these parties to reiterate that
6 this is a high priority. So we hope to be able to
7 complete by --

8 CHAIRMAN OBERMAN: That is 60 days ago.
9 Patrick?

10 BOARD MEMBER FUCHS: No, I just think
11 there's a little bit of a one-two step going on.
12 FRA is giving a high priority but they just convened
13 a meeting in December. It's sort of this
14 implication that FRA is the holdup.

15 And Jesse, if you don't have information
16 on when you gave FRA your environmental
17 documentation, I would ask that you refrain from
18 that, because -- and you just suggested FRA has a
19 lot of grants.

20 So either say you think FRA is the delay
21 or come prepared with what you submitted to FRA and
22 when. But the whole implication, FRA is high

1 priority but then not until this. I just think it's
2 sort of insulting to the agency that's giving you an
3 awful lot of money.

4 MS. AMUNSON: Member Fuchs, by no means do
5 I mean to imply that FRA is the holdup. With
6 respect to the environmental documentation that
7 you're referring to, that is not part of the CRISI
8 grant process. That is with respect to the Mobile
9 station track project that is being funded outside
10 of the CRISI grant process.

11 Amtrak and the FRA are working very
12 diligently and cooperatively together to get this
13 funding agreement signed. The funding agreement
14 also requires consent from all of these parties
15 before you before it can be fully executed. And we
16 are working diligently, cooperatively and giving it
17 an extremely high priority.

18 Obviously, Amtrak wants these funds so
19 that it can get this service started. That's the
20 whole reason Amtrak brought this proceeding.

21 CHAIRMAN OBERMAN: I've looked at the
22 projects that were apparently encompassed in the

1 settlement agreement because they're part of the
2 CRISI grant application and the items that were
3 approved. It seems to me we at least know that
4 aspect of the settlement agreement; is that right?

5 Ray, you're nodding your head.

6 So we know which projects were agreed on,
7 Rob, you indicated the same.

8 Remembering, without getting into it, the
9 elaborate discussion of this line, both the CSX and
10 NS parts in the yards, and the needs and
11 shortcomings of the line, as I read the projects
12 that got funded, everybody is going to benefit, not
13 just Amtrak being able to run the trains, there's
14 going to be a lot more needed infrastructure, longer
15 sidings in particular, and both railroads are
16 running the long trains, they need to have sidings
17 to move into.

18 The port, as far as I can tell, its
19 fluidity, is going to be improved by these, or at
20 least protected by these products, which I assume is
21 why you agreed.

22 So everybody sitting at this table has a

1 stake at moving this fast. You're all going to
2 benefit, to a large extent, the taxpayer's largesse.
3 Which is good. Let's do it.

4 Rob, you have a singular role here because
5 you seem to -- your client seems to be the one
6 that's trying to move the city and Amtrak together.
7 That's what the report says. The status report says
8 that you're trying to facilitate the -- resolving
9 all of these discussions.

10 So I heartily encourage the port to keep
11 at it and move this ahead.

12 I -- personally, I would like to suggest
13 to the Board that we not wait until May 1 to find
14 out what's going on here. We don't know how long
15 the NEPA review is going to take. We don't know
16 where the progress is at this point of the CRISI
17 grant agreements.

18 I'm going to suggest that we get a status
19 report in 30 days, and answer the questions you
20 couldn't answer today about the details of the
21 timing of what needs to be done, and even though
22 they're not a party to this case, I haven't gotten a

1 clear answer, but I think the answer is you're not
2 going to run the trains until you and the City of
3 Mobile have resolved your agreements, both on the
4 station and the operating costs.

5 And since this case is about running
6 trains, we would like to know where it stands.

7 So I'm going to recommend that you give us
8 a report 30 days from now as to the current status,
9 answering the specific concerns that have been
10 raised here by the Board this morning, and with a
11 more precise estimate of what the trains are going
12 to run, and a construction estimate, Ray, as to,
13 once you get the go-ahead -- we understand you can't
14 put a spade in the ground until you get the
15 go-ahead, but from that point forward, what will
16 be -- what the time frame is expected to be.

17 So unless I hear any objections from the
18 Board members, the order will be that you give us a
19 detailed status report on the issues that have come
20 up here today in 30 days. We will issue a written
21 order saying that, yes. But the 30 days starts
22 today, so don't wait for our order.

1 So make some progress, you know. There's
2 a lot of people in this room who have done a lot of
3 fast legal work when it needs to be done. It can be
4 done. Get it done.

5 If there's nothing else, we will adjourn.
6 Thank you all for coming. Appreciate it.

7 (Whereupon, at 12:28 p.m., the hearing was
8 concluded.)

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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, CARMEN SMITH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

CARMEN SMITH

Notary Public in and for the
District of Columbia

My Commission Expires: MARCH 31, 2028

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