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# Honkin' mad

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## Honkin' Mad

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August 07, 2012

### Can a deal be worked out to put Amtrak on the Trinity Railway Express?



@gdickson

More details are emerging about the ongoing dispute between Amtrak and the Trinity Railway Express, after we reported this morning that the two sides are in a legal tango that could force Texas to return \$7.2 million in federal Recovery Act funds to Washington.

To recap, North Texas officials would like Amtrak to begin running the daily Texas Eagle route on the TRE line through Northeast Tarrant County and west Dallas, rather than on the crowded Union Pacific line through Dallas, Arlington and Fort Worth (where Amtrak is known to

routinely experience delays of an hour or more because of freight train traffic). But a \$7.2 million grant to double-track the TRE line and help speed up the switch of Amtrak service will instead go back to Washington unspent if the two sides - who have been working on this project for two years - don't reach an agreement by Aug. 31. Texas was actually awarded Recovery Act funds for this project in 2010, and still hasn't spent the dough.

Amtrak's Marc Magliari sent an email this afternoon to dispute a sentence in my story asserting that Amtrak has asked TRE to assume liability on its line, even in the event of a crash involving an Amtrak train. Instead, Magliari said, Amtrak wants an agreement in which it "take(s) on the liability for our equipment, passengers, and crew - regardless of fault."

But Peter LeCody, president of Texas Rail Advocates, said Tuesday that he has sources close to the negotiations, and that "Amtrak wants TRE to assume liability for TRE's equipment, passenger and crew, regardless of fault, even if it is Amtrak's sole negligence while operating on the line."

That, LeCody said, is unacceptable to TRE.

LeCody said he also understands that the TRE, which is co-owned by two public agencies - the Fort Worth Transportation Authority and Dallas Area Rapid Transit - is limited to \$250,000 in liability under state sovereign immunity laws. Those laws generally make government immune from lawsuits.

In legal terms, local governments are considered political subdivisions of the state. Texas' civil practices and remedies code generally limits damages to \$250,000 per person or \$500,000 for each single occurrence for bodily injury or death.

Because of that cap, Amtrak would be exposed for liability in excess of what TRE could pay out - which could be a hefty sum in the event of a rail disaster.

Amtrak may have reason to be concerned about this level of exposure. A 2004 New York Times investigation concluded that Amtrak, the nation's only coast-to-coast passenger rail line, had paid out \$186 million for accidents blamed either entirely or mostly on factors outside Amtrak's control. During that time, Amtrak received billions of dollars in subsidies from Congress - and although the rail line had insurance, it didn't cover most of those costs, the investigation found.

Amtrak was created by Congress in 1970 to relieve freight railroads of the obligation to carry passenger trains. Freight railroads have traditionally required Amtrak to indemnify them for accident claims.

Despite the dispute, North Texas officials say the situation isn't as bleak as it may seem. They're confident Amtrak and TRE can reach an agreement by Aug. 31 - and not send the money back to Washington.

"We're quite comfortable with the position the negotiations are in right now," said Fort Worth Councilman Jungus Jordan, who heads a city committee overseeing regional passenger rail efforts.

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