



SECTION 305 NGEC Executive Board

MINUTES

SEPT. 15, 2010

11:30AM EST

EMERGENCY
CONFERENCE CALL
MEETING

FACILITATOR	<i>Bill Bronte, Chair, S305 NGEC Executive Board</i>
ATTENDEES	Voting Members: <i>Bill Bronte, DJ Stadtler, Rod Massman, Mark Yachmetz, Alan Ware, Kevin Lawson, Tammy Nicholson, Don Hannon, Scott Witt, Ron Adams, Dale Engelhardt (as proxy for Mario Bergeron) Pat Simmons, Joe Kyle, Support Staff/Observers:</i> <i>Ken Uznanski, Rob Edgcumbe, Steve Hewitt, David Ewing, Leo Penne, Ray Hessinger, Kevin Kesler</i>
ABSENTEES	Board Members: <i>Mario Bergeron, Caitlin Hughes Rayman – Support Staff/Observers:</i> <i>Paul Nissenbaum, Marvin Winston, Drew Galloway, John Bennett, Nancy Greene, Robin McCarthy, Stephen Gardner, Shayne Gill,</i>

DISCUSSION AND DECISIONS MADE

The S305 NGEC Executive Board met via telephonic conference call for the purpose of reconsidering the specification development priority agreed to at the meeting of the Executive Board on August 31, 2010. The Board has received a request from FRA to reconsider the decision made at the August 31 meeting to revise its priorities to have single level train sets as the next specification to be developed (along with diesel locomotives currently underway) and to develop single level standalone cars specifications next. This meeting has been called to consider two actions:

1. A vote to agree to reconsider
2. If the vote to reconsider is approved; to vote (or come to consensus) on revising the priorities for specification development to have standalone single level cars be the next specifications to be developed (along with locomotives) with single level Tier 1 train sets to follow next.

The roll was called by Steve Hewitt, Support Services manager for the S305 NGEC. The roll as noted above confirmed the presence of a quorum – with 13 of 14 voting members represented (only Caitlin Hughes Rayman, Maryland DOT was not represented)

Bill Bronte, Chair of the S305 NGEC Executive Board, welcomed the Board Members, support staff and observers attending this emergency/conference call meeting of the S305 Executive Board; and thanked all members for their willingness to attend and participate on this call, especially on such short notice. Bill described the request that he, and subsequently, the Board had received from FRA. He described the request as one which asked the Board to reconsider the vote of August 31, 2010 in which the Board reprioritized its specification development; and to go back to the original priority set in January, 2010.

Bill emphasized that the issue to be discussed and considered should not be construed as an attempt to “throw anything over the side” it is about timing for developing both single level standalone cars and single level train sets.

Bill summarized the events of August 31st which led to the agreement by the Board to change its original priorities to do train sets now and standalone cars next, in order to expeditiously develop train sets specifications and get them in place to allow the states who’s SDPs called for the acquisition of train sets; to progress their projects forward in accordance with both PRIIA and ARRA guidelines.

Bill noted that “as we took the vote last week, we did so without knowing of the President’s impending announcement of \$50 billion in stimulus funds” which will include significant funding for replacement of Amtrak’s outdated fleet of single level standalone cars. Bill reminded the members that at the time of the Aug 31 vote, he asked several times if any member was “ready to procure” standalone cars. No one responded that they were ready to do so. Washington State and Wisconsin, however, were ready to move forward with train sets procurements providing that a PRIIA specification could be developed in a timely manner. It was then determined, that by consensus, after an 11-3 poll vote of Members - that train sets would be taken up first and

standalones would follow immediately thereafter.

Bill emphasized, again, that it is now evident that we (the Board) did not have the information at that time that we now have in regards to the President's announcement. He stated also that before proceeding to consider a re-vote, the Board would need to hear a rationalization from the FRA for its request.

Mark Yachmetz, FRA, thanked the Board for its willingness to meet today and opened his remarks by stressing that, "it wasn't just that the FRA rep on the Board did not know of the President's announcement, neither did most of USDOT know." He continued, "this is a new set of circumstances and has to do with the next stimulus bill and the renewal of the Amtrak Fleet....to improve Intercity Passenger Rail and the domestic economy". He went on to add that "we are hopeful that Congress will respond to the President's proposal positively."

Mark went on to describe his understanding of what happened at the August 31 Board meeting with regard to the reprioritization decision. He described some of the key issues as:

1. There was concern expressed on the part of states who are ordering train sets – that FRA allocation of funds might expire before they can order the trains. At the same time "as all of this was going on" the Secretary of Transportation informed the 7 Corridors with Service Development Plans that the intent was to obligate the funds for the SDPs quickly with the target being before or by February, 2011. He stressed that the February, 2011 date was the "outside" target – sooner than that is the intention. He went on to explain that "Wisconsin has staff at FRA today to try to wrap up cooperative agreements."
2. He emphasized also – The "funds are not going away at the end of the year – once obligated – the states have until 2017 to spend the money." Thus there is no pressing need to do the train sets now for fear of losing funding based on timeline concerns.
3. He also elaborated on the issue of Buy America – "the funding for equipment will not be authorized for expenditure if a significant Buy America waiver is required." He also stated that "small orders of train sets will not lead manufacturers to invest to a high degree" and that the "commitment of the manufacturers" to invest in domestic content is a key issue. He summarized the point by explaining that "with all this together" – domestic manufacturing and improving HSIPR - the Department has "twin priorities". He further stated, "we believe that single level standalone cars are the first priority" in order to be able to move as quickly as Congress. "It is not to say that train sets should be delayed or terminated". It is important to "commit resources to the standalones quickly and then turn to train sets ...we do not see it as a big delay for train sets."

Bill Bronte – for the purposes of clarification – asked Mark to elaborate on the issue of obligation and expenditures. Bill mentioned that the original guidance, as he understood it, called for the funds to be obligated by September 2011 for the SDP states on the 7 corridors. Since equipment was part of those programs – and the FRA intent was to obligate the funds now by February, 2011 – "does it include equipment acquisition for those corridor programs?"

Mark responded that the intent is to "obligate the full amount being allocated to the states". He cited the example of Wisconsin – "\$810 million was the full allocation"...and of that amount about ... "\$47 million was for equipment. FRA will obligate the funds, but expenditure will be subject to threshold tests in the cooperative agreement". He went on to further comment – "When you hear the discussion of certain congressional members...or candidates...who want to take unobligated balances to use for other purposes" – our intentions are that the funds will have been obligated and accounted for in the "budget book". We intend to "work with the states to meet thresholds as obligated with 305 compliance. The funds can then flow as equipment is built. Mark elaborated that this "reflects a change in attitude by FRAwe are willing to move forward with agreements now, accepting that there are some holes still to be filled." Most corridor plans need equipment and states will be required to comply with 305 – but we are providing the opportunity to do that through Cooperative Agreements.

A clarifying question was then posed to Mark, by Scott Witt, Washington State DOT – "In regards to the 2/11 date – which is good-for obligation – if rolling stock is in the SDP – it is not precluded – if obligated without a specification (PRIIA approved)?" Mark's response was – "Correct."

Ron Adams, Wisconsin DOT, thanked Mark Yachmetz "for the clarification on obligation." He commented on the fact that he did not think that it was clear from the minutes of the earlier meeting (January) that the Board had prioritized train sets or standalones, specifically, rather, they had just prioritized "single level" after Bi-Level cars. Ron stated that he was pleased about the Feb 2011 obligation date – "can't resolve the American content until you are on the street" and this (February 2011 date) will enable us to go out on the street with specs.

Mark, again reiterated that the funds will be available by February, 2011. This will "make equipment needs a little more real."

The conversation then moved to Authorization and Mark stated that he believed that "there is time to structure the Act with the Stimulus Bill."

Ron Adams asked if Congress passes the \$50billion program – “when would applications be due and when will the funds be obligated?”

Mark responded that the answer is unknown, but that recent past history confirms that FRA will move as quickly as possible. He cited the fact that when the ARRA HSIPR funding came into play the first time with no advance notice – the FRA was able to enter into a “new grant agreement with Amtrak in 29 days!” States with good standing and with cooperative agreements will make the process move faster. “We know what is boiler plate and what is not and this enables us to focus on the key issues”.

Pat Simmons, NCDOT, commented that from the perspective of North Carolina, the issue of train sets/standalone cars does not have an immediate impact right now – but in the future it will. “We wanted to support other states to ensure that they have the opportunity to complete their program. We also thought that September 30th was the deadline....I wanted to support our sister states in going forward with acquiring equipment to build the corridors.” He also expressed his appreciation for “everyone’s flexibility in working through the many Grants issues.”

Mark responded that FRA feels strongly about the HSIPR program – and we are “in this for the long haul” He emphasized the importance of cooperation with the states – and the fact that “we see great things” and we “appreciate the commitment” shown and we “want all to succeed.” The key foundation is cooperation among the states and FRA.

At this point, Ron Adams asked a question of Dale Engelhardt – “with reprioritization - what is the date for train set specifications?” Dale responded that the technical subcommittee will be meeting via conference call tomorrow – Thursday – and “we will review it and see what we can do and how fast.” Dale elaborated further that his worst case scenario timeline for standalones if the priority is changed today – is that the spec will be completed by the end of January, 2011 – (worst case scenario) and that the best case scenario for standalones is December 31, 2010. He stated that the technical subcommittee would then immediately proceed with the development of train set specs. The worst case scenario for train set specification development would be; completion by April 30, 2011, and the best case scenario would be; completion by March 31, 2011.

Kevin Kesler commented that he had attended a structural subgroup call earlier that day and that the members of that team felt strongly that if the standalones were to now be the priority they would be able to meet the December 31, 2010 deadline.

At this point, Bill Bronte asked Rod Massman to provide the Board representatives with a description of the voting rules and the format for voting on the two issues before the Board.

It was agreed that a quorum was present – there would be a polling of the voting members in regards to their vote on the issue of reconsidering the August 31 reprioritization vote. If this poll of the members was determined by the Chair as having achieved consensus – the Chair could accept a motion to reprioritize the specification development order established on August 31. If after the Members have been polled and the Chair determined that consensus had been achieved, the motion would carry. If, in either case, the Chair determined that consensus had not been achieved – the Board would vote on the motion in block as provided for in the Bylaws. The voting blocks are: Amtrak has a block of 11 votes, FRA has a block of 11 votes and the 11 state voting members each have an individual vote.

With the process reviewed, the Chair entertained a motion made by Mark Yachmetz, FRA and seconded by Don Hannon, NY; to “re-open consideration of priorities for developing single level specifications.” A poll of the Board members resulted as follows:

Bill Bronte, California DOT – Aye

Dale Engelhardt (for Mario Bergeron), Amtrak – Aye

Rod Massman, Missouri DOT – Aye

DJ Stadtler, Amtrak – Aye

Mark Yachmetz, FRA – Aye

Al Ware, Georgia (had been called away and was not present to vote)

Kevin Lawson, Louisiana DOT – Aye

Tammy Nicholson, Iowa DOT – Aye

Caitlin Hughes Rayman, Maryland DOT – not present

Don Hannon, New York DOT – Aye

Pat Simmons, North Carolina DOT – Aye

Joe Kyle, Oklahoma DOT – Aye

Scott Witt, Washington State DOT – Aye

Ron Adams, Wisconsin DOT – No

Final polling results = 11 Aye – 1 No – 2 absent

The Chair determined that consensus had been achieved and the Board had agreed to re-open the consideration of priorities for developing the single level specifications.

Rod Massman, Missouri made a motion, seconded by Joe Kyle, Oklahoma, to: propose to the Board that the sequence for developing single level specifications be prioritized to have the single level standalone (individual) cars as the next specification to be developed; with single level Tier1 trainsets to follow.

With the motion and second made, Bill Bronte opened up for discussion.

Mark Yachmetz commented that he believed that, "for a 2-3 month period, it is possible that Amtrak could fill the gap in Wisconsin to help with the delay."

Bill Bronte asked if FRA will bring resources to help complete trainsets expeditiously and get the funds obligated by February, 2011 for the Corridor Programs? "Is that commitment real?", Bill asked. Bill also elaborated that the challenge of Buy America is separate from specification development – and is more of a procurement issue.

Mark Yachmetz gave assurances to the Board that it is his intent that "no one is left holding the bag – I will watch to be sure that FRA does not reduce its commitment." He went on to say that, "on the obligation side we are committedwe are prompted by Vice President Biden on a regular basis to move forward". He commented that he meets regularly – sometimes as often as weekly, with the Secretary of USDOT and will continue to do so. It is a high priority to keep this program going and make it real.

In regards to resources, Mark announced that FRA has a new Research and Development Director, Dr. John Tunna, (who also served on the S305 Technical Subcommittee as Team Leader of the VTI subgroup) which will help boost the resources and abilities in that area of FRA. Kevin Kesler noted that Volpe Center and contract support for the efforts of the Technical subcommittee subgroups "is expanding" to make sure they can get the work done expeditiously. "We are plussing up on our efforts in our area."

Pat Simmons asked Dale Engelhardt to re-state the worst case scenario for delivery of the trainsets and standalone cars specifications. Mark Yachmetz asked that Dale reiterate both the target dates and the worst case scenario.

Dale repeated that the target dates for single level standalone cars is the end of December, 2010 and the worst case scenario is January 31, 2011. For the single level Tier 1 Trainsets the target date would be approximately 3 months after completion of the standalone specification development. Target would be March 31, 2011 and the worst case scenario would be April 30, 2011.

Pat Simmons asked a follow up question of Washington State and Wisconsin. Does this change in priority "impact your development schedule?" Ron responded that Wisconsin's goal is to have the trainsets in service by Spring of 2013 and that the estimate is usually that trains can get in service about 24 months after the order. "If we don't have the specification by March, 2011 – this will delay us."

Scott Witt, Washington State, responded that "we are another year beyond that."

No other member state expressed a scheduling impact with a change of priority back to standalones first and trainsets to follow.

DJ Stadtler of Amtrak commented that – "if we get the funding – we want to get on the street as soon as possible." He cited Amtrak President and CEO Joe Boardman, as having reminded him earlier that morning that we "must keep the momentum going." The intent is to procure as quickly as possible.

With discussion drawing to an end, Bill Bronte reminded the members that there was a motion and a second on the floor and asked that Steve Hewitt poll the Board with respect to their vote on the motion to: Propose to the Board that the sequence for developing single level specifications be prioritized to have the single level standalone (individual) cars as the next specification to be developed; with single level Tier1 trainsets to follow.

The result of the polling of Board members is as follows:

Bill Bronte, California DOT – Aye
Dale Engelhardt (for Mario Bergeron), Amtrak – Aye
Rod Massman, Missouri DOT – Aye
DJ Stadtler, Amtrak – Aye
Mark Yachmetz, FRA – Aye
Al Ware, Georgia (had been called away and was not present to vote)
Kevin Lawson, Louisiana DOT – (did not vote –may have also been called away)
Tammy Nicholson, Iowa DOT – Aye
Caitlin Hughes Rayman, Maryland DOT – not present
Don Hannon, New York DOT – Aye
Pat Simmons, North Carolina DOT – Aye

Joe Kyle, Oklahoma DOT – Aye
Scott Witt, Washington State DOT – Aye
Ron Adams, Wisconsin DOT – No
Final polling results = 10 Aye – 1 No – 3 absent or not voting

Bill Bronte determined that with a margin of 10 Ayes, 1 No and 3 non votes – “consensus has been achieved and the motion carries.”

Mark Yachmetz thanked the Board for “doing the call. We recognize your efforts” and your busy schedules and we “thank you again.” He also reiterated FRA’s “commitment – we want to move as quickly as possible to get all of the 305 specifications out there to get equipment out there and get jobs up and running.”

Ron Adams commented to Mark that “I appreciate your efforts and I look forward to trainsets by April, 2011.”

Mark reiterated, “we want all 7 SDP Corridors done as quickly as possible.”

Don Hannon, New York State DOT, as the meeting began to close, announced that he was retiring from State service and therefore leaving the S305 Committee and his seat on the Board at the end of September, 2010. He also announced that NYSDOT Commissioner Stan Gee had appointed Ray Hessinger, NYSDOT, to represent New York on the S305 Committee and to take Don’s place on the Executive Board for New York.

The emergency conference call meeting of the Executive Board adjourned at approximately 12:45 PM Eastern time.