



## INDIANA DEPARTMENT OF TRANSPORTATION

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**Michael R. Pence, Governor**  
**Karl B. Browning, Commissioner**

March 6, 2015

The Honorable Anthony Foxx  
Secretary, United States Department of Transportation  
1200 New Jersey Ave, SE  
Washington, DC 20590

Dear Secretary Foxx,

I write as a courtesy to inform you that service on the Hoosier State Line from Indianapolis to Chicago will be terminated upon the completion of the Indiana Department of Transportation's (INDOT) contract with Amtrak. Termination will be effective April 1, 2015. Indiana finds itself in an unfortunate situation created due an untenable requirement of the Federal Railroad Administration. You should be aware that this will receive major media attention in Indiana.

The Indiana Department of Transportation (INDOT) has been working for a year to preserve and enhance the passenger rail service currently operated by Amtrak between Indianapolis and Chicago. The service called the Hoosier State Line has suffered from historically bad departure and on-time performance that has depressed ridership. Using the tools created by Congress in the Passenger Rail Improvement Act (PRIA), INDOT has been working with Amtrak and a third party railroad, Iowa Pacific Holdings, to improve the customer experience and provide a viable transportation service. We have recently experienced a setback with the Federal Railroad Administration (FRA) when, in a letter of January 26, 2015 (enclosed) it made a final determination that INDOT, as the party "contracting for railroad service", not Amtrak, serve as the "principal entity of record for purposes of ensuring compliance with Federal railroad safety requirements."

We respectfully disagree with this determination, asserting that INDOT does not come within the definition of a "railroad" or a "railroad carrier" in 49 U.S.C. 20102. Our position is there is a distinction between contracting for railroad services and providing train service. INDOT cannot agree to become a railroad or a railroad carrier as that would require a significantly higher commitment of resources, the assumption of additional liability, and uncertainty over employment practices.

I note that the North Carolina Department of Transportation (NCDOT) has employed a similar approach in improving the Piedmont Service between Charlotte and Raleigh. As you stated in your February 19, 2015, blog post at *The Fast Lane*, "The train service that runs between Charlotte and Raleigh carries 100,000 more riders today than it did only five years ago." We were hoping for similar results in Indiana. Unfortunately, we are experiencing the same regulatory impediments that NCDOT faced in 2008 in its discussions with the FRA. As you may recall, the FRA insisted that NCDOT serve as the railroad carrier. The matter was ultimately resolved when NCDOT contested that FRA determination.

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I have informed all parties that INDOT will not agree to become a railroad. Without a shift from the current position of the FRA, the Hoosier State Line will cease operation on April 1, 2015. Of course, we will need to put the public and potential riders on notice well before April 1, so they can make alternative transportation arrangements. Should you wish to discuss the matter, I may be reached at (317) 232-5525 or Karl.Browning@indot.in.gov.

Sincerely,

A handwritten signature in blue ink that reads "Karl B. Browning". The signature is written in a cursive style and extends to the right, ending in a long horizontal stroke that tapers to a point.

Karl B. Browning  
Commissioner INDOT

Enclosures

cc: The Honorable Sen. Dan Coats  
The Honorable Sen. Joe Donnelly  
The Honorable Rep. Andre Carson  
The Honorable Rep. Todd Rokita  
The Honorable Rep. Pete Visclosky  
The Honorable Rep. Marlin Stutzman  
The Honorable Rep. Susan W. Brooks  
The Honorable Rep. Luke Messer  
The Honorable Rep. Todd Young  
The Honorable Rep. Larry Bucshon, M.D.  
The Honorable Rep. Jackie Walorski  
The Honorable Sen. Brent Hershman  
The Honorable Rep. Randy Truitt  
Mayor Tony Roswarski  
Mayor John Dennis  
Mayor Gregory A. Ballard  
Mayor Todd Barton  
Mayor Stephen A. Wood  
Mayor Dennis Buckley  
Commissioner Thomas Murtaugh



**U.S. Department  
of Transportation**

Federal Railroad  
Administration

1200 New Jersey Avenue, SE  
Washington, DC 20590

JAN 29 2015

JAN 26 2015

Mr. Charles A. Spitulnik  
Kaplan Kirsch & Rockwell  
1001 Connecticut Avenue NW, Suite 800  
Washington, DC 20036

Dear Mr. Spitulnik:

Thank you for your December 31, 2014, letter to the Federal Railroad Administration (FRA) on behalf of the Indiana Department of Transportation (INDOT) informing FRA that INDOT's plans for continuation of the Hoosier State service have changed. Specifically, INDOT indicated that it plans to use different contractors than previously discussed, including Amtrak, which will continue to provide train and engine crews for trains, and Iowa Pacific Holdings, which will provide rolling stock, rolling stock maintenance, on-board service, and marketing. Based on this anticipated change, INDOT requested that FRA reconsider the statement in its August 7, 2014, letter to INDOT that FRA considers INDOT to be the "principal entity of record for purposes of ensuring compliance with Federal railroad safety requirements."

The change in contractors does not affect FRA's expectation that INDOT, as the entity contracting for the railroad service, remains responsible for compliance with the Federal railroad safety laws. As stated in FRA's August 7, 2014, letter, FRA recognizes that there may be multiple entities involved in providing passenger railroad service (e.g., a governmental entity may organize, fund, and contract for the railroad service, and primary contractors and subcontractors may oversee and carry out day-to-day operations and equipment maintenance). In these situations, FRA believes that many of these entities could be considered a railroad for the limited purposes of FRA's safety jurisdiction, but ultimately the entity contracting for the railroad service is responsible for compliance with FRA's safety regulations. FRA notes that although the term "principal entity of record" was used in the August 7, 2014, letter, that terminology was not intended to have any special meaning other than to capture the idea that in certain circumstances, the entity contracting for railroad service will have ultimate responsibility for compliance with FRA safety requirements.

Recognizing that INDOT is working towards a February 1, 2015, transition date, FRA is available to discuss any issues relevant to INDOT's plans related to the Hoosier State

service. Please contact Mr. Daniel Knote to schedule any such discussion. Mr. Knote can be reached at (631) 727-5172 or Daniel.Knote@dot.gov.

Sincerely,



Robert C. Lauby  
Associate Administrator for Railroad Safety  
Chief Safety Officer