

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER of the Public Service) REGULATORY DIVISION
Commission's Investigation into Railroad Safety)
) DOCKET NO. N2015.11.84

SUMMARY OF JANUARY 20, 2016 ROUNDTABLE

Background

On August 11, 2015, the Montana Public Service Commission ("Commission") directed staff to consider rulemaking on local safety concerns of blocked railroad crossings. In October 2015, The Legislative Audit Division of the State of Montana published a performance audit, "Railroad Safety," which evaluated the operations of three state agencies, including the Commission. On November 3, 2015, in a regularly scheduled work session, the Commission established an investigative docket concerning railroad safety. On November 5, 2015, the Legislative Audit Committee discussed the railroad safety audit and its several recommendations for the Commission. In order to appropriately address the legislative audit and related railroad safety issues, the Commission scheduled and held a public roundtable on railroad safety on January 20, 2016.

Agenda

The roundtable agenda included these topics:

- Introduction
- Overview of railroad safety docket (N2015.11.84)
- Risk assessment, safety goals and objectives, state safety plan
- Engagement with state and federal agencies, emergency planning
- Railroad crossings
- Additional Commission safety inspector staff positions
- The Commission's continued role in railroad safety oversight
- Conclusion

Participation

The roundtable was presided over by Commission Chairman Brad Johnson, who was accompanied by Commissioners Koopman, Lake, and Bushman. Attendees included representatives of the Legislative Audit Division (Ken McCormick), Federal Railroad Administration ("FRA")(Ken Naylor), Montana Rail Link ("MRL")(Jim Lewis, Casey

Calkins), Burlington Northern Santa Fe Railroad (“BNSF”)(Patrick Brady, Matt Jones, Barbara Ranf), Montana Department of Environmental Quality (“DEQ”)(Bonnie Lovelace), Montana Department of Military Affairs/Disaster and Emergency Services Division (“DES”)(Delila Bruno), Northern Plains Resource Council (Adam Haight), Roosevelt County Commission (Gary MacDonald), and Brotherhood of Locomotive Engineers and Trainmen (“BLET”)(Craig Gilchrist, DB Kenner), as well as Commission staff employees and members of the public.

Introduction

Chairman Johnson initiated the roundtable at 9:30 a.m., asked participants to introduce themselves, and reviewed the agenda. He said that the roundtable would end at 12:00 noon. Commission staff attorney Jeremiah Langston provided background information and a chronology of events for the roundtable.

Summary of legislative audit

Ken McCormick, lead author of the railroad safety audit, summarized the audit and its recommendations. With regard to the Public Service Commission, the audit’s principal recommendations are:

- Increase involvement in the National Association of State Rail Safety Managers;
- Conduct a state rail safety risk assessment and a state rail safety plan;
- Actively engage with Montana Disaster and Emergency Services and other state and federal agencies to ensure the rail safety program is proactively addressing risk.

Risk assessment, safety goals, and state safety plan

Ken Naylor, FRA Chief Inspector and based in Billings, provided a general picture of railroad safety operations in Montana, explained FRA activities and state plans, and responded to questions regarding Commission involvement. He said that FRA is adding federal inspectors in Glendive, Great Falls, and Bozeman. As for the level of state-based inspection activity in Montana, he said that “Montana was pretty equal” to the activities of neighboring states.

MRL and BNSF representatives described in some detail their respective company-based safety programs, which include track inspectors, advanced technology and equipment, and data collection.

When asked by the Commission for their positions on whether the Commission should develop a state rail safety plan, representatives of the legislative auditor, FRA, the rail companies, and the engineers’ union all answered in the affirmative. BNSF observed that some states, including Washington, Oregon, and Iowa either have or are developing state rail plans; the state of Iowa hired a contractor and produced a good plan. Legislative

auditor McCormick said that the National Association of State Rail Safety Managers has published risk assessment guidelines in its manual of best practices.

On the question of what the scope of the Commission's involvement in rail safety programs should be, most commenters agreed that the Commission should focus on a preventative and inspection role, and not one of incident response. Bonnie Lovelace of DEQ urged the Commission to set the scope of its investigation, especially in terms of focusing on pre-incident or post-incident response.

Engagement with federal and state agencies; emergency planning

Ms. Lovelace described DEQ's role as predominantly in the hazard/incident category, through support of ongoing planning and preparation processes. She suggested that the Commission examine existing geographic response programs, which exist at the county level in Montana. She emphasized the particular importance of waterways, and said DEQ would be interested in identifying vulnerable locations in any risk assessment undertaken.

Delila Bruno, of DES, said her agency was involved in developing Pre-Disaster Mitigation ("PDM") plans. She described the State Emergency Response Commission ("SERC") as a cross-section of emergency planners, and suggested that the Commission become involved with SERC to become aware of emergency response plans in Montana. Ms. Lovelace of DEQ also identified SERC as an important forum for rail safety involvement.

Commissioner Kirk Bushman initiated questions and a subsequent discussion about what particular expertise or resources the Commission might contribute to DES programs. Several of the responses—from DES, DEQ, FRA, and the rail companies—centered on the idea of information exchange and increased participation of the Commission, but no more specific responses were given.

Public comment

At 11:00 a.m., Chairman Johnson invited comment from members of the public who were present. Kate Campbell and Jan Holme, both of Missoula, spoke of the risk of accidents rising with increased rail transport of oil through Montana and urged the Commission to get more involved with rail safety and oversee stronger efforts to develop plans and prevent accidents.

Blocked rail crossings

The Commission addressed the agenda topic of blocked rail crossings. The Commission had received written comments from residents of Miles City who described high train speeds and crossing issues in that community. A discussion ensued about federal track classifications and associated train speed limits. No specific resolution or action plan resulted from the discussion.

Additional safety inspectors

Roundtable participants then discussed the idea of adding inspectors to the Commission staff. Dave Jackson, a current inspector for the Commission, described how a staff of four full-time equivalent inspectors, with one serving as a supervisor, could strengthen Commission capability from the existing staff of two inspectors and a part-time supervisor. Chairman Johnson stated that the Commission was willing to execute any mandate from the Legislature regarding rail safety, with the caveat that sufficient resources for executing increased workload accompanied any mandate. Commissioner Roger Koopman stated his agreement with Chairman Johnson, and observed that, because the Commission staff was currently lean, the agency's current budget did not allow for increased rail inspection staff.

Chairman Johnson said that a central question for him was, "Where in state government should railroad safety responsibility reside?" He said that rail safety was not related to other Commission work and that Commission involvement with rail safety was a vestige of past requirements of the Commission.

Conclusion of roundtable; public comment

Chairman Johnson concluded the roundtable at 11:52 a.m. and stated that the Commission would prepare a summary of the day's discussions and post it on the Commission's website. He also invited additional public input. Harold Holme, of Missoula, expressed concern about increasing rail transport of oil through Montana and stated his support for increased public spending on rail safety in the state.

Jerry McDonald, a Roosevelt County commissioner, described his concern for a rail crossing in the town of Bainville, which he described as "a poster child for blocked crossings." He said that rail traffic through Bainville often blocked any kind of vehicular traffic, including that needed for emergency services.

Summary of suggested actions

Here are some of the suggested actions to be taken by the Commission that were discussed during the roundtable (in addition to those from the legislative audit and summarized at the outset of the roundtable):

- Execute a risk assessment and state rail safety plan;
- Participate in incident planning, particularly SERC meetings;
- Develop a contact list that can be distributed by DES to first responders;
- Add staff inspectors;
- Evaluate changes in work schedules and division of duties of current inspection staff;
- Seek additional resources from the Legislature for rail safety work;
- Consider transfer of rail safety activities to other state agency(ies).

Notes:

- The performance audit of the Montana Legislative Audit Division, "Railroad Safety," may be viewed at: <http://leg.mt.gov/content/Publications/Audit/Report/14P-13.pdf>
- Comments to the Commission on rail safety may be viewed at the website for the Commission's rail safety docket: <http://psc.mt.gov/Docs/ElectronicDocuments/getDocumentsInfo.asp?docketId=11705&do=false>