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September 14, 2015

The Honorable John Thune
Chairman, Committee on Commerce, Science, and Transportation
United States Senate
Washington, DC 20510-5125

Subject: Positive Train Control Statutory Deadline

Dear Senator Thune:

I am writing today in response to your September 4, 2015 letter requesting information regarding the potential effects on passenger rail transportation if Congress fails to modify the statutory deadline of December 31, 2015 to implement Positive Train Control (PTC).

North County Transit District (NCTD) has operational and maintenance responsibility over the 60 directional miles that make up the San Diego Rail Subdivision. NCTD operates the COASTER commuter rail service between Oceanside, CA and San Diego, CA. NCTD also hosts three additional rail operators on the San Diego Subdivision to include; Amtrak, the Southern California Regional Rail Authority (SCRRA), and BNSF. The San Diego Subdivision is a critical part of the regional and national transportation network and supports economic growth and prosperity.

Consider this line hosts:

- the Pacific Surfliner, the 2nd most successful line within Amtrak's national network,
- BNSF, one of the largest freight operators in the nation, and
- the 8th and 16th largest (in terms of passenger trips) commuter rail operators in the nation, SCRRA and NCTD respectively.

NCTD's Commitment to Safety

Safety is the top priority of NCTD and it strongly supports the implementation of PTC technology. In 2008, when Congress mandated the implementation PTC technology by December 31, 2015, it did not provide funding for the technology. Despite this constraint, the NCTD Board of Directors actively directed staff to identify funding to support the implementation of the safety technology. NCTD was successful in securing \$87.3 million to fund PTC implementation. For context, NCTD's annual funding goal for its capital improvement program is \$15 million, so this investment represented an early and significant commitment to implementing PTC.

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NCTD has been working diligently to meet the mandate. To date, NCTD has installed PTC equipment on all locomotives and cab cars, leased the 220 MHz spectrum, complied with the FCC process for tower construction, and installed all necessary Wayside Interface Units and the back office servers. All fiber in the San Diego Subdivision is constructed and operational. NCTD anticipates that it will be operating Revenue Service Demonstration on COASTER trains by mid-2016.

NCTD has already implemented a number of other important technologies to enhance safety, such as Automatic Train Stop (ATS) technology and in-cab audio/video technology. NCTD's train operations already include ATS technology, which alerts the engineer of the rail signal status and will automatically slow or bring the train to a stop if the engineer does not act. This critical safety system has been in place in NCTD trains since NCTD purchased the railroad in 1994.

NCTD has also deployed in-cab audio/video technology, which provides similar functionality and benefits as a "black box" in an airplane. NCTD has significantly enhanced in-cab audio/video technology with "wireless mesh" technology, allowing remote access in COASTER trains and emergency communications with each of NCTD's rail passenger cars. In the upcoming weeks, as a result of the installation of wireless mesh technology, NCTD will operationally implement a new requirement for contractor personnel within the rail operations center to observe the "live" operating conditions inside and outside of the train as if they were inside either the cab or locomotive with the engineer.

Current PTC Mandate Timeline

NCTD's understanding is that the current PTC mandate requires both the implementation and formal certification by the Federal Railroad Administration (FRA) by December 31, 2015.

It is important to recognize that at the time of the passage of the law that required PTC in 2008, there were no standards that governed the specific requirements for implementation. FRA published the final rule addressing PTC requirements on January 15, 2010, primarily consisting of Title 49 Code of Federal Regulations Part 236, Subpart I. Subsequently, FRA published final rule amendments on September 27, 2010 and on May 14, 2012. Within the 2010 through 2015 timeframe, rail operators have been expected to fully implement and complete the formal certification of PTC by FRA under the assumption that it will take FRA from six months to a full year to complete that required certification.

There is no commercial off the shelf solution for PTC. Each PTC project will require significant design and development to ensure interoperability between trains and to meet the unique operational requirements that exist in the national rail network. NCTD agrees that time is of the essence in implementing this technology. However, the current mandated timeline does not reflect the realities of implementing essentially a "research and development" project on a nationwide basis.

Echoing the sentiments in recent weeks of many passenger and freight operators across the country, NCTD is facing dire economic and operational challenges if Congress does not extend the statutory deadline.

- The first consideration is whether NCTD's insurance will be valid after December 31, 2015 when NCTD is not in compliance with the law because PTC is not implemented and certified on the San Diego Subdivision.
- The second consideration is that without the host railroad having PTC implemented on the corridor, tenant railroads will not legally be allowed to operate on the NCTD corridor.
- The third consideration is the potential fines that FRA could assess to NCTD.

Invalidation of NCTD's Insurance Policy

NCTD's COASTER commuter rail service provides over 1.7 million passenger trips annually, between stops in the City of San Diego at Santa Fe Depot, Old Town, Sorrento Valley, Solana Beach, Encinitas, Carlsbad Poinsettia, Carlsbad Village, and Oceanside, California.

Without having PTC implemented and certified by December 31, 2015, NCTD will be at risk that its current \$200 million insurance policy will be invalidated and/or withdrawn by the insurance carriers if NCTD continued to operate COASTER service. As a result, NCTD's Board of Directors would be requested to support discontinuing all operations until such time Congress has acted and/or NCTD was in full compliance with the existing law.

If COASTER operations were discontinued, the region would experience increased automobile trips on the already congested I-5 corridor. Complicating the situation is that major construction work (the North Coast Corridor project) is planned for the I-5 corridor with construction starting in 2016. Projects will be ongoing in Sorrento Valley through to Oceanside, through the year 2020. At a time when increased train passenger ridership could be realized during the disruption to the I-5 corridor traffic, passenger service could be discontinued.

Tenant Railroads

Amtrak runs its Pacific Surfliner service from Los Angeles to San Diego. The service carries over 2.7 million passengers and is Amtrak's third-busiest service, being the busiest outside the Northeast Corridor. Without having PTC implemented on the San Diego subdivision, as of December 31, 2015, Amtrak will no longer be able to offer service through to San Diego, California, and will have to terminate its service on the Orange County Subdivision.

As a tenant, SCRRA will no longer be able to offer service to Oceanside, California, without NCTD having PTC implemented on its corridor. Conceivably, SCRRA will have to end its service on the SCRRA Orange County Subdivision.

BNSF Railway and its contracted carrier, Pacific Sun Railroad, run approximately six freight trains per day on the NCTD San Diego subdivision to its terminal in San Diego, California, and customers within San Diego County. Shipments to and from the Port of San Diego, Mexico, and local customers will be interrupted. The local economy would be significantly impacted by the loss of freight service and it is likely that there will be increased truck traffic on the congested I-5 corridor to support the movement of goods.

FRA Fines

NCTD's annual operating budget for COASTER rail totals \$15,900,000. Based on the guidelines set forth in 49 C.F.R. part 236 appendix A, NCTD estimates that the fines for 30 days of operation without PTC under the current December 31, 2015 mandate would total \$45,200,000. NCTD, like most taxpayer funded agencies, cannot afford significant fines of this nature.

Conclusion

Like most passenger and freight rail operators across the country, NCTD is faced with tough policy and operational considerations that will have severe economic impacts on our region if the deadline for implementing PTC is not extended. Our Board of Directors will have to weigh the options of canceling all rail service on the San Diego Subdivision or violating a federal law in spite of the fact that NCTD has been tireless in its efforts to meet this important safety mandate.

NCTD agrees with Congress that it is imperative to implement this critical safety infrastructure. We urge congress to modify the deadline to give NCTD, and other passenger and freight rail operators, the time to complete the project while maintaining operations in our region.

Sincerely,



Matthew O. Tucker
NCTD Executive Director

cc: The Honorable Barbara Boxer
The Honorable Feinstein
The Honorable Darrell Issa
The Honorable Scott Peters
The Honorable Duncan Hunter
The Honorable Susan Davis
The Honorable Juan Vargas
The Honorable Anthony Foxx, United States Secretary of Transportation
The Honorable Sarah Feinberg, Acting Administrator, Federal Railroad Administration
NCTD Board of Directors
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