# A WEEKLY RAIL REVIEW EXTRA: 2009'S TOP 10

BY DAVE MEARS

With the New Year upon us, I thought I might take a moment to reflect upon 2009's top rail news.  Past sending this out, I will distribute Weekly Rail Review on successive days until current.

The below is adapted from a presentation I made to the Association of [Railroad] Car Accounting and Car Service Officers (ACACSO) at their most recent meeting.  So that I may better present perspective, please forgive this being one time that I acquit commentary in the presentation of rail news.

So with apologies to Dave Letterman, here is this Dave's Top 10 List:

## No. 10: THE NEW ADMINISTRATION

When I gave this presentation to ACACSO, I put in my Powerpoint a picture of President-elect Obama and Vice-President-elect Biden standing on the back platform of the private car "Georgia 300" traveling by special train to their Washington, DC inauguration.  It was a powerful symbol.  Mr. Obama's home state has yielded the new Secretary of Transportation, the new Surface Transportation Board head, and the new Federal Railroad Administration chief administrator.  And with him is Mr. Biden, an unabashed rail enthusiast, who eschewed a Washington residence during his long tenure as U.S. senator, preferring instead to commute to and from his Wilmington, DE home via Amtrak.  As they begin to work their way through national and international problems so numerous and daunting as to make one wonder why they would want their jobs, their initial attentions to passenger rail seem nothing less than a milestone.

## No. 9: THE CHILDREN'S FUND QUITS CSX

Following an explosive, expensive and seemingly endless proxy fight in which this hedge fund insisted upon several-seat representation on the CSX board, The Children's Fund – dictated no doubt by economic realities – sold in entirety their CSX stock.  TCI fought CSX long and hard to gain board representation – and when they did, they found smart people in charge of the railroad, listened, and postured an almost anonymous presence.  One wonders what the many millions spent by both sides in this ultimately worthless fight could have paid for in the way of second main track.  But such are the ways of high finance – symptomatic, perhaps, of what the U.S. is dealing with as I write this.

## No. 8: THE RISE OF GREEN

Comedian Bill Maher once joked that the reason that concern for global warming had such a hard time gaining momentum was that the term seemed too nice; he suggested we instead call it "the coming of Climatica."  Nevertheless, the past year saw the rail industry notably escalate its efforts to demonstrate environmental sensitivity, from buying more ultra-low-emission locomotives to joining and contributing to the Green Building Council.  But concern mounts as an accusatory finger is pointed more and more at coal, which fuels 48 percent of U.S. power generation, but that scientists say is responsible for 40 percent of carbon dioxide emissions worldwide.  For good reason, the U.S. Department of Energy is pushing hard to accelerate the development and implementation of carbon-capture technology, hoping to have several such installations online by 2015 or sooner.  With coal its most carried commodity after intermodal, the rail industry looks on with great interest as both the nation and the world debate and then possibly mandate emission reduction targets.

## No. 7: NEW RAILS UNDER THE HUDSON

Ninety-nine years after the opening of the Pennsylvania Railroad's rails under the Hudson River, construction finally began on two additional (and much needed) passenger rail tunnels linking New Jersey and New York. But realistic of the limitations of funding, the majority of which was provided by, or gained through the efforts of, the State of New Jersey, a change was made to the original plans such that trains will route to and from a new New Jersey Transit-only terminus under 34th Street in Manhattan instead of connecting into Pennsylvania Station. The National Association of Railroad Passengers and a coalition of other rail and transit advocates blasted the change as "one of the greatest wastes of taxpayer money in U.S. history." Construction continues unchanged.

No. 6: RE-REG MOMENTUM

With railroads at mid-decade finally seeing rates of return that closed in on the holy grail of covering their cost of capital – due in large part to an ever-growing appreciation of the advantages of shipping by rail – it has also seen shipper advocacy organizations grow more militant in their allegations of rate victimization. At year's end, the Senate Commerce Committee had voted a bill reauthorizing the Surface Transportation Board and measurably increasing federal oversight of railroad commercial practices. One media report described the bill as potentially the most significant change in rail regulation since the passage of the Staggers Act in 1980. But in debate to come, will it be recalled what the rail industry was like pre-Staggers, when one-quarter of the national rail network was in bankruptcy? And with inflation-adjusted rail rates having declined significantly on average since Staggers, would change be in the public interest or instead an appeasement to shipper opportunism? For the time being, I'll ask these questions rhetorically.

No. 5: RSIA AND ITS AFTERMATH

"Railroads," an industry sage once told me, "tend to effect change slowly, except but for blood on the tracks." In the instance of the Railway Safety Improvement Act of 2008, it was Congress that swiftly effected change, enhancing and passing this bill not long after the tragic head-on collision in Chatsworth, California that left 25 dead. 2009 was the year that the realities of that legislation began to sink in, particularly so in the case of Positive Train Control, which the RSIA mandated for all railroad routes over which scheduled intercity and commuter passenger service is operated, and also for Class 1 railroad routes over which toxic-inhalation-hazard (TIH) commodities are transported. As the year drew to a close, the rail industry seemed poised to suggest additional thought about PTC, the unfunded cost of which checked in at about $6 billion and rising. "Horrible," was what one industry chief executive called PTC's cost-to-benefit ratio in a media interview. Surely we'll see more about this matter as 2010 progresses.

No. 4: THE RECESSION – AND STIMULATION

In this one-of-the-worst-ever recession, railroads saw their traffic drop 14 to 16 percent in 2009 from the already declined levels of 2008. Stimulation efforts, particular those that have been able to fund quasi-public rail improvements, have helped somewhat, and traffic levels even increased the last two weeks of the year, but most believe it will be awhile before we again see the halcyon numbers of mid-decade. One of the more memorable assessments came not from a fed chairman or a treasury secretary, but from a CSX vice-president reflecting upon his headquarters state the year before last, as the sky was clearly in free-fall. "All of you, come to Florida and buy a house," he encouraged in his presentation to a rail industry gathering. "In fact, buy two or three of them. Please."

No. 3: WARREN BUFFET BUYS BNSF – ALL OF IT!

Renowned for being a characteristically conservative investor, the country's second wealthiest man blew everyone away when he offered to buy BNSF Railway – which he already owned 20 percent of – in its entirety. Mr. Buffett's – that is Berkshire Hathaway's offer – was accepted wholeheartedly by BNSF's board of directors. Mr. Buffet has commented, "The rail business is not going anyplace…It's going to be right here in the United States. There's going to be four big railroads that are moving more and more goods." Was there any better indicator of the future potential of the U.S. rail industry than Mr. Buffett's actions this past year?

There was not.

No. 2: $8 BILLION FOR PASSENGER RAIL

Only a few years' removed from the previous administration's zero budgeting of Amtrak as an ideological gambit, passenger rail in the U.S. was given a monumental boost with the federal appropriation of $8 billion. While visions of TGV-like trains danced in many planners' heads, the head of the FRA wisely counseled that this first means second mains, alleviated bottlenecks, and alike – that we walk in this regard before we run. Indicative of pent-up demand for what the public wants, FRA received a total of $50 billion in funding requests for that $8 billion. Did this make 2009 a pivotal year for passenger rail in our country? As a lawyer once said in predicting a case's outcome, "We're cautiously optimistic."

No. 1: WALTER BRUENING

Believe it or not, this was the rail-related story that garnered the most overall media coverage in 2009. Why so? Because Walter Bruening of Great Falls, Montana, Age 113 – that's one hundred and thirteen! – last year became the world's oldest man. The rail connection? Mr. Bruening is a railroad retiree, having worked for BNSF predecessor Great Northern from 1913 through 1963, starting his career the year Civil War veterans traveled to Gettysburg to commemorate the 50th anniversary of the great battle there, and ending it when John F. Kennedy occupied the White House. All the more remarkable is that Mr. Bruening remains active physically and downright vibrant mentally, giving thoughtful interviews that cover everything from reflections on current events to when and where he got his first haircut. "Come back and see me in five years and I'll give you the exclusive interview!," he told a CBS News reporter. Obviously, Walter Bruening is the railroad retiree we all aspire to be.

BEST WISHES FOR A HAPPY, SAFE AND NEWLY PROSPEROUS NEW YEAR,

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