

**RAIL SERVICE COMPETITION COUNCIL (RSCC)
MEETING MINUTES
June 11, 2014
Helena, Montana**

Attendance

RSCC Members: Chairman Michael O’Hara, Carla Allen, Mayor Jerry Jimison, Russ Hobbs, Rep. Ryan Lynch, Walt Ainsworth, Todd O’Hair

Montana Department of Transportation Staff Support: Christopher Dorrington, Diane Myers

Other Government Agency Representatives: Joel Clairmont, Kim Falcon, and Greg Stordahl, Montana Department of Agriculture; Dan Lloyd, Governor’s Office of Economic Development;

Public: Dan Harbeke by (phone), Union Pacific Railroad; Anthony Rodriguez, Montana World Trade Center; Steve Wade, Leo Berry, BNSF Railway Company;

RSCC Administrative Support: Mary Vandebosch

Call Meeting to Order, Introductions

Chairman O’Hara welcomed everyone and called the meeting to order at 10 am. All attendees were introduced. All welcomed Todd O’Hair, Cloud Peak Energy, who was recently appointed to the RSCC by Governor Bullock.

Subcommittee Appointments

Todd O’Hair was appointed as a member of the Energy Shipping Subcommittee. (Motion by Hobbs, second by Allen, carried unanimously.)

Approval of Minutes

The minutes of the March 24, 2014 meeting were approved as written. (Motion by Ainsworth, second by Hobbs, carried unanimously.)

Financial Report

Diane Myers reviewed the RSCC budget and distributed a document entitled “Rail Service Competition Council Financial Report as of May 31, 2014.” Myers explained that the state fiscal year ends June 30. Funds remaining at the end of the fiscal year will revert to the original fund.

Analysis of Montana World Trade Center Montana Freight Assessment

Anthony Rodriguez, Project Manager, Montana World Trade Center (MWTC) discussed the *May 2014 Montana Freight Rail Transportation Synthesis* prepared by the MWTC. Some key points include:

- Challenges for Montana include its large geographic area, low population density, and lack of access to main rail lines. Access to containers isn't consistent.
- The primary recommendation for the State is to develop an integrated freight network.
- Combining freight volumes is key to attracting investment in intermodal facilities. Volumes for smaller shippers can be aggregated with anchor shippers. More than one industry must contribute volume to make intermodal facilities successful.
- Intermodal facilities with the capacity to aggregate volumes of freight and provide transloading services are essential. The port of Northern Montana Multimodal facility is an example.
- The report recommends establishing a freight association or similar organization. The best models are the Midwest Shippers Association in Minnesota, National Shippers Association, cotton industry association and one created by the State of North Dakota.
- Third party logistics providers will play an important role in consolidating volumes.
- Opportunities for growth for Montana exporters include fulfilling global demand. Only a small percentage of Montana products are directly exported overseas.
- Products are often sold to domestic brokers. This limits profits for Montana shippers. Bringing shipping expertise in house makes it possible to capture more of the value chain. Companies may want to work with a third party logistics provider until they have the expertise.

In discussion, Todd O'Hair noted that Montana's tax structure does not allow or incentivize companies to capture value in Montana. This is a policy decision.

In response to the statistics presented about Montana exports, Joel Clairmont explained that export values are calculated at the port so Montana's exports are counted as Washington's exports.

Port of Northern Montana Multimodal Facility Update

Shelby Mayor Larry Bonderud updated the RSCC on progress at the Port of Northern Montana Multimodal Facility. The City of Shelby formed a targeted economic development tax increment financing (TIF) district. This was the first one formed after the law was revised.

- The Port of Northern Montana has issued a request for proposals for facility operation. The operator will load and unload box cars, stuff containers, repair rail cars, and have hazardous materials handling capability.
- Services offered include transloading, storage, distribution, and consolidation of freight to achieve cost-effective volumes.
- The port authority holds the charter for a 31,000 foot short line railroad.
- BNSF has agreed to bring 240 containers once a week.

- Inbound rail shipments are necessary in order to export. Inbound shipments of freight destined for Alberta are key to the Shelby facility's success. Examples of incoming freight include wind farm components, and fluids and sand for drilling.
- The provinces of Alberta, Saskatchewan, Manitoba and British Columbia are shipping freight through Shelby.
- A Cenex-Harvest States (CHS) bulk fertilizer plant is under construction. The facility will serve producers in Alberta and other Canadian provinces, as well as north central Montana.

Montana Department of Agriculture

Greg Stordahl reported on the research that he conducted on pulse crops movement. For the 2013 crop year, 7 million hundredweights of pulse crops were exported from Montana; 4 million hundredweights were exported in the last 10 months. More than 90 % are exported by rail.

Kim Falcon reported on meetings that the Montana Department of Agriculture held with Farmers Unions from Montana, Minnesota, North Dakota, and South Dakota. Producers in other states are unable to move commodities by rail. Some producers are considering not seeding due to delays in shipments. The Farmers Unions are interested in forming a coalition. They are considering legislative action to ensure a balance of shipments among commodities. The Department also plans to contact Wyoming, Washington, and Idaho.

Falcon noted that the Surface Transportation Board ordered fertilizer shipments.

Department of Agriculture representatives also met with John Miller, Katie Hofmann, and Matt Jones of BNSF Railway Company. Shipping out the 2013 crop is a priority for the Department. Falcon explained that there are a lot of commodities on farms and in bins. In particular, pulse crops are expensive and perishable and about 50% of the pulse crops are stuck on farms and in bins. BNSF provided information about infrastructure upgrades, etc.; however, no numbers were provided with respect to shipping the 2013 crop. BNSF wants to utilize more hopper cars.

Falcon reported that BNSF representatives informed them that the "marriage" rule -- that requires 48-55 car shippers to marry loads with other 48-55 car shippers to qualify for the 48-55 car rate -- have not worked and they will be eliminated in the next couple of months. No date was given.

The committee discussed the need to separate different varieties of the same types of commodities. Examples include grain grown in Montana versus Canada, various grades of wheat, and coal with varying ash or sodium content.

Public Service Commission Rail Duties

Nickie Eck and Brenda Koch, who comprise the Transportation Unit of the Montana Public Service Commission (PSC), discussed the PSC's involvement in rail transportation under Title 69, Chapter 14 of the Montana Code Annotated (MCA). Eck explained that the state statutes are outdated. Specifically, federal law now preempts some sections of the MCA. For example, there are laws that limit the time that a train can block a rail crossing; however, the laws are not enforceable.

The PSC has two field employees who work as part time motor carrier enforcement officers. They have been trained by the Federal Railroad Administration (FRA) to inspect rolling stock. The officer in Billings is authorized to inspect for power.

Railroads are required to maintain fencing along the right-of-way. The PSC conducts rail fencing inspections upon request of a landowner. The PSC's role is limited. After conducting an inspection, they pass the matter along to the county attorney.

Railroads are required to file annual reports with the PSC by April 1, pursuant to 69-14-251, MCA. The reports include information on the number of carloads, miles of railroad, leased lines and generic commodity information.

Railroad Reports

Dan Harbeke, Director of Public Affairs for Union Pacific Railroad (UP), reported that the Port of Montana hosted a forum May 1 for the local Butte-Silver Bow leadership. Local Montana legislators and representatives of Montana's congressional delegation also participated.

Harbeke extended an open invitation to the RSCC to participate in a tour and to provide an opportunity for the appropriate experts to answer commodity specific questions. UP maintains a steady volume of one train per day to and from Butte-Silver Bow. In recent years, UP has been moving 8500-9500 carloads out of Montana and importing 4000-4500 carloads. UP has the capacity to ship more freight on the Butte-Silver Bow line.

BNSF Railway Company did not provide a report. RSCC members identified the following questions for BNSF:

- Mayor Jimison noted that a Glendive chemical company purchased 60 acres on a BNSF spur and is waiting to get rail built into the facility. The response from BNSF has indicated they don't have time and can't do it. Jimison asked if this is an ongoing problem for business expansion.
- What does BNSF consider to be domestic intermodal traffic? Is traffic considered domestic if it is ultimately shipped overseas?
- When will BNSF catch up with deliveries of coal and agricultural commodities?
- How will BNSF find the manpower, trains, and locomotives to haul coal out of Montana?

Carla Allen, General Manager, Central Montana Rail, Inc (CMR) reported that the CMR ribbon cutting has been delayed. They are waiting for steel for the trestle.

Subcommittee Reports

Subcommittee Chair Russ Hobbs reported that the Economic Development Subcommittee met May 22. The subcommittee revised the draft charter. Hobbs distributed the revised draft charter, which sets up the subcommittee's charge as a positive effort. Representatives of all three railroads represented on the subcommittee support this draft charter. Representatives of BNSF raised

concerns about defining subcommittee membership; however, the law does not require that membership be defined. Next steps for the subcommittee include identifying a test case and success stories. The subcommittee wants to be a conduit for communicating success stories.

Hobbs also reported that the Industrial/Forest Products/Paper/Minerals Subcommittee has not met. The subcommittee previously surveyed shippers and learned that it is challenging for shippers to access markets south of Montana.

Agriculture Subcommittee Chair Carla Allen reported that the subcommittee did not meet.

The Energy Subcommittee did not meet. Chair Jerry Jimison reported that he has not heard much about shipping problems in Western Montana. He has heard about delays of coal shipments to the Midwest, due to transportation of Bakken oil. He heard that some colleges and universities were down to one week's supply of coal for their boilers this winter. Todd O'Hair agreed that deliveries have been a challenge; however, they are catching up and Cloud Peak Energy works closely with BNSF. Port capacity is the primary issue.

Chair Walt Ainsworth reported that the Ports/Intermodal Subcommittee has not met pending receipt of the MWTC synopsis. Ainsworth expressed interest in convening a subcommittee meeting with participation from the Governor's Office of Economic Development to follow up on the ideas generated from this report.

Next Council Meeting

The next meeting date was set for September 18, 2014 in Shelby, Montana. Agenda items include: a tour of the facility, discussion of what was learned on the tour and standard agenda items.

Public Comment

Chairman O'Hara called for public comment. None was provided.

Adjournment

With no further business to discuss, Chairman O'Hara adjourned the meeting at 2:07 pm.