

WRITTEN STATEMENT OF PATRICK B. SIMMONS

Rail Division Director

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before the

**U. S. House of Representatives
Committee on Transportation and Infrastructure
Subcommittee on Railroads, Pipelines and Hazardous Materials**

Hearing on

Railroad Rehabilitation and Improvement Financing Program

April 22, 2009

**Written Statement of Patrick B. Simmons, U. S. House of Representatives Committee
on Transportation and Infrastructure, Subcommittee on Railroads
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Mr. Chairman, my name is Patrick Simmons. I serve as Director of the Rail Division at the North Carolina Department of Transportation. My responsibilities include development and management of passenger operations and facilities, improving highway-railroad crossing safety, conducting industry safety inspections, railroad engineering and design, development of planning and environmental documents, rail corridor preservation and economic development. Our state partners with Class I and shortline railroads through grants and tax credits to continue to improve safety and capacity as well as other rail infrastructure investments.

I read with interest the provisions in TEA-21 establishing the Railroad Rehabilitation and Improvement Financing (RRIF) program. The RRIF program can be a valuable tool to leverage needed rail infrastructure investment. We quickly distributed the program guidelines to our state's shortline industry (www.ncrailways.org) and offered to partner with them to apply for loans under the program.

Our initial proposed partnership was to grant state funds to underwrite the costs of conducting the requisite independent financial review. In 2000, the American Heritage Railways dba Great Smoky Mountain Railroad (GSMR, www.gsmr.com) agreed to partner with us.

The GSMR, formerly the Norfolk Southern Railway's Murphy Branch between Dillsboro and Murphy, N.C. was acquired by the state in 1988, and leased to a private operator. The GSMR operates between Dillsboro and Bryson City as a scenic and tourism railroad, traveling both the Nantahala and Tuckasegee river valleys and across Fontana Lake in the Great Smoky Mountains, the most visited of our national parks. The state later sold 53 miles of the Murphy Branch to GSMR continues to retain ownership of the 17 mile portion between Bryson City and Murphy for future transportation use.

The GSMR has developed into an important "anchor tenant" in the Western North Carolina travel and tourism market, attracting some 200,000 passengers annually. The state's initial investment to acquire the railroad has long since been repaid through its operation.

American Heritage Railways used its RRIF loan to refinance its stock acquisition of the GSMR, and as the GSMR outgrew its initial headquarters in Dillsboro, it also sought to develop its properties in Bryson City as a terminal with destination shopping and by providing visitors with an opportunity to view mechanical servicing operations.

In 2000, NCDOT agreed to partner with the GSMR and begin the long journey to secure a RRIF loan:

- November 2000-GSMR submitted a pre-application to the Federal Railroad Administration (FRA).
- November 2000-GSMR and NCDOT attends a pre-application meeting at the FRA in Washington D.C.

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- The primary purpose of the RRIF loan is to refinance American Heritage Railways' debt with Bank of America (BOA) used to acquire the GSMR.
- GSMR also requested loan authority to install turntables and purchase rail and ties for line improvements and radio communications system. The RRIF loan was to help the company expand operations by renovating a historic building to expand its headquarters, develop destination commerce and mechanical facilities.
- April 2003-GSMR responds to FRA's request for more information.
- FRA requires a third party independent financial review for the loan. NCDOT funds and retains a firm to perform this effort on behalf of the GSMR.
- October 2003-NCDOT authorizes AECOM to proceed with an independent financial advisor report
- April 2004-AECOM financial review completed March 16, 2004 and received confirmation of delivery to FRA.
- May 2004-FRA responds to the financial review with questions and a request to provide 2003 audited financial statement, first quarter 2004 financials and passenger information.
- July 2004-NCDOT closes out agreement with AECOM and FRA agrees to have Seneca Group complete the related contract.
- January 2005-FRA formally approves a RRIF loan to GSMR.

The process took fifty (50) months and we learned many lessons during the journey:

- Initially FRA was unclear about how to process loan applications, thus the application sat in an inbox and was not reviewed.
- When the loans were reviewed it took an interminable amount of time to develop and receive any assessment.
- The length of time required to review the loan applications meant that the financial statements and projections initially submitted now required being updated and re-submitted
- The Congress, through instructions to FRA in SAFETEA-LU, directed that the agency provide a more timely review and recommendation for loan applications.
- The SAFETEA-LU instructions and changes in FRA personnel assigned to the program elevated it to a more professional level.

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The damage to the RRIF program's reputation has been significant, widespread across the railroad industry, and is a primary reason for the lack of program interest among North Carolina's railroads. The RRIF program's reputation portrays it as a vapor program—and that no one should ever expect to receive a loan. The application and approval process have proven cumbersome, lengthy, costly and seems intended to drive applicants away.

FRA program managers and the Congress both understand the need to reverse this negative reputation and re-vamp RRIF into a viable industry tool. I believe that the FRA program managers and USDOT loan review team are, when left to their own internal review processes, well-capable of professional program management within the guidelines established by the Congress. It is the external review and conflicts between the executive and legislative branches that diminishes the program's value in the market place.

In spite of the program's overshadowing negative reputation, due to FRA's efforts to streamline the RRIF there is a renewed interest among potential applicants in North Carolina. These include:

- Rail access and rail-on-dock for the new North Carolina International Terminal (NCIT).
 - The NCIT is being designed as a high-density, automated container terminal capable of serving 12,000-TEU vessels and processing an estimated two to three million transportation equivalent units (TEUs) annually.
 - The NCIT is planned as a public-private partnership, with the State Ports Authority as the lead public entity.
- Rail components for new inland ports and transload facilities in Harnett and Union counties that will serve commercial and military shipping needs.
- A second loan to GSMR to make additional rail infrastructure and equipment improvements.
- New commuter rail services in Charlotte (Metrolina) and Raleigh (Research Triangle) areas of North Carolina.
 - The Charlotte Area Transit System (CATS) will be the lead public entity for the Metrolina project.
 - Triangle Transit (TT) will be the lead public entity in development of the new regional rail service.
 - The North Carolina General Assembly now has before it legislation which would authorize local governments to hold a referendum to levy an increment on local sales taxes. The incremental levy would be dedicated for transit purposes. CATS already has in place such a levy and TT plans to recommend adoption in its three-county catchment area.

The RRIF program should be retained and improved. It can be managed as an effective public-private partnership, but only when the public adopts a responsible, professional approach to managing it. Thank you for this opportunity to present testimony.

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Supplemental Information Sheet

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