Brotherhood of Maintenance of Way Employes Division
of the International Brotherhood of Teamsters

NEWS CLIPS

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Randall Brassell, Director of Communications
Telephone: 615-521-4097 (Fax) 615-824-2164
email: rbrassell1@aol.com

Rail freight traffic remains in the doldrums

September 28, 2009

Rail carload traffic in the week ended Sept. 19 posted only a single-digit decline--9.6%--compared with the corresponding week in 2008. But the improvement was more apparent than real.

As the Association of American Railroads noted: "While the weekly year-over-year percentage decline was better than for the previous week ending Sept. 12, 2009, down 19.8%, this week in 2008 was impacted by service disruptions associated with Hurricane Ike." Regionally, loadings were down 4.8% in the West and 15.8% in the East.

Intermodal traffic of on U.S. railroads was down 12.4 % from last year. Container volume fell 6.29% and trailer volume was off 35.5%.

While most of the 19 carload commodity groups were down from last year, chemicals were up 17.4%, petroleum products were up 6.7 %, and farm products (excluding grain) rose 3.3%.

For the first 37 weeks of 2009, U.S. railroads reported cumulative volume of 9,831,638 carloads, down 18.2% from 2008; 6,936,253 trailers or containers, down 16.8%, and total volume estimated at 1.05 trillion ton-miles, down 17.3%.

Canadian railroads reported carload volume for the latest week down 10.7% from last year, and intermodal volume was down 11.4%. For the first 37 weeks of 2009, Canadian railroads had total volume of 2,235,077 carloads, down 22.8% from last year, and 1,500,252 trailers or containers, down 16.3%.

Mexican railroads reported 10,836 carloads in the week ended Sept. 19, down 0.8% from last year, and 6,223 trailers or containers, down 7.8%. Volume for the first 37 weeks of 2009 was 420,254 carloads, down 14.1%, and 189,297 trailers or containers, down 19.1%.

9/28/2009 State Funding

Wisconsin doles out $30.5 million for 10 freight-rail projects

Last week, Wisconsin Gov. Jim Doyle announced the state will award 10 loans and grants totaling $30.5 million for various freight-rail projects.

The Wisconsin Department of Transportation (WisDOT) will administer three loans totaling $3.4 million through the Freight Railroad Infrastructure Improvement Program, which provides loans to railroads, private industries and local governments to improve rail infrastructure and grade crossings, and construct rail-served facilities.

Zenda Grain L.L.C. will receive a $2.4 million loan to help finance the construction of rail spurs, tracks, a grain storage bin, rail loadout equipment and concrete dump pit in Zenda, Wis. The grain facility is located on a Wisconsin and Southern Railroad Co. (WSOR) line owned by the state and Wisconsin River Rail Transit Commission.

WisDOT also will provide two loans to WSOR: a $500,000 loan for a Madison-to-Milton Junction rail replacement project and $415,922 loan for a tie replacement project between Janesville and Monroe.

In addition, WisDOT will distribute seven grants totaling $27.2 million through the state's Freight Railroad Preservation Program, which provides funds to cover up to 80 percent of project costs to preserve rail service or rehabilitate facilities on publicly owned rail lines.

The Wisconsin West Rail Transit Authority will receive a $1 million grant to fully fund the rehabilitation of the Cameron-to-Barron and Cameron-to-Rice Lake lines. WisDOT and the authority plan to complete the acquisition of the CN-owned lines early next year; work would begin in spring 2010.

The Wisconsin River Rail Transit Commission will receive grants totaling $4.1 million to acquire seven miles of rail in Janesville from WSOR. In addition, WSOR will receive five grants totaling more than $22 million to reconstruct a line from Plymouth to Kohler; rehabilitate the Madison-to-Milton Junction, Janesville-to-Monroe and North Milwaukee-to-Slinger lines; and rehabilitate and reconstruct several bridges.

Justice asks high court to OK labor board rulings

September 29, 2009

By SAM HANANEL (AP) – 1 day ago

WASHINGTON — The Justice Department on Tuesday asked the Supreme Court to let a federal labor board continue working even though three of its five seats are vacant.

The National Labor Relations Board, which resolves conflicts between unions and management, has worked with three vacancies for nearly two years because of political wrangling in the Senate.

Earlier this year, a federal appeals court in Washington said hundreds of decisions issued by the NLRB are invalid because federal law does not permit the board to act without at least three members.

But three other federal appeals courts — in Boston, Chicago and New York — have reached the opposite conclusion. The Justice Department's petition urges the Supreme Court to resolve the split.

The uncertainty has thrown into question more than 400 decisions that clarified the rules of union organizing or decided whether there was merit to claims of unfair labor practices.

The standoff has also forced the two remaining board members — one Democrat and one Republican — to postpone dealing with more complex cases that could have a wider impact on the workplace.

Democrats refused to fill the empty seats during President George W. Bush's final year in office, angered over a series of anti-union board rulings and a perception that Bush's nominees were too pro-business.

Now Republicans have stalled President Barack Obama's picks for the board after business groups complained that one nominee — former union lawyer Craig Becker — has views that are "out of the mainstream." Obama's nominees have been pending since July.

The NLRB has continued to hear cases and issue decisions in which the chairwoman, Democrat Wilma Liebman, and Republican board member Peter Schaumber can agree.

"We continue to believe that our position is correct, and hope that a decision from the high court will bring some finality to these cases," Liebman said.

Analyst: “Dawn of a better day in rail traffic”

September 29, 2009

As rail freight traffic rebounds, making sense of “volume volatility” has been difficult, says Dahlman Rose & Co. Director Equity Research and *Railway Age* Contributing Editor Jason Seidl in his latest weekly analysis.

“The month of September has likely marked the dawn of a better day in rail traffic,” he reports. “This week’s sharp improvement in volumes over last week seems to support our thesis that a meaningful turnaround in the numbers is likely to emerge due in large part to easier year-over-year comparisons with the historic plunge of global markets in the last quarter of 2008. (The adverse effect of Hurricane Ike in Week 37 2008 helped improve Week 37 2009 further.) We believe that the positive trend is also partly fueled by a real, albeit slight, strengthening of the sector fundamentals and the economy as whole. The aggregate of the last four-week period yields a volume decline of 14% in 2009 over the same period last year. The rate of decline in Week 37 dropped by more than 50% from the exceptionally high decline in Week 36. The sharp slip in volumes in Week 36 followed the prior week’s abrupt improvement, which was largely due to easy year-over-year comparisons with a shortened holiday week in September 2008. While the dizzying volatility in traffic patterns as of late can obfuscate the real overall trends, examining volume changes for weeks 34-37, which reveals the aforementioned 14% rate of decline, provides a better understanding of rail volumes.”

Seidl says the 14% rate “is a better reflection of the market dynamics than what any of the last four weekly changes can separately reveal. That volume declines have decelerated in seven out of the last ten weeks are indicative of volume stabilization under way. The next five weeks will see decline rates largely inline with our computed normalized rate of 14%. A phase of progressively easier comparisons is likely to begin around week 43, with volume changes potentially entering positive territory in the last few weeks of the year.”

“All regions are seeing improvement,” Seidl notes. For Week 37, in the West, BNSF and Union Pacific volumes, respectively, declined 12.7%, compared to 22.6% in Week 36, and 5.6%, compared to 20.6% in Week 36. In the East, Norfolk Southern volumes declined 16.1%, vs. 25% in Week 36, while CSX’s volumes were down 11.5%, vs. 20.5%. Kansas City Southern volumes were up 12.6%, vs. a 2.6% decline the prior week, while KCS de Mexico declined 7.8%, vs. 11% in Week 36.

CN and CP volumes were down 7% and 14%, respectively, compared to 19.4% and 27.4% in the prior week. Service levels, he reports, "are mixed. Overall performance level in Week 37 was slightly below that in week 36 as train speed increased 10.5% vs. an increase of 11.1% in the prior week. Cars on line improved 5.7%, in line with the prior week, and terminal dwell time deteriorated 1.2% vs. 8% in Week 36.

9/29/2009 Crosstie Market

Tie purchases continued to climb, production continued to drop off in August, RTA says

In August, crosstie production and purchases continued to veer in different directions, according to the Railway Tie Association's (RTA) monthly tie market report. Tie production dropped an "unseasonal-like" 13 percent to 1.7 million units while purchases increased 1 percent to 1.9 million units compared with August 2008 data.

During 2009's first eight months, production remained ahead of 2008's pace, climbing 29 percent to 16.5 million units. Purchases inched up 0.3 percent to 15.1 million units and inventories increased 1.4 million units to 17.6 million ties compared with figures from the same 2008 period.

Twelve-month rolling data showed production, which totaled 24 million units, climbed at a 24 percent annual rate while purchases, which totaled 20.1 million units, declined at a 1.5 percent rate, RTA officials said in the report. Tie inventories rose 21 percent during the 12-month period, but declined 1 percent in August.

The inventory-to-sales ratio fell slightly from July's 0.85 to 0.84 in August. However, the ratio remained well above the five-year average of 0.77, RTA said.

GM sending Saturn into final orbit

Pact with Penske Automotive collapses; dealerships to close

By Robert Channick

Special to the Tribune

October 1, 2009

The owners of Saturn dealerships across the country joined the list of the auto industry's stunned and jilted Wednesday when they learned that efforts to save the car brand had failed. General Motors now plans to shut them all down, and Saturn will disappear.

"I don't know where we go from here," said Marty Mollway, sales manager at Saturn of Oak Lawn.

As part of GM's survival strategy, which included slimming down its product line and paring dealerships, Saturn was supposed to get a second life. But the deal to sell it to former race car driver and auto dealer magnate Roger Penske suddenly collapsed.

"This is very disappointing news and comes after months of hard work by hundreds of dedicated employees and Saturn retailers who tried to make the new Saturn a reality," GM CEO Fritz Henderson said. He said Saturn and its dealership network will be phased out.

The deal with Penske was supposed to be finalized Wednesday. But the unexpected end came when his company, Penske Automotive Group Inc., was unable to find a manufacturer to supply vehicles for the brand's dealerships. GM had agreed to keep building Saturn models at least through 2011, but after that Saturn would have had to come up with its own products.

Saturn dealers will have until October 2010 to wind down operations, and GM will stop making the vehicles as soon as possible. Once Saturn dealerships close, owners will be able to go to GM dealers for service.

GM said in June that the sale would save 13,000 jobs and 350 dealerships.

There are more than a dozen Saturn dealerships in the Chicago area, including a group that owns Saturn of Oak Lawn as well as stores in Joliet, South Holland, Tinley Park, Downers Grove and Merrillville, Ind.

Unless another buyer unexpectedly surfaces, options for Saturn dealers include finding another brand or going exclusively with used cars. Mollway said the outlook for other recently disenfranchised Chevrolet and Chrysler dealerships doesn't seem promising.

"You can't be strictly used-car sellers," he said. "A lot of GM and Chrysler dealers have tried to make it as used car stores."

At Saturn of Glenview, a stand-alone dealership, the prospect of losing their only product line was met with disappointment and a stiff upper lip.

"No matter what Saturn decides to do, we're going to continue to sell cars," said Jed Settles, sales manager. "Hopefully, Saturn is going to be part of that."

Penske Auto had planned to import vehicles carrying the Saturn label from a maker such as Renault Samsung Motors Co., a South Korean unit of France's Renault SA that doesn't export to the U.S. Penske said Wednesday that it had negotiated an agreement with a manufacturer to supply vehicles, but the unidentified company's board rejected the agreement.

Without another supplier in place before the deal was signed, Penske couldn't run the risk of taking on Saturn, Penske spokesman Anthony Pordon said. It takes several years to design new vehicles or engineer foreign vehicles to meet U.S. standards. Penske would risk having no products to sell once the GM contract expired.

NLRB to reject anti-union petition / Some Trump Plaza dealers want UAW decertified

October 1, 2009

ATLANTIC CITY - A petition by some Trump Plaza Hotel and Casino dealers calling for the removal of the United Auto Workers as their union will be dismissed by the federal labor board, a labor official said Monday.

Dorothy Moore-Duncan, regional director of the National Labor Relations Board in Philadelphia, said the board plans to reject the petition because Trump Plaza is appealing a requirement that it must bargain with the UAW on a contract for its dealers. In addition, there are other related cases involving the union and Trump Plaza still pending, Moore-Duncan said.

If the petition to decertify the UAW as the dealers' union had moved forward, there could have been a new election in which dealers voted again on whether to join the union.

Trump Plaza has argued for a new election, claiming the original one in March 2007 was tainted by a media event held days prior to the vote, although the federal labor board still certified the results in May 2008. Dealers voted by a 68 percent majority in favor of representation.

While the casino's latest appeal is tied up in federal court, Trump Plaza management has refused to bargain at all.

Trump Entertainment Resorts Inc., which owns Trump Plaza, has said it expects to win in court. The case was first filed in September 2008.

The court could side with the casino or uphold the National Labor Relations Board's ruling requiring the casino to bargain.

Trump Plaza dealers who support the Detroit-based UAW said Monday that the federal labor board made the right decision to dismiss the decertification petition.

"Sure, people are frustrated," said Absecon resident Marybeth Litchholt, a dealer at the casino for more than 22 years. "They are frustrated with Trump Plaza because management disrespected our vote and won't come to the bargaining table. There's an easy way to fix this: Let's sit down together and bargain."

Litchholt said the majority of dealers at the casino still want union representation.

At least 30 percent of the 483 dealers at Trump Plaza had to sign the decertification petition. It's unclear how many did, although the UAW believes signatures are mostly from dealers who had voted against the union two years ago.

Moore-Duncan said another petition could be put forward in the future and include the same signatures, but the board would again look at how timely it is and the amount of interest shown.

Also on Monday, Trump Entertainment CEO Mark Juliano sent a memo to employees saying it was not behind media advertisements spotlighting the decertification effort by some dealers.

"We want you to know that our organization had no involvement or prior notification of the advertisements," Juliano wrote. "As part of their ongoing media campaign against the UAW, Harrah's elected to include the Plaza dealers decertification petition in their advertisements."

"Throughout this entire process, it has not been our intention to attack any dealers who have chosen to support the union," Juliano continued.

The UAW is locked in a public campaign against Harrah's Entertainment Inc., which owns Bally's Atlantic City and Caesars Atlantic City, two casinos where dealers are represented by the union but have been unable to secure contracts. The UAW has lobbed its own ads against Harrah's, telling people not to visit either gaming hall.

Harrah's spokeswoman Marybel Batjer declined to comment Monday.

The UAW also represents dealers at Tropicana Casino and Resort, where dealers are still negotiating with management.

What Makes a Health Plan a 'Cadillac'?

By Keith B. Richburg
Washington Post Staff Writer
Thursday, October 1, 2009

NEW YORK -- In the scramble to find money to overhaul the health-care system, Senate Democrats have been eyeing the most generous insurance packages -- what some call the "Cadillac" plans -- as a lucrative target to tax.

But as the competing proposals are debated on Capitol Hill, a fundamental challenge has emerged: Few people agree on exactly what constitutes a Cadillac plan.

Many proponents of taxing high-end employer-based coverage have singled out the titans of Wall Street finance and industry, whose insurance might pay for regular EKGs, CAT scans and weekend health retreats at tony spas. The California Health and Longevity Institute, for example, offers "comprehensive physicals" over several days that include personalized counseling on wellness, fitness and nutrition.

But insurance plans that cover those types of things are rare. More common are the generous health benefits that many union workers receive -- plans with high employer-paid premiums, low deductibles, prescription drug coverage, vision and dental care, and low or no co-payments.

Over the past decade or so, unions in contract negotiations typically chose to forgo large wage increases in exchange for more generous medical benefits, mainly because costs were rising faster than inflation. Now, as the Senate Finance Committee works on health-care legislation, union members say they feel unfairly targeted.

"It's the old Washington, D.C., law of unintended consequences," said Robert Laszewski, president of Health Policy and Strategy Associates, a consulting firm. "They went after the Goldman Sachs partner and they ended up with the fireman in Brooklyn."

Laszewski and other health policy experts said union plans are likely to be the hardest hit by any new tax because their premiums tend to be higher for several reasons: Union workers are often older and concentrated in urban manufacturing areas, where medical costs are higher.

"State workforces and nursing home workforces -- they are older and their plans are more expensive," said Celia Wcislo, an executive board officer of District 1199 of the Service Employees International Union. "They were talking about lawyers with their Cadillac plans, but in fact, the way it's written applies to everyone."

With the Finance Committee marking up a bill that would then be melded with another Senate plan, details of a tax on high-end policies are still uncertain -- including whether it would survive. Such a tax probably would be met with fierce resistance by the full Senate and in the House, where more members favor funding reform with a tax on wealthier Americans.

Unions are adamantly against the tax on medical benefits, even though in its current form insurance companies would be taxed. "They will pass it on back to the individual in terms of higher premiums," Wcislo said. "There are a lot fairer ways."

Currently, employer-paid premiums are not taxed.

The idea of eliminating that tax exclusion was raised during last year's presidential campaign by Sen. John McCain (Ariz.), the Republican nominee, who urged targeting "those people who have the gold-plated Cadillac insurance policies that have to do with cosmetic surgery and transplants and all those kinds of things." In fact, experts said very few plans cover plastic surgery, laser eye operations or even chiropractors.

President Obama, during the campaign, sharply criticized his opponent's proposal. "John McCain calls these Cadillac plans," he said in October. "In some cases, it may be that a corporate CEO is getting too good a deal. But what if you're an American line worker . . . who's given up wage increases in exchange for better health care? Well, Senator McCain believes you should pay higher taxes, too."

Some analysts of health-care policy and taxation have long argued that the current tax exclusion for employer-paid premiums unfairly benefits those with higher incomes, while not helping those whose jobs do not provide coverage.

Also, critics of the exclusion say it adds to health-care inflation -- meaning that people with expensive plans and employer-paid premiums have no incentive to shop around for better deals. "If you could deduct the cost of your car, you might buy a Cadillac instead of a Chevy," said Len Burman, a professor of tax policy at Syracuse University.

Burman has long been a critic of the current system, including the tax break for expensive medical plans and companies giving union workers better health benefits instead of increasing wages.

"I think providing a large share of compensation in the form of health benefits is pretty inefficient," he said. "My preference would be to get rid of the tax exclusion altogether."

Finance Committee Chairman Max Baucus (D-Mont.) initially proposed an excise tax of 35 percent on insurance companies for plans that amounted to $8,000 for an individual and $21,000 for a family. Those amounts were initially set to increase with inflation.

But several of Baucus's fellow Democrats immediately objected. "I want people to know -- particularly the coal miners in my state -- that I will work to protect plans for high-risk workers from an excise tax," Sen. John D. Rockefeller IV (W.Va.) said at the Sept. 22 opening of the committee's markup session. "Taxing these higher-priced insurance plans is simply unacceptable."

To lessen the impact of the tax and mollify Democratic critics, Baucus revised his bill to exempt people with high-risk professions, such as firefighters and coal miners, who may have more costly plans because they need more frequent doctor's visits. In addition, he agreed to a request from Rockefeller and five other senators to increase the threshold defining a "high cost" plan by $750 for such individuals and $2,000 for families.

Baucus also agreed that those amounts should be indexed to inflation plus 1 percent, because of objections that health-care costs have been rising at three times the level of inflation. To cover the added cost, he proposed increasing the tax to 40 percent.

Fred J. Myers, an 81-year-old retired coal miner in Morgantown, W.Va., knows he has a Cadillac plan, with a low co-pay and no deductible.

"A lot of my people died, in explosions or whatever, in order to get what we got," he said. "I think, seriously, if they try to tax the miners' health plan, Congress is going to hear from us. We might need to go up there and enlighten 'em."

Southeastern flooding erodes rail traffic

October 2, 2009

The Association of American Railroads reported Thursday that U.S. rail carload traffic for the week ending Sept. 26 felt the impact of severe flooding halted freight shipments in Georgia and Tennessee for three days, and also affected western carriers that operate through Atlanta. Nationwide, traffic was down 17.1% from the same week last year to 271,659 carloads.

Intermodal traffic for the latest week totaled 205,627 trailers or containers on U.S. railroads, down 16.5% from last year. Container volume fell 11% and trailer volume dropped 37.2%.

All 19 carload commodity groups were down from last year with declines ranging from 6 %t for chemicals to 38.5% for metals and products.

For the first 38 weeks of 2009, U.S. railroads reported total volume of 10,104,171 carloads, down 18.2% from 2008; and 7,141,006 intermodal units, down 16.8 5.

Canadian railroads originated 69,342 carloads for the week, down 15.1% from last year, and 44,838 trailers or containers, down 13.8%. Year to date, Canadian roads reported cumulative volume of 2,304,419 carloads, down 22.6% from last year, and 1,545,090 trailers or containers, down 16.3%.

Mexican railroads reported originated 11,782 carloads, down 8.9% from last year, and 6,636 intermodal units, down 13.9%. Total volume for the first 38 weeks of 2009 was as 432,036 carloads, down 14 % from last year; and 195,933 trailers or containers, down 18.9%.

Combined North American rail volume for the first 38 weeks of 2009 on 13 reporting U.S., Canadian, and Mexican railroads totaled 12,840,626 carloads, down 18.9% from last year, and 8,882,029 intermodal units, down 16.8%.

October 2, 2009

Unemployment rate rises to 9.8 percent in September, the highest since June 1983, as employers cut far more jobs than expected.
Associated Press | 10:19 a.m. ET