

Norfolk Southern CEO stonewalls on safety in second US Senate hearing on East Palestine, Ohio derailment

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24 March 2023

Do you work at Norfolk Southern or another Class I railway? Do you live in East Palestine or a neighboring community? Tell us what you know about the Norfolk Southern disaster by filling out the form at the bottom of this article. All submissions will be kept anonymous.

In his second appearance in as many weeks before a Senate committee, Norfolk Southern CEO Alan Shaw declared that the railroad would not take any meaningful steps that might interfere with the company's profits to prevent further disasters like the February 3 derailment and toxic chemical spill in East Palestine, Ohio.

During his testimony Wednesday before the Senate Commerce Committee, Shaw refused to commit the railroad to maintaining a two-person crew on trains, refused to explain why they had not stopped the train after receiving two temperature alarms from wayside hot bearing detectors and refuse to commit the railroad to even a 30 second inspection of railcars before they left the yard.

Furthermore, Shaw categorically rejected a request that the company stop their \$7.5 billion stock buyback plan until the people of East Palestine and the surrounding area were made whole. He also sidestepped taking personal responsibility for the accident, which even he described as preventable.

But both Democratic and Republican senators on the committee made clear that they had no intention of developing meaningful safety regulations if they cut across the industry's profit margins.

Maria Cantwell, Democrat from Washington, chairs the committee, and Ted Cruz, Republican senator from Texas, is the ranking Republican. Cantwell unintentionally exposed the theatrics of the hearings when she said in her opening remarks that she had introduced measures in 2015, which were never passed, that were

similar to a current bill set aside after the East Palestine derailment.

While even these fig-leaf reforms have foundered in Congress for nearly a decade, both parties came together immediately last December to pass a law banning strike action by 120,000 railroaders and imposing a contract workers rejected. In other words, in spite of occasional grandstanding at hearings such as the one held Wednesday, the overriding priority of both parties is maintaining the profits of the railroads and corporate America as a whole.

In his opening remarks, Cruz made clear that the committee was not going to push legislation that unduly burdened the railroads and cut across the railroads' profits. He stated that he agreed with "Senators [Sherrod] Brown and [JD] Vance," who co-sponsored a bill with limited safety regulations, "that railroad safety should be on our agenda," but, he went on, "without at the same time damaging our supply chain or imposing unreasonable costs" on the railroads.

Cruz also made clear that he rejected the notion that requiring electronic braking systems on trains would improve safety on the railroads.

This appears to be a touchy point for the railroad industry, because several senators took this up in the hearing. National Transportation Safety Board (NTSB) Chair Jennifer Homendy repeated the obvious fact that advanced brakes would not prevent a railcar with a broken axle from derailing, as occurred in East Palestine. But she did point out that the more advanced braking systems would have prevented at least some of the other cars from going off the tracks.

While this attack on electronic braking systems was led by the Republican members of the committee, none of the Democratic senators asked follow-up questions to allow

Homendy to explain the advantages of electronic brakes, how and why they make trains safer. The railroad industry has spent millions lobbying Congress not to have the more advanced braking systems mandatory on trains. It was clear at the hearing that all the senators had gotten the message.

The Committee only heard from one East Palestine resident, Misti Allison, who was given three minutes to speak about the disaster and another minute to answer a question. The committee never asked her to read from any of the more than 50 testimonials from other residents that she had brought with her.

Despite this limitation she gave damning testimony of the continuing health impact of the disaster on the community, the reckless disregard for safety by Norfolk Southern both in the disaster and the cleanup and the dehumanizing treatment that residents in the area face when seeking what little assistance has been offered.

The town feels “like Norfolk Southern is offering breadcrumbs,” she said. She pointed out that her own “seven-year-old has asked me if he is going to die from living in our own home,” Allison said. “What do I tell him?”

In his testimony Alan Shaw, Norfolk Southern CEO, would again not commit himself to supporting the Railroad Safety Act.

Shaw said he would support several measures of the bill which do not require the railroad to do anything. When asked by committee Chair Maria Cantwell what specific language he opposes in the measure, Shaw refused to answer.

Throughout, one got the feeling that the entire hearing was stage-managed, with the questions carefully chosen and asked to give the company a platform to clear its name.

Senator Cruz pointed out that the East Palestine train that derailed had passed two wayside hot bearing detectors, the first one 30 miles from East Palestine and the second, 20 miles out. Both detectors showed that the wheel bearing was overheating. The first detector reported 38 °F (21 °C) above ambient temperature, and the second, 103 °F (57 °C) above. Cruz noted that the second detector showed that the wheel’s temperature had risen considerably in just 10 miles and asked why the train was not stopped and then inspected.

This is a question that every resident of the East Palestine community wants to know. But Cruz did not ask the question to get an answer, but rather to allow Shaw to justify the operations of the company.

Shaw responded that the temperature, already 103 °F above ambient temperature, had not reached Norfolk Southern’s threshold of a 200 °F increase for the train to stop. Neither Cruz nor any other senator went on to ask why the threshold was set so high. Instead, Cruz announced that in a closed-door meeting with Shaw, the day before, the company had agreed to lower the threshold to a 170 °F increase. But no one pointed out the obvious fact that the train still would not have been stopped even with the lower threshold.

Clyde Whitaker, an official with the SMART Transportation Division (SMART-TD) union, pointed out in his testimony that the company’s refusal to stop trains when detectors send out temperature warnings nearly lead to an identical disaster near Cleveland. Disaster was only averted in that case because an eastbound train traveling on the parallel track radioed the crew and told them their train was on fire.

Whitaker generally spoke in favor of greater safety measures on the railroads, including two-person crews, a minimum of three minutes for inspection of a railcar, and real time notification of engineers and conductors of problems detected by the hot bearing detectors. He did not mention, however, the fact that SMART-TD itself negotiated pilot programs at Norfolk Southern and two other railroads for single-crew trains. This was announced shortly after the anti-strike law was passed late last year, following months of delays by SMART-TD and the corrupt union bureaucracies in the other rail unions to buy Congress time.

If the hearing proved one thing, it was the fact that appeals to Washington and to either of the big business parties will fall on deaf ears. Making whole the residents of East Palestine and other communities affected by derailments and stopping the reckless profiteering that leads to accidents must be based instead on the independent mobilization of the working class.



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