



**Southwest Chief Commission (SWC Commission)  
 Meeting Minutes  
 September 5, 2014  
 1:30 – 3:00 PM  
 CDOT/HQ Auditorium**

Member	Representing via HB 14-1161	Yes	No
Elena Wilken	Public Rail Transportation Advocate	X	
Jim Souby	Tourist Industry in Colorado	X	
Pete Rickershauser	Freight Rail Industry	X	
Rick Klein	Resident of Las Animas, Otero, or Prowers County – public rail advocate	X	
Sal Pace	Resident of Pueblo or Huerfano County – public rail advocate	X	
Mark Imhoff	Colorado Dept. of Transportation Representative	X	
Ray Lang	Amtrak Representative	Phone	

Other Attendees:

- |                             |                                |
|-----------------------------|--------------------------------|
| Senator Larry Crowder       | Senator George Rivera          |
| Frank Sharpless, New Mexico | Dennis Slimmer, Kansas (phone) |
| David Krutsinger            | Kathryn Rivera                 |
| Tom Mauser                  | Aaron Greco                    |
| Laura Morales-Garcia        | Kurtis Morrison                |

**1. Roll Call/Introductions**

Mark Imhoff called the meeting to order at 1:39 p.m.

Roll Call was conducted and introductions around the room were made.

**2. Election of Officers (Chairman & Vice Chairman)**

**a. Chairman**

Comments and nominations were requested. Rick Klein motioned Sal Pace be nominated as Chairman of the Southwest Chief Commission and Jim Souby seconding the motion. No other motions made with all in favor motion passed. Sal Pace was nominated as Chairman of the Commission. Mark Imhoff turned the meeting over to Chairman Pace.

**b. Vice Chairman**

The Vice Chairman for the Southwest Chief Commission nomination was opened. Chairman Pace nominated Rick Klein. Pete Rickershauser seconded the nomination. All members provided their approval of this nomination. Rick Klein was approved as Vice Chairman.

### **3. SWC Commission Charge/Statutory Responsibilities**

#### **a. House Bill 14-1161**

Mark Imhoff presented this agenda item.

A copy of the bill was distributed to members prior to today's meeting. A copy of House Bill 14-1161 is included in today's meeting packet. Reading directly from the bill the mission of the Southwest Chief Commission is: *"to coordinate and oversee efforts by the State and local governments and cooperate with the states of Kansas and New Mexico, Amtrak, and the Burlington Northern and Santa Fe Railway to ensure continuation of existing Amtrak Southwest Chief rail line service in the state, expansion of such service to include a stop in Pueblo, and exploration of the benefits of adding an additional stop in Walsenburg."*(HB14-1161, p.6.)

#### **b. CDOT recommendation: by-laws**

Additionally the Southwest Chief Commission has the power *"to adopt bylaws for the regulation of its affairs and the conduct of its business ;"*( HB14-1161, p.7.) The Commission has the full ability to conduct studies provided the funding is available.

Chairman Pace asked that the Commission adopt a bylaw that any members, voting and non-voting, be able to add agenda items for upcoming meetings. Jim Souby seconded, with everyone approving and the bylaw was adopted.

Chairman Pace asked if anyone else had a request for any other bylaws. Jim Souby asked that we leave this option open for future meetings. Mark Imhoff noted that he thought it was important to meet along the corridor where the Southwest Chief operates or is proposed to operate. Jim Souby suggested that excursions may also be a helpful activity so everyone understands what the Southwest Chief Commission covers. The current main issue at this time is the maintenance of the rail. Amtrak offered to make accommodations for trips may be looked at in the future so long as it complies with the ethics rules and regulations. Chairman Pace noted the item of bylaws was closed for this meeting.

### **4. Commission Member Expenses**

Mark Imhoff provided a briefing on the funding for the commission regarding travel reimbursement and State employee work time on behalf of Kurt Morrison who arrived later in the meeting. House Bill 14-1161 allows up to \$5,279.00 and 0.1 FTE be allocated to Colorado Department of Transportation for the fiscal year beginning July 1, 2014. The funds are to be utilized by the commission for expenses related to the Southwest Chief Commission. The Commission may be reimbursed for travel expenses out of this specific fund. Colorado Department of Transportation has a travel expense form that will be distributed for those who would like to complete the form for travel reimbursement. CDOT will work with their CDOT business office to coordinate reimbursement for these travel expenses.

Vice Chairman Klein noted that the City of La Junta has agreed to cover his travel expense related to the Southwest Chief Commission. Chairman Pace noted that Pueblo County has also agreed to cover travel related expenses and they will provide reimbursement to the fund for Chairman Pace. Laura Morales-Garcia will work with the members regarding reimbursement.

Chairman Pace asked those present if anyone had anything else to add regarding the House Bill 14-1161. Senator Crowder added that he believed the funding has been approved and provided. Chairman Pace stated we will work out the details on this offline so that we may continue with Commission business. Mark Imhoff indicated that 0.1 fte is approximately 4 hours a week and Laura Morales-Garcia the Program Assistant for CDOT/Division of Transit and Rail will provide this work time.

Mark Imhoff asked that we proceed to agenda item 6 since Elena Wilken had not yet arrived. The members and Chairman Pace agreed to proceed to the next agenda item and return to this item later in the meeting.

## **5. SWC Background/History**

Ray Lang presented for agenda item 5. This item was presented out-of-order from the agenda due to Commissioner Wilken's absence from the meeting at the time. It was presented after item 6(a) and before item 6(b).

In 2011 Amtrak was advised that the current Master Agreement provided by BNSF for the Southwest Chief operations would expire January 2016, and that future agreements would include changes. For the stretch of rail between Newton, Kansas and Las Animas, Colorado the track would not be maintained as FRA class-IV track (79 mph) since there was not enough business to maintain the rail between these two locations at that class. Instead Newton to Las Animas would be maintained at class-2 standards (30 mph), Las Animas to La Junta class III, and La Junta to Trinidad class II. Amtrak would require class IV to maintain scheduled travel times and not require additional equipment. Once repaired the maintenance for each of these sections would have to be maintained at this same level. This is the main issue for the Southwest Chief Commission to resolve. BNSF has been open about communicating this issue of maintenance. It is estimated the rail section noted covers approximately 700 miles. Maintenance for this 700 mile section calculates to approximately 10 million a year. The rail requires a lot of one time capital work to address the challenges and repairs for the initial work. The initial work has been estimated at 100 million and in addition 100 million is what would be required to cover ten years of maintenance.

To cover the maintenance expense a proposed solution for maintenance is to have each of the three states cover 20% along with Amtrak and BNSF also providing 20%. Amtrak does not realistically have the funds to meet this request, BNSF has not declined. Each state is also able to submit an individual TIGER Application as a resource. Submission by each state for a TIGER Grant was not accomplished this year. Kansas did apply last year and this year. Kansas was denied last year for this grant and they are currently awaiting response for this year's TIGER Application.<sup>1</sup> A copy of this year's summary TIGER Application is included in today's

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<sup>1</sup> At the time of the meeting this was unknown. Garden City, KS has since been awarded the TIGER grant.

meeting packet. BNSF has indicated if Kansas is granted the TIGER Grant this year, they have agreed to maintain the class level 4 rail between Newton, KS and Las Animas, Colorado.

New Mexico is looking at legislation to make this commitment. There was no decision on a New Mexico legislative proposal because the legislative session ran out of time. A question that did arise for New Mexico State Government is if legally they may provide a donation to the railway due to a clause in their constitution. Ray Lang asked if there were any questions.

Chairman Pace asked if there had been any discussion on what might happen if the TIGER Grant was approved since that would have an effect on the proposal of a 5 way split. Ray Lang is not aware of any meaningful discussion having been conducted if the TIGER Grant was approved. All things would need to be considered. If the TIGER Grant does get approved, that is a conversation that needs to be held. It might change the suggested funding contributions.

Jim Souby commented that New Mexico has a role in the maintenance of the rail that currently runs from Albuquerque, New Mexico to the south of Madrid, New Mexico. This line then goes north to Santa Fe, New Mexico and if the Southwest Chief is not able to successfully maintain their line, then New Mexico would have that section of track to service in addition to the other track already being maintained. There was some discussion as to who funds the maintenance of the noted rail section. New Mexico is attempting to negotiate the agreement which has included discussion of the future of the Southwest Chief rail.

Mark Imhoff inquired with Ray Lang on the Amtrak annual capital budget. Ray Lang responded that he not positive on the exact amount, but it is believed that approximately \$800 million a year is the Amtrak capital funding budget with the billing going to assets.

## **6. State Updates**

### **a. Colorado**

The Colorado Department of Transportation worked closely with Kansas and New Mexico Departments of Transportation on a co-signed letter regarding an opinion that the repair and maintenance of track for the Southwest Chief rail should be a Federal Government obligation. Although each State Department of Transportation supports keeping the Southwest Chief on its current route, the DOT's do not have funding available, and do not believe a precedent should be set for State-funding of long-distance routes. It was asked if there have been any inquiries of this issue possibly being expanded to include other states served by the Southwest Chief?

Jim Souby will be attending a National Association for Railroad Passengers (NARP) in the near future and he has requested Long Distance Amtrak Trains be a main topic of discussion. Jim Souby is willing to try and explore the suggestion to include other states along the line in the discussion. Pete Rickershauser asked Ray Lang if he knew of any other states having any concerns with this issue. Ray Lang responded that he is not aware of any other states being interested in this issue. Ray Lang noted there may be some interest in repairing this specific line especially if outside entities were made aware that it could be terminated. Mark Imhoff noted that every bit of support in assisting with the lobbying of congress to appropriate additional funds could be of great benefit. Senator George Rivera noted that it appears lobbying is taking place now since Amarillo wants to run the train through Oklahoma and Texas, but no funding has been discussed.

Chairman Pace responded to Mark Imhoff's statement that CDOT does not have the funds and this is a federal responsibility. Part of the reason the House Bill 14-1161 was passed is to allow CDOT to become a partner. There is recognition that funding provided to CDOT has not been as high as in previous years. CDOT is considered a partner in this project.

Pete Rickershauser wanted to comment and invited Ray Lang to provide his comments at any time. Pete noted that this is a very different time and era for the Transcon line as compared to ideas floated back in 2002. He noted that the BNSF Transcon line is high capacity. Everywhere an Amtrak train might make a stop, additional tracks would be required to move the train over so as not to become an impediment to freight operations. The Transcon line may be a routing option for the Southwest Chief, but may not be a good money proposition.

#### **b. New Mexico**

Frank Sharpless presented for this agenda item.

Each DOT supports the continuation of the Southwest Chief, but no funds are available through DOT. The three DOT's involved do not want to set precedence, states have never provided funding for this type of venture. New Mexico DOT does own and pay \$3 million a year for capital on a transit line that runs from Albuquerque to Santa Fe. Coincidentally, the same month the co-letter was sent, New Mexico residents expressed concerns about state highways reverting to gravel due to lack of funding. New Mexico is facing challenges covering maintenance of their roads. New Mexico DOT is concerned with finding funds for other items before any contribution could be considered. It would also need to be considered why, nationally, the 15 long distance Amtrak routes are not getting the funding needed to maintain operations.

New Mexico Legislature created an outline in November of 2013 to explore the need for the \$4 million request. The New Mexico Legislature moved forward with an undertaking in a series of studies totaling \$170,000. New Mexico contracted with a company to provide a study on what the ridership change might take place if the Southwest Chief were placed on the Transcon Line, as opposed to remaining on the existing line. A draft on this study will be received in the next few weeks and can be released after the New Mexico legislature has been briefed on the findings.

A second study was conducted regarding a ridership and what the economic impact to the state and the individual counties in terms to visitors of New Mexico are and the amount of money being spent in those locations. The study is based on current and alternative ridership.

A third study is to review what the \$4 million estimate is based on. New Mexico would need to know what \$4 million per year for 10 years buy, and what future costs might remain in years 11 and beyond.

The New Mexico Constitution includes a clause regarding donations to a for-profit entity with funds from the State of New Mexico. This clause is being reviewed by the legal department of the State of New Mexico.

Senator Crowder is under the impression that there is a bill in the New Mexico legislature that was passed to fund the Southwest Chief. Jim Souby indicated he was advised there was a bill which passed through the House. Frank Sharpless noted that he is aware of a bill, but he understood it did not get past the senate appropriations committee. Vice Chairman, Klein

indicated he was informed that this bill did pass through the house. Jim Souby received a letter with this information from Representative Bobby Gonzales of New Mexico he will forward that letter to the Southwest Chief Commission.

Chairman Pace stated that New Mexico DOT is holding the position that they are counting on the Federal Government to provide funding. Is it the belief of the New Mexico DOT that the current congress will have to work this out on its own or that we will lose train? Frank Sharpless responded that he cannot surmise what may or may not happen and all he is able to do is provide the Commission with relayed information representing the position of the New Mexico DOT and the letter provided by the three state DOTs requesting the federal government honor its obligations. Frank Sharpless will make the results of the noted studies available to the Southwest Chief Commission after they have been presented to the New Mexico Legislature. New Mexico DOT is planning to proceed based on what information is provided by these studies.

Chairman Pace asked Frank Sharpless if there was any indication of whether the New Mexico Governor would sign or veto a bill partnering on this venture. Frank Sharpless responded that there has not been any discussion of the matter. Frank noted there are several elections in each state that will play into all of these matters and there is too much conjecture to hypothesize. Chairman Pace asked if Frank Sharpless was hopeful in being able to lobby congress. Frank Sharpless stated he is delivering the message. Someone will need to float a bill, champion it and coordinate with the states as to who would be impacted and how they might proceed.

Kurt Morrison addressed the chairman indicating most recently that Congress, with recent actions, creates low expectations that Congress will pass any long-term funding bills in the near future. Continuing resolutions for funding and extensions of the existing MAP-21 bill are more likely. The legal issue of granting funds or donations to private railroads is a prohibition dating back to the 1880's and 1890's. New Mexico's law is a strong regulation against such action. Colorado has such a law too, although it is not as strong as New Mexico's.

Jim Souby remarked in 2011 when this all started the position of the states is that this was a federal funding issue, but since that time Washington's tone has changed and we may need to consider funding options and not rely on federal funding

Ray Lang asked if New Mexico DOT would consider submitting a TIGER application. Frank stated this route was discussed, but other priorities took precedence over this specific issue. Even with a TIGER Grant the State would still be required to provide matching funding, so the legal issue has taken precedence over any other discussions.

Senator Crowder asked if there was a driving force that would have come forward other than New Mexico DOT. Ray Lang inquired on the request for funding a study as he did not recall the request. Frank Sharpless noted that the State DOT of New Mexico did fund the studies, but the state did also look at the cost and efficiency that could also be served by bus systems. Ray Lang did not recall the request for Amtrak to provide funding for a study. Frank Sharpless noted that it was at a 2013 meeting, but he does not recall the exact date.

Ray Lang also advised that a lower circuit court determined that Amtrak is considered to be a government entity based on the amount of business conducted with the government. Frank Sharpless indicated that if this is an official decision that could be confirmed that could change the funding or donation regarding legal issues for New Mexico. This is a good question for the Commission to look into.

### c. Kansas

Dennis Slimmer noted that he will provide his update along with the TIGER Application piece which is item 7 on the agenda.

## 7. TIGER Application

This past legislative session Kansas Department of Transportation (KDOT) gave updates regarding the status of passenger rail in Kansas including the Southwest Chief. During the first update in January KDOT provided information regarding discussions with Amtrak, BNSF and Kansas cities along the route. The second briefing in February provided information relative to KDOT's understanding of the proposed legislative actions in Colorado and New Mexico. KDOT also briefed the Kansas legislature on the past TIGER grant application by Garden City and the potential for future applications.

On July 11<sup>th</sup> Kansas Secretary of Transportation Mike King accompanied Amtrak CEO Joe Boardman and BNSF Railway Executive Chairman Matt Rose on a special whistle stop tour along the Southwest Chief route in Kansas. The purpose of the tour was to speak with officials along the route about the condition of the rail along the route and the concern that passenger rail service could be lost in western Kansas unless action is taken to improve the condition of the rails. Stops were made in Topeka, Newton, Hutchinson, Dodge City and Garden City where KDOT, Amtrak, and BNSF officials met with local officials and media to explain the situation and discuss what is being done to address the problem. Since that event KDOT officials have stayed in touch with Amtrak, BNSF and local officials regarding this issue. KDOT is anxiously awaiting word from USDOT regarding the status of Garden City's TIGER grant application for funding to improve rail on the existing route of the Southwest Chief.

Chairman Pace asked if anyone had any questions regarding the Kansas State update or the TIGER Application.

Jim Souby noted conference calls are conducted every two weeks regarding the TIGER Grant and a decision is anticipated within the next two to three weeks. Senators, Representatives, and citizens have all contacted Transportation Secretary Foxx in support of the application made by Kansas for the TIGER Grant.

Dennis Slimmer added that the TIGER Application submitted by Kansas this year is a lot stronger than last year. The Grant will not solve the problem, but it may provide a beginning for a solution. The TIGER Application explains the benefits and the plan for additional resources and investments upon approval.

Mark Imhoff asked if there is any indication on what might happen if Amtrak decides to relocate the route. Ray Lang responded that Amtrak is willing to provide a 20 year commitment if the Kansas TIGER Application is approved, or pay back the funds to KDOT and Garden City.

Senator Crowder hopes Colorado can keep an open mind regarding funding and a possible TIGER Application. Senator Crowder noted that he has to believe that New Mexico will look at this as progress for their state if the Southwest Chief Rail is a success. He is not willing to give up at this point. The rural communities depend on these services and for some this is their access to travel for medical and other services.

## 8. Future Meetings

Chairman Pace asked that SWC Commission decide on goals and objectives for the next meeting:

- Long term funding and a strategy for securing Colorado funding including working with the Joint Budget Commission.
- Consideration of counter-proposals to the five-way/20% split among the five parties.
- Current status on what BNSF is doing as far as business is concerned on these specific rail lines and does the demand for business change with the seasons or year to year.
- Federal roles may also exist on these rail lines: (a) Department of Defense facilities in Piñon Canyon location (between La Junta and Trinidad) and Pueblo Chemical Depot, and (b) STRACNET Department of Defense corridors that will be maintained and whether the route between Trinidad and La Junta is part of that network.
- Rail Abandonment - specifically The Towner Line re: re-use of welded rail.

Elena Wilken suggested the results from the New Mexico studies be presented. Frank Sharpless stated they will not be available until after they are presented to the State of New Mexico legislature which is anticipated for November 5, 2014. Elena Wilken asked that they be recorded for a future agenda item after that date.

Chairman Pace noted that it might be a good idea for a SWC Commission representative to provide representation at the September 18, 2014 New Mexico State Transportation Commission meeting and possibly for the Colorado Joint Budget Committee meetings in the future. There was no further discussion regarding representation for these meetings.

Chairman Pace asked for suggestions on the next SWC Commission meeting date. Mark Imhoff suggested the next meeting be held in Southern Colorado. Rick Klein said he will make these arrangements for the meeting to be held in La Junta. It was decided that either September 17, 2014 or September 19, 2014 will be the date for the next meeting. Laura Morales-Garcia will send an email to the SWC Commission to confirm the date of the next meeting.

Chairman Pace closed the meeting adjourning at 3:31 p.m.