



Department of Transportation

Federal Railroad Administration

Office of: Railroad Safety Specialist/ Chief Inspector William Ken Naylor

2929 3rd Avenue North Suite 301

Billings, Montana 59101

Date: October 15, 2018

From: William Ken Naylor, Railroad Safety Specialist/Chief Inspector

TO: Mark S. Daniels, Federal Railroad Administration's Region 8 Regional Administrator;

Heath Haden, Dakota Southern Railroad Company's Vice President of Operations;

Joel Jundt, state of South Dakota's Deputy Secretary of Transportation

Subject: Re-inspection of non-compliance deficiencies noted during the Dakota Southern Railway Company (DSRC) 2018 Multi-discipline Focused Safety Compliance Audit conducted the week of April 30 through May 4, 2018. Re-inspection activities took place during the months of August and September, 2018.

Purpose of the Re-inspection: During the week of April 30, through May 4, 2018 FRA Region 8 conducted a focused multi-discipline compliance audit on the facilities and personnel of the Dakota Southern Railroad Company (DSRC). Discipline specific audits were conducted by the following disciplines Track, Motive Power and Equipment, Operating Practices, Hazardous Materials and Signal. The purpose of the re-inspection was to audit DSRC's efforts to correct the non-compliance issues noted during the May Focused Safety Compliance Audit and to measure DSRC efforts in addressing its agreed upon action plan to correct non-compliance issues and to enhance rail safety on the DSRC.

Location: DSRC Mechanical Facilities, Operations office and Main Tracks and Yard Tracks from Kennebec, to Mitchell, South Dakota. DSRC acts as the lessor of this segment of South Dakota state owned trackage.

Findings: A synopsis of the May audits findings and a summary of the re-inspection activities of the discipline specific teams follows:

Operating Practices-

May Audit: During the May audit the Operating Practices team conducted an audit of DSRC's compliance concerning 49 CFR Part 217 (Railroad Operating Rules); Part 218 (Railroad Operating Practices); Part 220 (Railroad Communications) and Part 232 (Bake System Safety for Freight Trains and Non-Passenger Trains and Equipment; End of train Devices). In addition, proper securement of equipment, fouling of equipment, the use of personal electronic devices, the hours of service law and reporting requirements, accident/incident reporting requirements were all reviewed and discussed with DSRC management personnel and train, yard and engine employees, throughout the week. During the audit two (2) non-complying conditions were noted with a defect being written for one (1) and a recommendation for violation written for one (1).

RE-inspection: During the re-inspection the territorial Operating Practices Inspector conducted a follow-up inspection of the operations of DSRC concerning the previous audit; including DSRC's training program for officers and crew members, accident/incident reporting, engineer and conductor certifications programs and hours of service tracking and required files. The inspector noted that all operations observed by him were found to be in compliance with 49 CFR Part 217 Railroad Operating Rules. In addition, the inspector noted that the DSRC had made all of the recommended changes and improvements from the May FRA compliance audit. No non-complying conditions were noted during the re-inspection.

Signal-

May Audit: During the May audit the territorial FRA Signal Inspector conducted inspections of highway/rail grade crossing equipped with passive warning devices on the Napa-Platte line in southern South Dakota. Inspections of highway/rail grade crossings equipped with active warning devices had been conducted previously during the month of February, 2018. DSRC hires a signal contractor to maintain their crossings equipped with active warning devices. During the February inspection of crossings equipped with active warning devices four (4) non-complying conditions were noted; with none being recommended for violation. All conditions were corrected by DSRC's signal contractor. The territorial FRA Signal Inspector assessment of the DSRC's active warning systems was that considering the age (1989) of some of the warning systems the signal contractor's overall maintenance of the crossing systems is good.

During the May inspections of crossings on the Napa-Platte line which at the time of the inspection the trackage was being used strictly for storage of rail cars, five (5) non-complying conditions were noted with none being recommended for violations.

RE-inspection: A signal re-inspection was considered not needed since the noted non-complying conditions were corrected or DSRC showed proof of action taken to correct the non-complying conditions as soon as possible; taking into consideration the ordering of necessary materials (Emergency Notification Signs) and availability of manpower.

Hazardous Materials-

May Audit: During the May audit the territorial FRA Hazardous Materials Inspector conducted an audit and inspection of DSRC's hazardous materials registration certificate, site security plan and hazardous materials training. Seven non-complying conditions were noted with defects taken for all seven conditions; there were no non-complying conditions recommended for violations.

RE-inspection: A re-inspection by a territorial hazardous materials inspector was not conducted during the re-inspection. The non-complying conditions discovered during the May audit involved training of DSRC personnel and lack of a proper site security plan. DSRC has agreed to an action plan to address training of DSRC personnel and has

Motive Power and Equipment-

May Audit: During the May audit the territorial FRA Motive Power and Equipment (MP&E) Inspector conducted an audit and inspection of DSRC's available locomotives, rail cars and mechanical facilities and personnel. During the inspection activities 50 non-complying conditions were noted with three of the 50 being recommended for violations.

RE-inspection: During the re-inspection the territorial MP&E Inspector noted a total of seven non-complying conditions with defects being written for each; there were no non-complying conditions recommended for violations.

Track-

May Audit: During the May audit a track team of five FRA Track Inspectors and a FRA Supervisory Track Specialist conducted inspection activities by hi-rail vehicle and walking inspections of DSRC main track with limited inspections on yard and secondary tracks. During this audit a final total of 244 non-complying conditions were noted with 11 being recommended for violations. The highest number of non-complying conditions consisted of crack/broken and improper fitting rail joints, non-complaint ballast which was contributing to track surface conditions, track fasteners (mainly at rail joints), drainage carrying facilities involving blocked ditches and rail-end rail transition mismatches.

RE-inspection: During the re-inspection two territorial FRA Track Inspectors conducted follow-up inspections by highway-rail vehicle and walking inspections of the main line track from Mitchell to Kimball, South Dakota and a walking inspection of the Mitchell Rail Yard. During the re-inspection 37 non-complying conditions were noted with 34 written as defects and three recommended for violation.

Summary Analysis: During the May meeting with DSRC management personnel an action plan was requested, by FRA, to address the non-complying conditions discovered, and which would help mitigate future non-complying conditions, on the DSRC. DSRC submitted an action plan and has shown continuous effort to fulfill the provisions of that plan. Some examples of that continuous effort is as follows:

Operating Practices: DSRC submitted an Operations Action Plan as follows:

- DSRC will work to organize files and employee information. The files will be arranged for easier access to information. This will be completed by end of August. DSRC is looking into hiring part time summer help for this process.
- Improve rules and safety training for train crews. To help with training we are going to do 2 hours per month training in the class room and hands on training. This will give us 24 hours of training a year.
- Put together check list that hiring processes. This will ensure all required items are completed properly. The process will be in place by July 1st 2018.
- Do more check rides and spot checking of crews for the betterment of DSRC efficiency testing program. The rate of testing will be based on number of TY&E crewmembers on DSRC roster. This will be done by the train master and DSLE of the railroad. The DSRC will be testing at a rate of a minimum of once a month; this rate with the number of train men DSRC has at this time would total 3 test per employee per year. The findings will be placed in the employee files along with a file that keeps track of DSRC's findings. This process will be implemented by June 1st 2018 and be done yearly and adjust as needed.
- DSRC will send its trainmasters to seminars for better knowledge of rules and regulations. DSRC will be sending managers to short line conferences or other training that's available in our area. DSRC will help with other resources for training and work with sister railroads as resource also.
- DSRC will check all personnel files to ensure completed correctly and up to date. The personnel files are being looked at and updated; this will be done by the end of June 2018. DSRC will also implement a yearly audit of personnel files to ensure correct info is maintained.
- DSRC has been working to have any FRA required plans put in binders for easy access. This is being done by the trainmaster and will be a work in progress. We are reviewing what we have and will update as needed. DSRC will do yearly reviews to make sure all plans are updated and correct. This will be done each year in January of each year starting 2019.

Note: As stated early in this report the re-inspection conducted during September showed that DSRC is showing a continuous effort in fulfilling their commitments made in this action plan. There was an

Hazardous Materials: DSRC submitted a Hazardous Materials Action Plan as follows:

- DSRC will get all required paperwork organized for easier access. The trainmaster has been reviewing all hazmat plans. DSRC has sent updated required plans to the territorial FRA Hazardous Materials Inspector, in Bismarck.
- DSRC will ensure that proper hazmat training has been completed and required forms are signed, by the employees receiving the training.
- DSRC is looking at our training program and determining if changes or additions to our program is need. DSRC is looking to bring a trainer to the railroad, on a yearly basis. The training program analysis will be looked at and actions needed will be decided on by July 1, 2018.
- DSRC will have additional field training, for our employees, as needed. This will be done by DSRC's Trainmaster and Yardmaster. DSRC will start the necessary training when we first start receiving hazmat cars each year. This training will help as a refresher to everyone and make sure DSRC is complying with all required rules and regulations.
- DSRC receives storage cars during March and April each year and they depart our facility around the September – November timeframe sept each year. We will work our training and refresher courses around these times. This will be done yearly.

- *Note: The territorial FRA Hazardous Materials Inspector has taken a job in another FRA region and the position is vacant, at the present time; however, once they position has been refilled an additional Hazardous materials inspection will take place. It was noted during the close-out meeting held on Wednesday, September 26th, that DSRC was taken steps to comply with their submitted Hazardous Materials Action Plan.*

Motive Power and Equipment: During the re-inspection, FRA saw an 86% reduction in the number of motive power and equipment non-complying conditions discovered during the re-inspection when compared to the number of non-complying conditions discovered during the May audit. Additionally, DSRC has hired an additional mechanical employee to help inspect, maintain and repair its fleet of locomotives and rail cars.

Track: During the re-inspection, FRA saw an 84% reduction in the number of track non-complying conditions discovered when compared to the non-complying conditions discovered during the May audit. In addition, DSRC submitted a Maintenance Action Plan as follows:

- DSRC will be offering more safety and rules training for all roadway workers. DSRC will conduct quarterly safety training starting the 3rd quarter of 2018. This will consist of 12 hours of class room training a year to be continued each year. The DSRC Roadmaster will do random field safety audits at the rate of 4 a quarter. This will include roadway worker training as well as rules training.
- DSRC will start doing walking inspections at the rate of 10 miles total a month which will make a walking inspection of all DSRC track in a year period at the minimum. The entire main line will be walked by the December 31, of each year. This will continue each year as part of our yearly Maintenance Plan.
- DSRC will be purchasing rock to help with locations where there is a lack of sufficient ballast. This year DSRC is purchasing 3,000 ton of rock to be used in locations where there is insufficient ballast; this will be completed by December 31, 2018. In 2019 DSRC will work on allotting for larger amounts of ballast.
- DSRC will be making walking conditions safer along our railroad with more regulating of the track. DSRC will be running a regulator and broom to help with dirt and ballast conditions along our tracks. We will start east of Presho, working toward Chamberlain. This will be a work in progress until all areas have safe walking conditions.
- DSRC will be regulating track to improve ability to do proper track inspections. We have started to broom and regulate track as of 5-10-18 this will be on going throughout the year until winter causes us to shut down for the year.
- DSRC is planning to work on more ditching of track drainage systems to help with drainage. DSRC is renting a dozer to start work on the worst areas. The plan is to have the entire MRC line completed within the next two years.
- DSRC will be installing ties on tracks, used for storage, in the Mitchell Rail Yard. The DSRC will install gage rods so railcars presently located on those yard tracks can be pulled out of the tracks which will then allow for the replacing of ties and work on switches in the Mitchell Rail Yard. The exact timing for completion of this task is unsure, at this time. We will take tracks out of service once storage cars are pulled. Management will work with our Roadmaster to complete this task by end of 2018. We will only put tracks that are repaired back in service.
- DSRC mangers will work with our track inspectors at getting all information on the track inspection sheets; as well as making sure all issues are fixed and documented on the inspection sheets. DSRC will work with the FRA to make sure all aspects of the required track inspection requirements are being completed correctly. DSRC will do quarterly reviews of our track inspections records. The inspectors will be doing quarterly class room training. DSRC will have a total of 12 hours of class room training each year for our track inspectors. This training will be completed by December 31, each year. DSRC will be looking into hiring a full time track inspector to add to our operations.
- Replacement of all defective joint bars discovered during the May, 2018 FRA audit. As of 5-15-2018 DSRC has addressed the joint bar issues, and all defective joint bars, denoted in FRA's audit, have been

replaced. After looking and replacing bars we have determined the bars with biggest issue seem to be relay bars used on the rehab project; this area will be monitored and visited monthly to see if problems continue to be evident.

- Install new drainage pipe and clean all drainage pipe of trash. DSRC has started working on all drainage issues as of 5-10-18 crews are using backhoes and a grapple truck to remove debris and clear drainage pipes of obstructions. DSRC is working east to west out of Mitchell. We will be implementing a drainage ditch and pipe cleaning procedure twice a year once in the spring and again before winter. I will work with our Roadmaster to make a check list of pipes that need checked and cleaned to assure nothing is missed.
- DSRC will be doing a weed control plan. In 2017 DSRC built an on track weed sprayer, and we have been working with a weed control expert to help get the proper knowledge of weed control. DSRC will start spraying the 3rd or 4th week of May this year.
- DSRC in 2018 has purchased 1,500 relay ties to be installed as needed along the line from Mitchell to Presho. All ties will be installed by late fall 2018. DSRC will continue a tie program each year.

Note: During the follow-up re-inspection non-complying track conditions was the heavy hitter, same as it was in the May Compliance Audit. However, it must be noted that this is common on shortline railroads. Also, it must be noted that the DSRC has made tremendous strides in trying to address and mitigate non-complying track conditions. During the follow-up re-inspection FRA saw that; since, the May audit the DSRC has purchased a new ballast tamper, and has had employees working weekends to address locations where tamping is needed. In addition, DSRC has purchased a rail profiler to address locations where rail-end mismatch exists. In fact, the FRA Territorial Track Inspector stated on a later track inspection of a couple of weeks ago inspection he observed that DSRC had replaced numerous crossties in the Mitchell Rail Yard. He further stated that he believed these were the first crossties to be replaced in the Mitchell Yard Tracks since the days of the Milwaukee Railroad. He also stated that the DSRC had not only corrected the five mismatch rail end non-complying conditions which were found during the follow-up re-inspection; but, with their newly purchased rail profiler they had worked on 21 locations that they thought needed profiling even though they mostly likely didn't meet the requirements to be called a FRA non-complying condition. Prior to the purchase of the rail profiler and prior to addition instructions, from FRA's Track Inspectors, on the proper method of correcting rail-end mismatch, DSRC was making the same mistake that even some class 1 railroad track employees make of grinding only the butt ends of the rail and not profiling the tapering of the rail back far enough for a smooth transition from one rail to the other rail.

Conclusion: Winston Churchill said it best “Continuous effort - not strength or intelligence - is the key to unlocking our potential.” As overall team leader on the DSRC Focused Safety Compliance Audit and follow-up re-inspections; I have seen a continuous effort by DSRC senior management personnel, in particular, Mr. Heath Haden, Vice President of Rail Operations; since, our audit close-out meeting with them; which, was held on Friday, May 4, 2018. As stated in the aforementioned summary analysis the purchases of a new tamper, the purchase of a rail profiler, the purchases of addition ballast and crossties as well as a commitment to get the necessary training for DSRC employees confirms that commitment. As stated, by me, in the close-out meeting for both the audit and re-inspection FRA conducted a **FOCUSED** Safety Compliance Audit meaning **F**ind **O**ut the **C**ause **U**nderstand the **S**ymptoms and **E**liminate the **D**eficiencies. Those deficiencies were pointed out to the DSRC and they have taken action to correct as many of those that they could in the time frame since the FRA's May Safety Compliance Audit. Furthermore, it has since the compliance audit and it will continue to take a team effort, and we will have a team effort to improve DSRC's compliance with the Federal Railroad Safety laws and regulations. That team will consist of the Dakota Southern Railroad Company and its employees, the state of South Dakota Department of Transportation and the Federal Railroad Administration. Thus, with a **TEAM** effort i.e., **T**ogether **E**valuating **A**nalyzing and **M**onitoring we will mitigate the occurrence of non-compliance with Federal Safety Laws and Regulations on the Dakota Southern Railroad. Thereby, we will make Dakota Southern a safer and more efficient railroad, for the railroad itself, for the citizens of the state of South Dakota and the nation!

Respectfully,

Ken

William *Ken* Naylor

Railroad Safety Specialist/Chief Inspector

United States Department of Transportation

Federal Railroad Administration

2929 3rd Avenue North, Suite 301

Billings, MT. 59101

(Office) 406-657-6642, (Fax) 406-657-6644, (Cellular) 406-224-2503

(Email) ken.naylor@dot.gov a.k.a. william.naylor@dot.gov

Success is not final; failure is not fatal; it is the courage to continue that counts. [Winston Churchill](#)

There Are No Great People. Rather There Are Great Challenges That Ordinary People Are Forced to Meet. [Anonymous](#)

Every new day is another chance to change your life. [Native American Proverb](#)

Continuous effort - not strength or intelligence - is the key to unlocking our potential. [Winston Churchill](#)