THE RAILROAD WEEK IN REVIEW
JULY 3, 2009

"The surprise jump in the saving rate to 6.9% seemed to help Treasuries but crimped oil and commodities on the thought that more saving meant less spending." – Art Cashin, UBS

"Bad medicine for short lines" in how Keith Borman, ASLRRA General Counsel, describes the new Hours of Service law in his end-paper appearing in the June 2009 issue of *Railway Age*. He writes, "The Safety Improvement Act of 2008 concocted a powerful cocktail of safety remedies enacted primarily for Class I railroad consumption [yet] serious operational and financial side effects are starting to appear among small Class II and Class III carriers."

The law stipulates that T&E employees may only work 276 hours a month and must have two days rest after six consecutive days of service and three days rest after seven consecutive service days. Moreover, the Act puts limits on so-called "limbo time" that includes events such as waiting for transportation back to GO or attending training classes. And it prohibits railroad managers from contacting employees during their statutory rest period lest that rest be disrupted.

I think it's safe to say the large majority of the 500-plus short lines in the US are five-or six day a week operations where the work can easily be done within the ten-hour window. The typical short line's crew members go to work in the same place every morning, do essentially the same work every day, tie up where they started and go home to their own beds. It's an entirely different environment than the Class I where crews can work a different job every day and sleep in a different bed every night. Here, good rest is good business and it needs to be protected. On short lines, it invariably goes with the territory.

Cases in point: a short line that operates two contiguous operations spreads the work out over several train crews and the work can run to eight hours a day for six days. Hiring, training and qualifying additional T&E personnel does not work because the revenue stream will not support the added cost. The HOS change could easily impact service frequency for customers and add delay to their inventory management systems.

Another short line does a substantial switching business into a small yard run by its connecting class I and that yard must be cleared daily to make room for the next day's work. Taking out the sixth day for the short line harms car cycle time, adds to customer transportation costs, and makes the rail option less cost-effective at precisely the time customers are beginning to find the railroads' batch-process system can actually enhance supply chain performance.

Just last week the New Jersey Short Line Association asked FRA representative Rich Green to address their monthly meeting on the new rules and implications thereof. Kel MacKavanagh, Secretary for the New Jersey group, writes in his minutes of the session, "The new federal Hours of Service regulations, which go into effect on July 16, 2009, generated considerable discussion, especially about co-mingling and cumulative hours of service.

"Rich Green, a FRA safety and operating practices inspector, reviewed the essentials of the new regulations; the interpretation is changing… Short lines are in a unique position: Short line employees may have co-mingled service with more than one railroad and also covered and non-covered service on the same day. What is the effect of co-mingled service on cumulative hours of service (276 hours per month)?"

“As for rest, employees cannot be disturbed within the 10-hour rest period. If an employee has made starts on 6 consecutive days, the employee needs 48 hours of rest. If the employee has been in train service for 7 consecutive days, 72 hours of rest are mandated. Short lines are applying for waivers of these rules.” [The ALSRRA has applied for a waiver; see details in *Views & News* for June 30, 2009 at www.aslrra.org -- rhb]

Steve Friedland, creator of the popular Access-based “SDSROCS” data system for short lines, has developed an electronic record-keeping program (HOSS) to keep track of employee’s hours of service. It has already been purchased by the Red River Valley & Western and Steve tells me several others are in the queue to start using the program shortly. Further information about the program is available on the website, www.sdsrocs.com/products.htm -- click on “HOSS.”

The paper barrier wars may be heating up. RailAmerica’s Missouri & Northern Arkansas Railroad, a 300-mile ex-MOP line in western Missouri and northwestern Arkansas, is the sole railroad serving the Entergy coal-fired utility plant near Newark, AR. The utility receives PRB coal via the UP and MNA and has challenged the terms of the lease agreement between UP and MNA letting the MNA use the rail free of lease fees if at least 95 percent of the short line’s freight comes and goes via UP.

The present STB decision (NOR 42104) dated June 26, 2009, says Entergy filed under the wrong provisions of the statute governing interchange agreements, cites what it believes is the operable statute, gives Entergy 30 days to amend its complaint, and provides “guidance regarding the evidence needed” by the STB “to evaluate the through-route request.”

Though the Board has said it will not “prescribe rules of general applicability regarding interchange agreements,” it does reserve the option to “consider the propriety of interchange agreements on a case-by case basis.” The facts of the matter are that UP coal from the PRB travels over the MNA for a distance of about eight miles from the UP interchange to the power plant and in that eight-mile stretch are points where MNA could physically make interchange with BNSF. The original Feb 2008 STB complaint alleges that the stipulations of the UP-MNA lease are unlawful.

Being neither lawyer nor STB practitioner, I am not prepared to comment on the merits of the case. As usual, the STB has crafted a masterfully-written document and the logic is ruthless, as it should be. However, it appears to me it that once short line customers start peering into and parsing paper barrier agreements such events will no doubt provide a huge disincentive for any further line transfers to short lines.

(Note that Footnote 22 to the decision cites a provision in the UP-MNA lease the allows UP to terminate the lease “in the event a court or other body determines that all or any of the provisions of [the rent/interchange commitment] are unlawful or otherwise unenforceable.” So, following this argument to its logical end, let’s say UP terminates the MNA lease. That puts the utility back to one-railroad service. Net-net, Entergy forces a short line out of business and still has only one railroad serving the Newark plant.]

Meanwhile, the MNA has won a $353,600 disaster assistance grant from the FRA and awarded thorough the Missouri DOT to recover some of the cost incurred as a result of flood-related track damage a year ago. The flooding forced the railroad to shut down for eight days. According to an item in the Joplin (MO) *Globe*, funds awarded under this program can cover up to 80 percent of the total project cost where “bridges, signals and other infrastructure” that are/is part of the national rail network have been damaged “in a natural disaster.” Nice use of “OPM.”

And speaking of coal, a recent note from Morgan-Stanley says NS export coal could be off as much as 70 percent in the second quarter. “Weak volumes are not a surprise; this would easily be the lowest volume level in any quarter in the past ten years. Importantly, we remain convinced that weak coal volumes are not solely the result of aggressive rail pricing: coal volumes are not very price elastic – implying that price stimulation would be an ineffective strategy.

“Even if rails cut prices sharply for export metallurgical coal shipments, European buyers would not order more coal until steel demand improves globally – a point which rails understand well, in our view. Thus, we remain of the view that rail pricing can and will hold in 2009 at plus 4-5 percent and plus 3-4 percent in 2010.”

Though the report does not specifically mention CSX export coal, I can say that coal traffic through Williamsburg VA on the line to the coal docks at Newport News seemed to be at a low ebb when I was there two weeks ago. Moreover, the volume of empty trains returning to the mines over the Buckingham Branch’s ex-CSX Richmond-Doswell- Clifton Forge line did not seem all that robust during my recent stay at the Charlottesville Red Roof Inn that looks out over the railroad.

RMI’s RailConnect Index of short line traffic (attached) shows short line coal down ten percent through Week 24 ending June 20, running at an annualized rate of roughly 700,000 carloads. In 2008 GWR alone ran 194,000 loads (15% of revenue) of “coal, coke and ore,” of which, it ought to be safe to say, most is coal given the profiles of its B&P, I&M and Utah Railroads. At Rail America coal accounted for five percent of its 2007 revenue and, since rates can’t be all that different, say for arguments sake RA does 60,000 loads of coal. Between them that would be more than a third of all short line loads.

And that doesn’t count the overhead moves like the empties on Buckingham Branch or the overhead loads on the Ohio Central or Western NY & Penna. So when I see coal loads down ten percent it tells me affected short lines will have to scramble for replacement revenue or cut services someplace.

But wait, there’s more. An article on global warming in *The New Yorker* for June 29,2009 cites an assembly of more than 250 concerned New Hampshire citizens gathered to hear a PowerPoint presentation on why coal is “The Climate Threat to the Planet.” Valero has installed a 33-unit, $155 million windmill farm at its refinery near Amarillo, Texas, to cut its $1.4 million monthly utility bill by half or more, displacing electricity mostly generated by burning PRB coal. And at the opposite end of the scale the vest-pocket coal-fired Vineland (NJ) Electric Company seeks to add a peaking facility to be fueled by natural gas, thanks in part to local enviro concerns. Makes me wonder how safe the heat side of my “heat and eat” thesis really is.

Errata: WIR for June 26 said GWR has exited the *Huron & Eastern* in Southern Ontario. It should have read *Huron Central*. WIR regrets the error and has corrected the on-line copy.

RailConnect Index of Short Line Traffic

Traffic Type: All

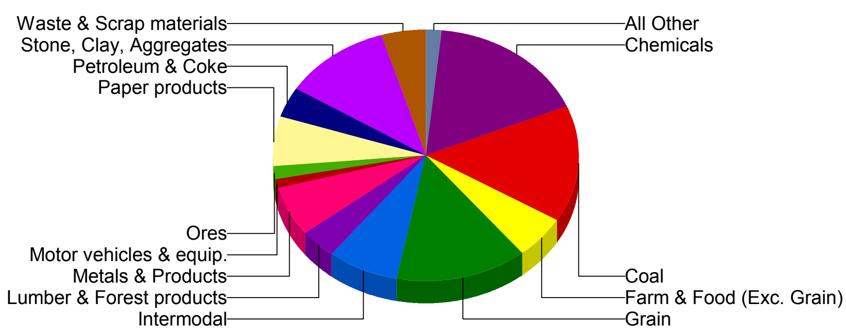
For the week ending: 6/20/2009

Week Number: 24

Carloads Handled	Current Week 2009	Current Week 2008	Current Week % Change	Year-To-Date 2009	Year-To-Date 2008	Year-To-Date % Change
Coal	14,063	11,179	25.80%	321,854	358,139	-10.13%
Grain	12,433	13,366	-6.98%	296,685	366,140	-18.97%
Farm & Food (Exc. Grain)	5,254	5,519	-4.80%	124,915	138,621	-9.89%
Ores	1,482	3,051	-51.43%	35,550	68,941	-48.43%
Stone, Clay, Aggregates	11,576	14,515	-20.25%	243,241	298,956	-18.64%
Lumber & Forest products	3,828	5,449	-29.75%	84,233	116,353	-27.61%
Paper products	5,593	7,741	-27.75%	137,556	183,089	-24.87%
Waste & Scrap materials	4,561	6,995	-34.80%	103,802	156,313	-33.59%
Chemicals	15,207	16,564	-8.19%	365,710	422,547	-13.45%
Petroleum & Coke	3,357	5,973	-43.80%	86,272	139,729	-38.26%
Metals & Products	4,871	10,823	-54.99%	140,252	269,092	-47.88%
Motor vehicles & equip.	1,077	2,414	-55.39%	23,257	48,447	-51.99%
Intermodal	6,604	11,324	-41.68%	160,168	310,051	-48.34%
All Other	1,229	2,946	-58.28%	35,148	73,866	-52.42%
Total	**91,135**	**117,859**	**-22.67%**	**2,158,643**	**2,950,284**	**-26.83%**

RailConnect Index

Year-To-Date



All Other	1.6%
Chemicals	16.9%
Coal	14.9%
Farm & Food (Exc. Grain)	5.8%
Grain	13.7%
Intermodal	7.4%
Lumber & Forest products	3.9%
Metals & Products	6.5%
Motor vehicles & equip.	1.1%
Ores	1.6%
Paper products	6.4%
Petroleum & Coke	4.0%
Stone, Clay, Aggregates	11.3%
Waste & Scrap materials	4.8%
Total:	100.0%