

Arizona Corporation Commission, other State agencies, our own State Transportation Board, labor unions, and -- most important -- the general public, for input to our program. Make no mistake about the time and cost required to carry out such an extensive public participation process. It requires a heavy commitment. The process has been worth all of the costs incurred.

We have completed our first State Rail Plan. It was submitted to the Federal Rail Administration several months ago, and it has been approved. I assume that Arizona's Rail Plan approval was one of the first to be received in the Western Region. Our Plan will be revised as a part of the continuous planning process.

My staff has prepared a program of projects in cooperation with local governments and the Southern Pacific. The program of projects is now out for A-95 review, and a public hearing has been scheduled for early October.

We think we can do some interesting and challenging things with Arizona's rail program in the future. When Congress passes the rail legislation before it, our activities will be facilitated.

#### One Perspective of the Federal Rail Program

The State of Arizona is grateful to Congress for its expansion of the 3R Program to the remainder of the country through the passage of the 4R Act. Recognition has been given to the fact that our rail system is truly national in coverage, scope, depth, and service.

In spite of criticism from the States, the unions, the railroads and the shippers, the Federal Rail Program has been successful in several ways. The 3R program, viewed by one outside its territory but affected by it, has been effective. The situation was difficult and tense, with wholesale bankruptcy. All of the wounds have not been healed, but the patient is still living.

The States in the northeast and midwest have agreed with the abandonment of significant mileage. Several states have become involved in rehabilitation. A few have provided operating subsidies. Through the States, Federal funds have been made available to railroads and projects have been meaningful.

The Federal Rail Program has stimulated the States to give attention to the rails as a viable component of transportation systems. States have responded to the challenge and now have staffs which are interested, increasing in knowledge and competence and contributing to problem solving.

The Federal Rail Program has brought the States together with each other, with the railroads, and with FRA. The American Association of State Highway and Transportation Officials (AASHTO), has graciously provided staff services to the National Conference of State Railway Officials (NCSRO). By making the conference a committee of AASHTO, both have benefitted and a sound relationship with State transportation agencies has been established.

There have been three major problems with the Federal Rail Program from my perspective. The first is being corrected through the proposed legislation now before Congress. Requiring abandonment before the program can be used (except for planning) has seriously hampered the important efforts and has made it difficult to assure shippers of service continuation. It really doesn't make sense to prove that a branch line is suitable for abandonment before funds can be expended to save it.

The second problem, which I am pleased to report is also being solved, lies in the attitude of FRA toward the program -- administrative obstacles. FRA has viewed the rail program as one of transition-to-

abandonment. The States have viewed the program as one of service-improvement. There have been unnecessary delays in the preparation of guidelines, studies, regulations, and project approvals. Although States have successfully processed and accomplished multi-million dollar transportation projects, the federal authorities have viewed with suspicion state competence to manage rather small rail programs.

The third program is one of financing. Many States have had to figure out ways to pay the necessary matching share because of Constitutional prohibitions, poor timing, or inadequate resources. The changing State match has also caused grief. The required Federal funds for the rail program will increase in the future. As the first two problems are solved, the opportunities for improved State/railroad/Federal cooperation in successful rail programs will be enhanced.

#### Key Issues

The key issues I see ahead in the rail programs are:

1. State flexibility in creatively meeting the needs of the individual rail situations.
2. FRA/State cooperations and partnership.
3. Involvement by the States in railroad/union cooperation.
4. Strengthening AASHTO/NCSRO relationship.
5. Interstate cooperation on mutual rail problems.
6. Communication among all the participants in the program, including individual states, railroads, labor unions, shippers, and Federal agencies.
7. Relocation of rail lines involving tremendous costs.

Management of State Rail Programs is a new challenge with new dimensions. We are still learning and we are still growing in competence and understanding. Individual States cannot accomplish effective railroad programs working in isolation. The effectiveness of the programs will be measured by the degree of cooperation and unity among the States, and effective coping with railroad service and system problems.

I appreciate this opportunity to share with you a few of my thoughts on Arizona's Rail Program and on other matters of importance to this nation's railroad system.

Thank you for your attention.

#### MANAGEMENT OF TENNESSEE'S RAIL PROGRAM

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I appreciate and welcome this opportunity to participate with the panel on "Management of State Rail Programs." My remarks today will be limited to local rail service assistance as provided for in Section 803 of Public Law 94-210.

At the outset, let me give you the background for the Tennessee Department of Transportation's activity in matters relating to rail transportation. By enacting "The Transportation Act of 1972," and through subsequent amendments, the Tennessee State legislature established goals for the Tennessee Department of Transportation. And our ongoing rail Transportation program stems from at least two of these goals, namely:

\* To develop a transportation system that will enhance the economic welfare of the residents of Tennessee, and

\* To develop a transportation system that fosters a desirable distribution of activity throughout Tennessee.

It is the intent of the Department of Transportation to adhere to these goals and to develop a balanced system of transportation that will complement statewide and community development.

To place responsibilities for the Department's management of the rail programs in perspective, a brief overview of its organizational structure will be helpful: the Department is composed of four modal bureaus -- the Bureau of Highways, Bureau of Aeronautics, Bureau of Mass Transit, Bureau of Waterways and Rail Transportation and two supporting bureaus -- the Bureau of Planning and Programming and the Bureau of Business Management. The Bureau of Planning and Programming is responsible for preparation and updating of the state transportation plan which addresses all modes of transportation. As a part of this responsibility, a system plan for each mode has been prepared and is updated on a continuing basis. It was in this context that Phase "A" of the State Rail Plan was prepared in-house by planning and programming, division of statewide transportation planning. The Bureau of Waterways and Rail Transportation is responsible for the priority ranking of projects and implementation of the rail program, including preparation of feasibility studies, plans, specifications, contract documents and arranging for necessary construction engineering and inspection at the project level.

#### A Case Study

In Tennessee, the rail program started "on the run"; a fifty mile branch line abandonment had been pending before the ICC since October 1, 1973 and the initial hearing before an administrative law judge was held March 14 through 16, 1976. On April 15, 1976, the governor designated the Tennessee Department of Transportation as the state agency to administer provisions of PL-94-210. This latter action proved to be convenient for the railroad, local communities and affected shippers, as the ICC's initial order was issued with a service date of May 27, 1976 and, we suddenly found ourselves confronted with a classic dilemma, which included:

\* An excellent effort on the part of the railroad in its presentation to the administrative law judge of proving that avoidable costs of operation greatly exceeded attributable revenues on the branch.

\* A rail dependent industry at mile 49 of the 50 mile branch.

\* The branch line being located in a section of the state that had an unemployment rate well in excess of the state average.

\* DOT management trying to determine the prerequisites for applying for a planning grant from the FRA to commence preparation of Phase "A" of the State Rail Plan.

The initial decision in favor of the railroad was issued with a service date of May 27, 1976; however, Protestant appeals prolonged the final decision until October 27, 1977. While the appeals worked their way through the commission and the judicial system, the Department completed the initial draft of Phase "A", of the State Rail Plan, which indicated that this branch line was considered an essential line that should be retained on the basis of adverse economic impact to the area of the state it served.

Not convinced that the Protestants would be successful in overturning the ICC decision, we undertook negotiations with the railroad for continued service

over the line on the basis that rehabilitation to Class I (as outlined in their submission to the ICC) would be accomplished under the Section 803 program. Their initial reaction was a flat "no" and it was only after negotiations with top railroad management that a six months operating agreement was executed to become effective on the service date of the final decision of the ICC. It was agreed that during this six months period the railroad would re-evaluate its position regarding continued operation of the branch. Early on it became apparent that the railroad had no intention of reversing its decision due to factors such as low revenue commodities, shortage of equipment and a reluctance to admit a lack of marketing on their part to secure business on the branch.

This left only one approach for continued operation of the line: that being a short line railroad. Time will not permit expansive elaboration on considerations that went into setting up the mechanism for the short line, but the following will give you some insight into the ingredients of the final products:

\*The impact area was a five county area of the state. A meeting of all county judges and mayors of cities in the impact area was held to determine interest in keeping the line and doing what was necessary to accomplish this objective.

\*The Department supplemented the information contained in the rail plan with a more detailed marketing and feasibility study to determine the reasonableness of a short line operation and expectations of it being operated without a subsidy. The real import of this study was the quantification of long term commodity movement for the area that could be expected to move by rail.

\*To facilitate purchase of the railroad property and exempt it from extremely high ad valorem taxes, legislation was introduced and enacted by the state legislature to establish a local rail authority that would function much the same as industrial development Boards. The authority is governed by a board of directors composed of the county judges and mayors of the counties and cities that ratified the legislation. Four of the five counties, and the cities within these counties, ratified the legislation and became members of the rail authority.

\*The Department advised the rail authority that the level of funding in the Section 803 program was not sufficient to permit purchase of the rail properties and the rehabilitation required. Since the state would have had to take title to the properties if Section 803 funds were used in the purchase, the Department imposed the obligation to purchase the properties on the rail authority.

\*The rail authority, with the assistance of the local governments, shippers and a long term loan from the Tennessee Valley Authority, negotiated for purchase of the rail property.

\*The department has approval of Phase "A" of its State Rail Plan and a grant application with the FRA for a large share of required rehabilitation of the line.

As of July 1, 1978, an established short line operator commenced operation of the line under an operating agreement with the local rail authority. Some of the positive effects of the short line operation is the fact that it will furnish most of the equipment necessary for shipments originating on the branch, and community and shipper interest in the line will enhance the long term operation.

#### Department Policy

While establishment of short line operations such as the one just described is indeed a solution; this will by no means be our sole approach to preserving

essential rail services. In most cases, continued operation by the Class I railroad is preferable. However, the basic problem in this type of solution is in procuring local government and shipper interest in financial support to retain an operation that has deteriorated over the years and has been the subject of a formal proceeding before the ICC. Usually the local interests don't have much "fight" left after the railroad has received permission to abandon a line!

To alleviate such problems, we support amending Section 803 to permit federal funding of rehabilitation well in advance of the actual filing of the intent to abandon a particular line.

In retrospect, I believe the following considerations have most benefited our being able to advance the Rail Assistance Program in Tennessee:

- \* Preparation of the Rail Plan in-house; avoiding the time required to negotiate a consultant contract and obtain FRA approval of such contracts.

- \* Formation of a rail advisory committee to provide input into the planning process at an early date.

- \* Holding formal public hearings in each community affected by the proposed branch line abandonments.

- \* Insistence on local government and shipper participation in the solution and financing.

- \* Supplementing rail plan information with a more detailed marketing type study to assure the proposed solution will result in a justified expenditure of public funds.

- \* Setting a definite time frame for events to take place and taking the lead in assuring that no one drops the ball.

- \* Accepting the fact that not all branch lines can be "saved" or operated profitably and thus, some lines should be retained.

- \* Using operating subsidy only as a short term solution, while accelerated maintenance or transfer of ownership is being accomplished.

#### Conclusion

While all of us that work in the State Rail Programs appreciate the need and vital role rail transportation plays in the nation's overall transportation system, we should use every available forum to encourage:

- \* More equitable taxation of railroad properties as compared to other commercial and industrial properties.

- \* Continued change in government regulatory policy to enhance the railroad's ability to compete with other modes of transportation.

- \* Shipper ownership of equipment to free up available railroad revenues for accelerated maintenance programs.

- \* Encourage both railroad management and labor to undertake serious negotiations at the earliest practicable time, within the framework of recently agreed to provisions for updating work rules.

- \* Promote statewide and national commodity flow studies to provide the rationale needed for informed federal and state DOT decisions that affect all modes of transportation.

- \* Encourage rail management to quit playing defense and start playing offense--make the general public aware of the positive side of railroading and not let the TV news dramatization of derailments be the public's only exposure to rail transportation.

I firmly believe that working together, the state DOTs, rail management and rail labor organizations, can make great strides in improving rail transportation to the benefit of the entire country.

#### A PERSPECTIVE ON THE STATES/CONRAIL RELATIONSHIP IN IMPLEMENTING RAIL PROGRAMS

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#### Introduction and Summary

That this meeting was convened today is evidence of the constructive relationship evolving between the railroad industry and state officials. We are proud to be a part of this effort and want to express Conrail's continuing commitment to be an active, responsible partner in rail revitalization.

In the last two-and-one half years, the industry, the States, and the federal government have come a long way; yet we have a substantial distance still to travel, with many obstacles ahead. This presentation will briefly review Conrail's experience to date as a partner with the States and then focus on the challenges before us.

While the last five years may presently appear as revolutionary in the history of American rail service, the next decade must bring even greater changes--producing either an efficient, vital rail service or an obsolescent mode of transportation. The challenge before us collectively is to appreciate the problems driving this continuing crisis, to innovate realistic and viable concepts for American rail service in the 21st century, and to create an environment conducive to the necessary changes and to the implementation of those concepts.

To those of us concerned with the public policy aspects of rail revitalization, the challenge is substantial. Conrail management is convinced that a viable market exists for rail service and that efficient delivery of that service can be competitive with the other transport modes. However, it is equally clear to Conrail's management that the rail service of the future will not resemble that of today. While few of us know the detailed dimensions of that future service, Conrail analyses will soon produce significant insight. The issue before those of us in the private and public sectors is how can public policy facilitate this evolution into the future, ensuring optimization of public and private interests.

This evolution will be dynamic, with momentum increasing as results surface from the several private sector and public sector analyses currently underway. Concurrently, we must develop and address a public policy agenda that facilitates service evolution in response to market economics and intrinsic rail efficiencies while concomitantly indentifying and mitigating any adverse consequences to the social welfare. I think we-- the public and private sectors-- are equal to the challenge. Through the Transportation Research Board and the National Conference of State Railway Officials, in concert with the rail industry, let us begin to build that public policy agenda. Let this agenda be based on our experience to date in this partnership and on the identifiable challenges ahead.

#### Retrospective Assessment of the Partnership between Conrail and the States within the Conrail Service Region

Recent rail reorganization, revitalization, and regulatory reform federal legislation were landmarks in