

**RAIL SERVICE COMPETITION COUNCIL (RSCC)**  
**COUNCIL MEETING MINUTES**  
**Tuesday, November 12, 2013**  
10:00am – 3:00pm  
Transportation Commission Room, Helena, Montana

**RSCC Members Present:** Chairman Michael O’Hara, Carla Allen, Mike Tooley, Mayor Jerry Jimison, Russ Hobbs, Rep. Ryan Lynch, Ron de Yong

**Montana Department of Transportation (MDT) Support:** Chris Dorrington, Hal Fossum

**Other Government Agency Representatives:** Joel Clairmont and Greg Stordahl, Montana Department of Agriculture (AGR); Ron Schumacher, U.S. Department of Agriculture National Agricultural Statistics Service

**Public:** Dan Kidd and Lochiel Edwards, MT ADR; Barbara Ranf, Don Karls, and Matt Jones, BNSF Railway Company; Kathy Fasso, Port of Montana; Mike McKay, Montana Rail Link (MRL). Via phone: Dan Harbeke, Union Pacific Railroad (UP)

**RSCC Administrative Support:** Mary Vandebosch

**Call Meeting to Order, Introductions**

Chairman O’Hara welcomed everyone and called the meeting to order. Following introductions of the RSCC members, the audience was introduced.

**Approval of Minutes**

Jerry Jimison moved to approve the September 10, 2013 minutes as written. Carla Allen seconded the motion. Motion carried.

**Financial Report**

Hal Fossum reviewed the RSCC budget and distributed a document reporting on funds and expenditures for fiscal year 2014 as of November 12, 2013. Most expenditures this fiscal year were for meeting-related activities. The RSCC has approximately \$25,000 remaining for the fiscal year after obligations. Ron de Yong reported that AGR is working on a budget amendment now so funds can be transferred from MDT to AGR for pulse crops research.

**Paper Barriers Research Report**

Russ Hobbs moved to accept the report prepared by Terry C. Whiteside and Gerald W. Fauth III entitled “The Impact of Paper Barriers on Montana Rail Shippers’ Competitiveness” with the following change: on the front page, change the text from "under the sponsorship of the

Montana Department of Transportation" to "under the sponsorship of the Rail Service Competition Council." Ron de Yong seconded the motion. Motion carried.

Don Karls from BNSF Railway Company (BNSF) explained why BNSF opposes the draft report. (A letter from Karls dated October 16, 2013 was distributed.) Key points emphasized by Karls include:

- There are mechanisms in place to address issues associated with interchange commitments. Options to address issues include informal discussion and a process whereby a short line railroad can request a waiver. Karls encouraged a collaborative approach and a constructive dialogue.
- An interchange commitment is a necessary mechanism that benefits shippers in addition to ensuring that a Class 1 railroad doesn't lose what it had before a sale or lease.
- The report doesn't address how markets work. For example, there is heavy truck competition on the route between the interchange at Silver Bow and Salt Lake City.
- Resolving the issues identified by the RSCC goes far beyond consideration of competition.

In response to questions from the RSCC, Karls identified the following ways to address issues informally:

- A shipper can contact MRL.
- An entity developing a new facility can work with the BNSF Economic Development office in Billings.

Karls noted that he is being replaced as the regional ombudsman by Katie Hofmann. Hofmann will be located in Billings, Montana.

Mike McKay, Sales and Marketing Manager for Montana Rail Link (MRL), presented MRL'S point of view. Key points in McKay's comments include the following:

- MRL collaborates with BNSF as much as possible.
- MRL wants to be helpful to shippers and also to maintain efficiency.
- Traffic moving over the UP Railroad increased 22% from the time of purchase by BNSF up to 2008. This changed in 2008 due to market conditions, including competition from trucks, the recession, and a decline in the forest products industry.
- Traffic stops at the Silver Bow interchange, where it moves to trucks.
- "Paper barriers" are not the problem.
- Nearly all (99.9%) of the waivers requested by MRL have been approved by BNSF.
- Railroads may face cross-contamination issues with backhauls; this affects their ability to compete with trucks.

Dan Harbeke, Public Affairs Director for Union Pacific Railroad (UP), stated that he largely agreed with the points made by representatives of BNSF and MRL. (A letter from Harbeke dated October 14, 2013 was distributed.) Harbeke also supported further dialogue through one-on-one conversations or through other forums. Key points stated by Harbeke include:

- UP has an industrial development arm based in Portland.
- Representatives of commodity groups often get involved in similar discussions about resolving shipping issues.
- UP has engaged in forums in other states.

The following points were raised in RSCC discussion:

- Shipping to the south (in particular, through the Silver Bow connection) is a challenge for Montana shippers. There are published rates for shipping by rail, but the rates are not reasonable. Rail rates are approximately twice what it costs to ship by truck on the shortest route to Salt Lake City.
- Paper barriers are not the issue. The issue is obtaining competitive rates.
- To resolve the issues, the RSCC would like to continue a dialogue with all three railroads regarding options for improving rail shipping opportunities to better serve Montana businesses at competitive rates. It is important to get feedback from the railroads regarding how such a dialogue might be structured to best deal with issues such as confidentiality, competition, and antitrust concerns.
- It is important to take a long-term view in order to support the development of industries in Montana.
- The RSCC wants to promote economic development and to help Montana businesses to be competitive. The RSCC's charge includes improving service and not just competition.
- The RSCC should establish another committee that includes representatives of all three railroads and all categories of shippers. The committee could identify win-win situations that would likely lead to a successful outcome. Studies conducted by the Montana World Trade Center may be helpful in this regard.
- The RSCC represents the interests of shippers of various commodities from across Montana. The Energy Shipping subcommittee can reach out to the asphalt industry. The trucking industry should be represented on the RSCC subcommittee. Walt Ainsworth represents this industry.

Ron de Yong announced that AGR will meet with representatives from BNSF's Billings Economic Development Office on December 3, which is the first day of the Montana Grain Growers Association Convention and Trade Show.

Lochiel Edwards (MT ADR) noted that there is a great opportunity associated with the dialogue and encouraged treating the corporations as people and building a relationship. He explained that it is possible to have a lot of discussions about rates and service without disclosing confidential information.

Russ Hobbs moved to continue a dialogue with the railroads by extending a formal invitation to the railroads to present suggestions regarding how such a dialogue could be structured and how railroads can be involved with an RSCC Committee. Jerry Jimison seconded the motion. Motion carried.

Russ Hobbs moved to include the comments received from the railroads as appendices to the report. Mike Tooley seconded the motion. Motion carried.

RSCC members thanked the representatives of the railroads for providing information and participating in a dialogue with the RSCC.

## **Project Updates**

### *Final Map of Shuttle Activities*

Chris Dorrington presented a paper map entitled “Agricultural Commodity Storage Facilities.” The MDT worked with AGR to finalize the map incorporating suggestions received at the September 2013 RSCC meeting. Dorrington also presented an online interactive map that can be queried similarly to a Google search. A user can click on a facility and view a list of pertinent information including the name, location, license number, contact information, storage capacity, website link and rate chart. The map can be posted on MDT and RSCCC web pages. Online users can also view a static map in portable document format (pdf).

### *Great Northern Corridor Coalition MCOM*

Dorrington reported that MDT had been awarded two grants from the U.S. Department of Transportation for Great Northern Corridor Multistate Corridor Operations and Management (MCOM) studies. The total cost of the studies, including matching funds, is approximately \$1 Million. Shelby Mayor Larry Bonderud explained that they are in the process of hiring a consultant to do a strengths, weaknesses, opportunities, and threats (SWOT) analysis that will identify opportunities to improve the Great Northern Corridor, the east-west rail and highway network stretching from Duluth to Seattle and Portland. Dorrington and Bonderud emphasized the collaboration by partners, including transportation departments from several states and BNSF. The SWOT analysis will put the Coalition in a good position to take advantage of future federal funding opportunities to address constraints.

### *Port of Northern Montana Multimodal Facility Update*

Shelby Mayor Larry Bonderud distributed pictures and a diagram and described some of the highlights of development of this facility:

- The facility is a \$21 million project.
- The facility will have a 10,000 foot siding.
- There will be a pool of containers that can go out to Montana businesses. There will be 220

loaded 40 foot containers coming in to the facility and going out each week. The BNSF Railway will come and get the containers just like a shuttle.

- The facility will have wind towers.
- They are offering lots for acquisition or lease.
- Will export to Canada by truck.
- Examples of value-added businesses served include lentil processors, and malt barley producers.

### **Legislative Proposal**

Larry Bonderud distributed copies of Senate Bill No. 291 from the 61<sup>st</sup> Legislature. Bonderud is considering whether or not to ask a legislator to introduce this bill in the next legislative session. He invited individuals to contact him if they have feedback. This bill would convert the RSCC to a railroad authority. It also includes a passenger rail component. If it became law, SB 291 would authorize the railroad authority to issue revenue bonds. Bonderud also distributed an article about state rail plans from Trains (December 2013) entitled "Blueprints for Prosperity."

### **Railroad Updates**

Barbara Ranf, BNSF Railway Company, thanked the RSCC for the productive dialogue at today's meeting. She noted that BNSF has been working with the Port of Northern Montana and is also participating in the Great Northern Corridor project. The BNSF is looking forward to meeting with AGR at the Montana Grain Growers Association Convention. BNSF has opened an economic development office managed by Bryan Reilly in Billings.

Carla Allen reported that a contract has been awarded for repair of the Central Montana Railroad bridge. They hope to complete the project in July 2014.

### **Committee Update Reports**

Jerry Jimison stated that construction of the XL Pipeline will have little or no effect on shipments from the Bakken. Only a minimal amount of oil from the Bakken can be put into this pipeline. Jimison inquired about BNSF double track. BNSF representatives noted BNSF's \$114 million investment in Montana, which includes double-tracking dozens of miles this year. A chemical company is moving to Glendive to serve the Bakken development. BNSF is putting in rail spurs to facilitate the move.

Chairman O'Hara announced that Walt Ainsworth is looking for more people to serve on the Ports and Multimodal committee.

### **Next Council Meeting**

The RSCC identified two potential dates for the next meeting: January 9 and January 14.

Vandenbosch will poll members about their availability.

**Comments or Issues from Council Members**

No additional comments or issues were brought up by RSCC members.

**Formal Public Comment Period**

Dan Kidd asked whether there would be any action on the “Paper Barriers” report. The actions approved today were noted and the Chairman explained that the RSCC generally agreed that paper barriers were not the issue. It is a priority for the RSCC to continue the dialogue.

**Adjournment**

With no further business to discuss, Chairman O’Hara adjourned the meeting.