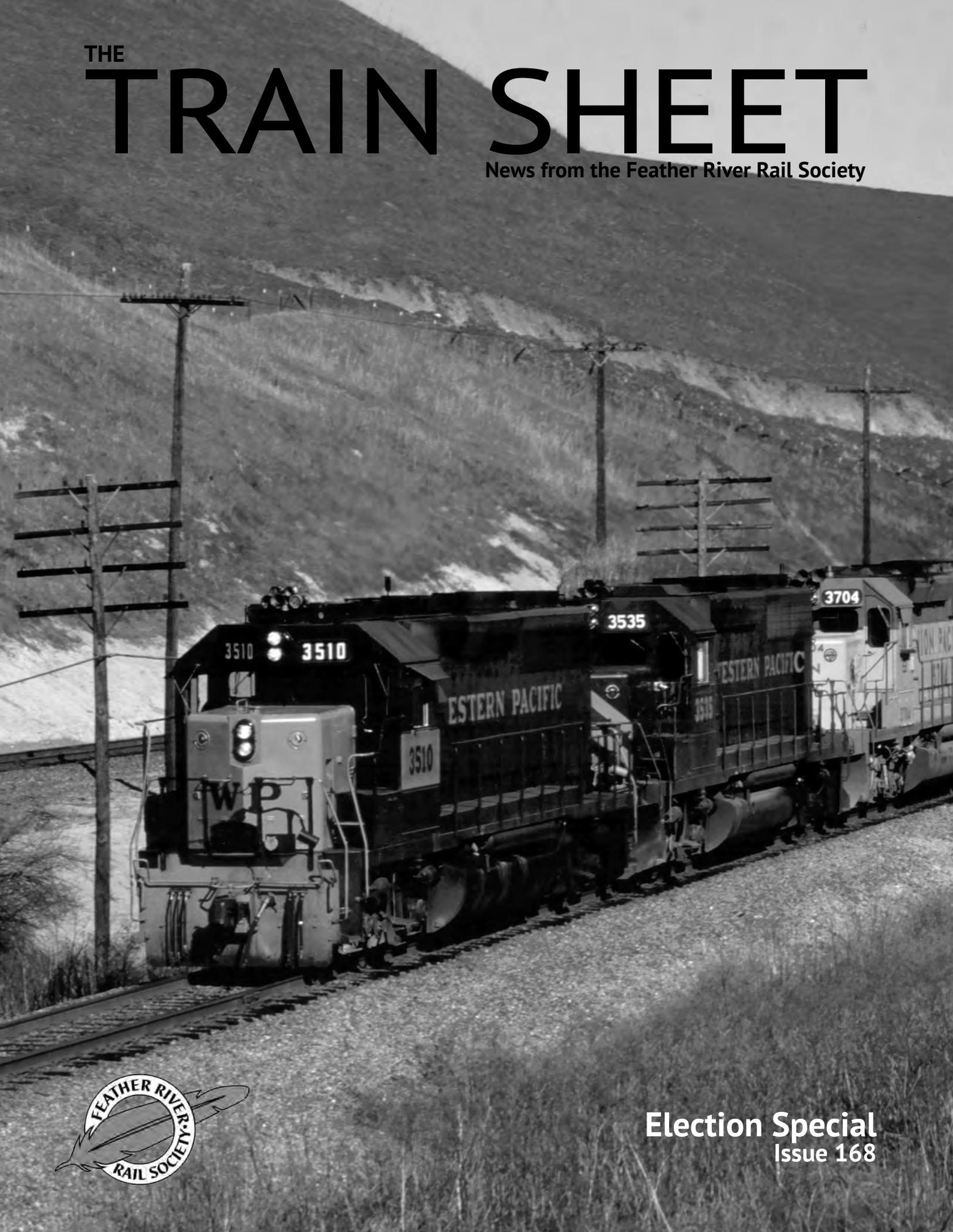


THE

# TRAIN SHEET

News from the Feather River Rail Society



**Election Special**  
Issue 168

**-THE TRAIN SHEET-**

News from the Feather River Rail Society and the Western Pacific Railroad Museum at Portola

Editor – Matthew Elems  
Email: trainsheet@wplives.org

Contribution Deadlines: Last Day of February, April, June, August, October, and December.

Contents Copyright ©2014  
Feather River Rail Society  
All Rights Reserved

**FEATHER RIVER RAIL SOCIETY  
WESTERN PACIFIC RAILROAD  
MUSEUM at PORTOLA**

PO BOX 608, Portola, CA 96122-0608

Museum Phone: 530 832 4131  
Fax: 530 832 1854

The museum grounds are open to the public from 10:00am until 5:00pm daily from the last Sunday in April through the first Monday in November. The diesel shop is open during this time.

Train operations begin the last Saturday in May and continue each weekend through the first Monday in September, as well as on major holidays between these dates.

Museum grounds are closed to the public from the first Tuesday in November through the Friday before the last Saturday in April except for special events for which advanced arrangements have been made. If you wish to visit during the closure period, it is advisable to call in advance and find out if the museum will be open.

Entrance to the museum for members is free. Non-members are required to pay an admission fee, details are inside this issue on the inside of the back cover.

The Feather River Rail Society, a tax-exempt public benefit California corporation, is the historical society for the Western Pacific Railroad and operator of the Western Pacific Railroad Museum in Portola, California.

**The FRRS is not associated with the Union Pacific Railroad.**

FRRS Tax ID number is 68-0002774  
Member of the Association of Railway Museums and the Tourist Railway Association, Inc

**- BOARD OF DIRECTORS and OFFICERS -**

Rod McClure	President	president@wplives.org
Steve Habeck	VP, Director	vpresident@wplives.org
Kerry Cochran	Director	kcochran@wplives.org
Greg Elems	Director	gelems@wplives.org
Gail McClure	Director, Treasurer	store@wplives.org
Tom Carter	Director	tcarter@wplives.org
Wayne Monger	Director	wmonger@wplives.org
Kirk Baer	Director	kbaer@wplives.org
Charlie Spikes	Director	cspikes@wplives.org
Eugene Vicknair	Secretary, Director	secretary@wplives.org

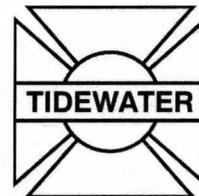
**On the Cover**

*WP 3510 leads the CCVX on 5 February, 1982. WP 3510 survived the UP/WP merger and eventually ended up on the Kansas City Southern, as KCS 2814.*

*Greg Elems photo.*

**Table of Contents – Issue 168**

Introduction – 2015 Election	3
Accusation Rebuttal from FRRS	4
Vice-President's Report	13
CPA Answers to FRRS 990 Questions / Allegations	14
OVERVIEW of Election Legal Issues and Timeline	15
Membership Information	19
Admission and Train Ride Information	19



**- WEB PAGES of INTEREST -**

FRRS Official Site	www.WPLives.org
CZ Virtual Museum	calzephyr.railfan.net
California Zephyr	californiazephyr.org
Western Pacific Pages	www.WPLives.com
WP Virtual Museum	wpmuseum.railfan.net
Sac Northern On-Line	www.WPLives.org/SN
Tidewater Southern Pages	www.TidewaterSouthern.com
Tidewater Southern	www.5.pair.com/rattenne/WP/TidIndex.htm
Central California Traction	www.trainweb.org/tractionco/

## 2015 FRRS Election

For the membership:

We realize there has been a lot of confusion and concern surrounding the 2015 Board of Directors election. In this issue of the Train Sheet, we will address many of the issues and questions surrounding the election.

For an overview and explanation of many of the issues that led to this situation, we have a letter from FRRS Legal Counsel David Ludington. This explains the legal filings and actions surrounding the election.

Concerning statements and allegations that have been made during the election, we have a statement from FRRS CPA and Tax Preparer Chad Hoelsing concerning financial items and a listing of statements and responses concerning other allegations.

As for the current state of the election, we have no final answer as we go to press. The mailings to the membership were discovered to have several errors, including many Family levels not receiving their second ballot, a lack of ballot secrecy envelopes and a potential for votes to not be confidential. Some of the reasons this has occurred are addressed in David Ludington's letter. In summary, in an effort to keep the ballot above question, the FRRS agreed to let outside parties compose, mail and count the ballots and the errors occurred once the responsibility was taken from our election committee.

Currently, the FRRS Board has requested that the current ballot be invalidated and the ballots reprinted and re-mailed to correct the errors. This was done after hearing from numerous members unhappy with the ballot as performed by the group given the task by the court agreement. Among those who weighed on requested the current ballot be invalidated were all the former election chairs going back to 2004.

We apologize for the confusion surrounding the election and hope the answers in this issue provide some clarify. If you have any other questions, please contact us via email at [info@wplives.org](mailto:info@wplives.org) or call the museum at 530.832.4131 and leave a message. Someone will get back to you as soon as possible.



**The following is in response to statements made by Mr. Keith Gillette, Mr. Robert Reininger, Mr. James Mason, Mr. Bill Meeker, and Ms. Debra Baer**

For the last several months a series of claims have been made by the five persons named above, identifying themselves variously as “Save Our Society” and “Friends of the FRRS”, who are all active members of the FRRS, as well as from others who are supporting their efforts. These allegations were made publically on the following websites: www.wpdream.org and www.willingpeople.org and on WPList a Yahoo private chat room.

**1: The transparency and fairness of the impending election and past elections – request for FRRS mailing list as stated in CA Corporation Code 6330 – their free speech rights to FRRS members (found in - CA Superior Court case no. CV15-00029 March 30, 2015)**

The crux of the current legal issue surrounding the election is a claim that the candidate statements of Mr. Mason and Mr. Reininger were unfairly denied. They were denied by Mr. Ed Wagner, the 2015 Election Chair, due to violation of procedure, “non-payment of the required reproduction fee by the deadline.” - so in other words the candidate statements were not denied – the ability for Mr. Mason and Mr. Reininger to have their statements included in the official mailing was denied because of non-payment.

Per FRRS Nomination and Elections Policy dated 1/5/2015, Election Rules state: Candidate statements and payment to be received by the FRRS by Feb 9, 2015.

**Timeline of candidate submissions:**

- Ms. Baer: mailed candidate statement and payment received Feb 6, 2015  
Payment post marked Feb 4, received on Feb 6, 2015  
Removed self from nomination on Feb 27, 2015.
- Mr. Meeker: mailed candidate statement on Feb 6 – received Feb 9, 2015.  
Payment received Feb 9, 2015
- Mr. Vicknair: emailed candidate statement on Feb 9, 2015.  
Payment post marked Feb 7 – received Feb 9, 2015.
- Mrs. McClure: emailed candidate statement on Feb 9, 2015.  
Payment delivered to Susan Scarlett’s office on Feb 9, 2015
- Mr. Habeck: emailed candidate statement on Feb 9, 2015.  
Payment delivered to Susan Scarlett’s office on Feb 9, 2015.
- Mr. Reininger: email of candidate statement received Feb 9, 2015  
**Payment post marked Feb 12 – received Feb 14**
- Mr. Mason: email of candidate statement received Feb 9, 2015  
**Payment post marked Feb 11 – received Feb 14**

As for statements about transparency and fairness in prior elections, elections have been handled by volunteer Election committees headed by an Election chair; these members are not FRRS Board members. The FRRS has always placed the highest value upon running fair, equal elections. When issues have arisen, they have been handled to the best of the committee’s abilities and with guidance from the FRRS Board and/or Legal counsel when requested. After each election, policies are reviewed to determine if there are areas that can be improved and/or clarified, all with the goal of ensuring fair and open elections.

Ballot counting is allowed to be viewed by all candidates or appointed witnesses. Elections are certified by an outside third party.

All four of the volunteers who have served as chairs since 2004 (Mr. Epling, Mr. Johnson, Mr. Shuman and

Mr. Wagner) have given verbal and/or written statements that in their opinion, the FRRS elections were run fairly, cleanly and without illicit interference.

The petitioners now have the complete mailing list of all FRRS members.

**2: Society Financial Statements are not prepared in accordance with standards set forth by Financial Accounting Standards Board etc....:**

- Statement of Financial Position
- Statement of Activities
- Cash flow statement
- Statement of Functional expenses

Per the FRRS CPA/Tax Lawyer: June 25, 2015

- *A Statement of Financial Position is the same as our Balance Sheet. There is no functional difference, just a different name.*
- *A Statement of Activities is the same as our Profit and Loss Statement. Again, no functional difference.*
- *Cash Flow Statement – There is no law that requires this from a non-profit except during an audit. He stated that there is no law or practice requiring such a statement from a non-profit in regular practice*
- *Statement of Functional Expenses – There is no law that requires this from a non-profit either except during an audit. To do these statements would cost extra money, would be of limited value to our organization in his opinion, and would duplicate some of the function of the 990*

**3: Compensation to Rod McClure: In 2011, President Rod McClure received \$20,000 in compensation from the FRRS in direct violation of the By-laws. This was never brought to or approved by the Board of Directors.**

In 2011, due to several factors, including a lawsuit brought by a former FRRS member trying to enforce fraudulent contracts and contesting rent owed on equipment stored on the museum property, the Board requested that President Mr. McClure handle several time consuming and time sensitive issues. The lawsuit in particular, due to required court dates, caused him to perform a great deal of travel and required him to lay off many calls from his employer, the Union Pacific Railroad. Due to this extraordinary demand on his time, it was decided to reimburse expenses incurred during this intensive period of work. Vice-President Mr. Habeck was also dealing with a lot of Society issues at this time, and also received similar reimbursements.

A proposal for a stipend was presented and accepted by the Board at this time in response to the time demands being placed on the President and Vice-President:

*From the Board Meeting of 3-5-2011:*

- *James Mason and Eugene Vicknair presented a proposal for a Management Stipend for expenses incurred by the President and Vice-President in service of the FRRS*

When these statements surfaced during this election, the FRRS consulted our CPA, who is also a tax lawyer of 30 plus years experience. His firm works with over 50 non-profits.

The CPA's response on June 25, 2015 "stated that there is NOTHING illegal about reimbursement, or even compensation, even if the by-laws say no compensation for officers. He stated that the Board did nothing improper. Legally, the Board has authority to do what it deems is necessary depending on the circumstances that the business of the Society demands in such cases. There is also no violation of any state law with the reimbursements presented to any of our officers (i.e.: mileage, expenses, etc.) and no violation of the by-laws by these reimbursements."

**4: More than \$60,000 was charged to the FRRS credit cards in 2013-14, most of it by Rod McClure; a large portion of Mr. McClure's charges were for highly questionable expenditures such as food, lodging, travel costs, and personal items**

Mr. McClure, Mr. Vicknair, Ms. Scarlett and Mr. Habeck are the only members with access and rights to use the Society credit cards as of Feb 2012 – before that Mr. Brehm, Mr. Holmes, and Mr. Stiles also had credit cards.

January 2013 – December 2014: Total Bank of America credit charges \$54,250.11. (Not in excess of \$60,000)

Mr. McClure's total charges = \$29,918.37 – which is 55% of total expenses

Mr. Vicknair's total charges = \$24,331.74 – which is 45% of total expenses

The cards are used for Society expenses such as shipping, web expenses, consumable materials (paper, ink), parts, convention expenses, Society travel, etc. They are also used when needed for things like volunteer dinners, i.e.: meals during work sessions or large volunteer events.

*Board Meeting 2-11-2012:*

*Approve Steve Habeck, Rod McClure, Susan Scarlett and Eugene Vicknair as signers on the new Bank of America internet account.*

*Vicknair/McClure. Aye – 6, Nay – 0, Abstain – 1. Motion carries.*

**5: Compensation to Gail McClure: between June and October 2013, Gail McClure paid herself at least \$3,927 in "mileage reimbursements" & Apparent compensation of at least \$4,852 was paid to Gail McClure in 2013 and 2014 which would be in violation of FRRS By-Law.....**

The FRRS allows volunteers to submit for mileage reimbursements. This is not unusual among non-profits and several of our volunteers either submit for reimbursements or take the mileage from their taxes. Both are permitted under law and IRS code.

This policy was clarified with regards to the Museum Store/gift shop in July 2012.

*From the Board Minutes of 7-14-2012:*

*Recommendation to let volunteers for gift shop claim mileage for driving to and from Reno. Item 53050 – Payroll Expense. Suggestion to let volunteers use that budget item for mileage. Current mileage rate is about \$0.55/mile. Consensus to proceed.*

Further clarification from the Board Meeting of 9/8/2012 by James Mason:

- *Thanks from the Board to the Museum Store volunteers for their hard work.*
- ***Talked to tax person about reimbursement for Museum Store volunteer driving miles. Volunteers need to submit form with actual miles. Reimburse rate is \$0.50/mile.***
- *Question about quantifying the dollar value of volunteer work. Hours volunteered should be reported to Gail McClure so that it can be quantified and reported. Dollar value of volunteer hours can be counted as matching against grant funding.*
- *Mr Mason to act as interim Treasurer. Financial report states "Talked to tax person about reimbursement for Museum store volunteer driving miles. Volunteers must submit report.*

Per FRRS CPA/Tax Lawyer, June 25, 2015: "Legally, the Board has authority to do what it deems is necessary depending on the circumstances that the business of the Society demands in such cases. There is also no violation of any state law with the reimbursements presented to any of our officers (i.e.: mileage, expenses,

**6: \$1,255 was spent on an 11-day trip to the Pacific Northwest during January and February 2014 etc.....**

The Society had received the donation of a single piston diesel injector test bed which was located in northern Washington State. Preliminary quotes to truck the test bed to Portola placed the cost around \$8,000 to \$10,000.

The McClure's had scheduled a trip to visit family and offered to pick up the equipment through use of a rented trailer. Once in Northern Washington they realized that the piece of equipment was not the advised 1500 lbs., it was 6500 lbs. There is no rentable trailer that will hold this weight. Their son donated his heavy duty trailer to the museum for the specific purpose of moving this equipment back to the museum.

They made a request to have the Society cover some costs for the move and this was approved by the Board.

*From the Board Meeting of June 1, 2014*

*-Business Item:*

*Acquisition of Equipment, to acquire a single piston diesel injector test bed.*

*Equipment offered for donation. Moving would cost about \$1,500.*

*Rod and Gail have offered to transport.*

*-Motion 13-06-04*

*Accept donation and approve cost to move not to exceed 1,500 from line Acquisition/Transportation 52010: G. McClure/Holmes. Aye – 7 Nay – 0, Abstain – 0. Motion carries.*

*Note: James Mason was present at the meeting*

**7: \$420.00 was charged by Mr. McClure to pay his personal phone bill**

Mr. McClure was on a steam trip which took him out of normal cell phone range. He was taking care of Society business using his personal cell phone. Since he was out of normal cell phone range he far exceeded his allotted roaming time. Charges were for Society business and therefore paid by Society.

**8: \$1,078 spent on one meal at Mexican restaurant in Portola etc.....**

This charge was for the Volunteer Dinner, which was catered by the restaurant.

Credit card statement shows transaction date of 4/26/14.

From 2014 FRRS Calendar: 4/26/2014 – *Opening day of Museum, Volunteer day – Mandatory Training 2-5 pm, Dinner at 6 pm*

We have had several other catered dinners at the museum over the years, both for fundraisers and member dinners.

**9: \$461.00 was spent for a hotel at the beach in San Francisco in June 2013, etc....**

This was a mistaken charge that was noticed when the credit card statements were reviewed. It was reimbursed to the museum.

**10: Concern of the FRRS filing of Form 990 – specifically Section IX line 11a, Legal cost and line 11b Insurance cost**

Per FRRS CPA/Tax Lawyer, June 25, 2015 - *“confirmed that we place all the Admin expenses in the one line for time savings and cost savings, rather than breaking them out. He also stated that this is perfectly acceptable to the IRS and does not present anything improper. To break out the items would cost more money and take more time in preparation.”*

### **11: Publication of the Headlight:**

The Headlight is published based on contributions from interested parties. The Headlight’s staffs are often complimented on the quality of their work in putting out this publication.

The Board has no editorial input on the Headlight, although several members have contributed to it over the years.

### **12: Access to the abundant archives to which members do not have meaningful access**

The FRRS is committed to providing research access to our archives. While the current storage situation presents challenges to that, we have always been committed to assisting researchers and interested parties obtain access.

In August 2012, the Board approved the following motion, which included the Archives Access Policy currently in place:

*Motion 12-08-03*

*Accept recommended policies, procedures and mission with understanding that this is a dynamic document and will be reviewed for status in 6 months (February 2013 meeting).*

*Carter/G. McClure. Aye – 6, Nay – 2, Abstain – 0. Motion carries.*

The policy states:

*“Members of the Feather River Rail Society have access to the collections with prior notification and scheduling with the Archivist. A phone call or e-mail notification prior to visiting is required to set up an appointment. No collections material is allowed to be taken off site.*

*The Feather River Rail Society welcomes inquiries from off-site scholars and qualified researchers interested in our holdings. Inquiries must be sent to the Feather River Rail Society in writing, via email, fax, or mail. If a visit is intended, inquiries should include a brief description of the research project, the name(s) of the individual(s) or subject matter relevant to the study, and the intended purpose of the research. Under some circumstances, additional information may be requested.”*

In September 2014, the Board gave approval to proceed with preliminary plans for an Archives Research Room and to pursue grants to fund its construction. The room would be built in a baggage car whose donation from the Union Pacific was arranged by President Mr. McClure.

The current FRRS members that are working on the Archives policy, procedures and access are as follows: Mr. Mucklin, Mr. Baer, Mr. Monger, and Mr. Brehm.

### **13: An emphasis on meaningful, substantial conventions annually (recall we didn’t have one in 2012)**

With the exception of 2012, conventions have been held every year since 1996. The 2012 convention was not held due to a variety of factors that complicated its planning. Rather than hold a substandard convention, it was decided to not hold one. The 2013 convention at California State Railroad Museum

(CSRM) in Sacramento was intended to be a refresh/re-invigoration of the conventions.

Attendees' feedback has been that the three conventions since 2012 (2013 – Sacramento, 2014 – Suisun City, and 2015 – Elko, NV) were well done events with highly regarded presentations and popular special events. All three have even included private chartered excursions at other museums as part of their events. Planning is underway for the 2016 Convention.

The presentation of Historic Conventions is held by the Board and members as one of the pillars of the FRRS mission and we strive to make each one worthwhile and special for the attendees, which include a large number of non-FRRS members.

List of conventions:

- 1996 – Portola, CA (pilot convention)
- 1997 – Oroville, CA (first formal convention, April 18-19)
- 1998 – Stockton, CA (May 8-9)
- 1999 – Fremont, CA (April 16-17)
- 2000 – Quincy, CA (May 19-20)
- 2001 – Modesto, CA (April 27-28)
- 2002 – Yuba City, CA (April 12-13)
- 2003 – Oakland, CA (April 11-12)
- 2004 – Sparks, NV (April 16-17)
- 2005 – Tracy, CA (April 15-16)
- 2006 – Chico, CA (April 7-8)
- 2007 – Livermore, CA (April 13-14)
- 2008 – Sacramento, CA (April 11-12)
- 2009 – Oroville, CA (May 29-30)
- 2010 – Stockton, CA (April 16-17)
- 2011 – Bend, OR (joint with Spokane, Portland and Seattle RHS, May 19-21)
- 2012 – Due to planning and contracts not coming together, the 2012 Convention was cancelled in January 14, 2012. Was decided to start planning for 2013 instead.
- 2013 – Sacramento, CA (May 17-19)
- 2014 – Fairfield, CA (August 15-17)
- 2015 – Elko, NV (April 24-26)
- 2016 – Lodi or Modesto, CA (in planning stages)

**14: \$5,258 was spent on a caterer for the 2013 convention, oddly enough, this and other convention costs, including McClure's meals and hotel charges, were cost coded to the "WPRRHS" which McClure disbanded years ago.**

The "WPRRHS" code is an accounting code used in the spreadsheets by the bookkeeper's office. How the item is coded is a matter of understanding and convenience.

The catered dinner for the Sacramento convention cost \$4,128.61. There were 124 people in attendance, including representatives of California State Railroad Museum (CSRM) who helped us put on the convention. That is a charge of \$33.30 per person for a high quality catered event, which also included all tables, dinnerware and other required supplies, since the dinner was not held in a banquet facility but was in the roundhouse section of the CSRM. That is within typical range for such an event with full banquet seating provided. The caterer used was Hannibal's, recommended by the CSRM staff and very highly rated in the Sacramento area.

There was an additional charge of \$627.13, from the caterer, to the "WPRRHS Convention". This was due

to some attendees wanting bar service. In an effort to hold to the core values of the FRRS mission of making the Convention worthwhile & special for attendees, the FRRS agreed. There was a minimum charge for this service. We did not make the required minimum charge set by the caterer. Therefore, as a result, the "WPRRHS Convention" has not provided or contracted for "bar service" at any subsequent Convention.

Expenses for many volunteers for the convention were coded to the expenditure line item. These included a meal with CSRM officials when the convention was being planned, a meal thanking volunteers for their work, rooms for several volunteers who did not live locally and supplies needed for the convention. The way these were paid varies, some were charged to the FRRS credit cards, and some were volunteer expenses and were reimbursed.

The WPRRHS name was retired by the Board of Directors in June 4, 2011 after a recommendation by the Harvard Community Partners, a non-profit business assistance group, did a review of FRRS operations. They recommended the name be removed as it was creating confusion as to the relationship of the FRRS and the archives department. That is all the WPRRHS was: a department of the FRRS. It had operations of conventions, archives and the Headlight. All three of these operations are still functioning. Nothing was "disbanded".

References to the WPRRHS in Society by-laws were removed by membership approval of the new by-laws revision during the 2014 election.

**15: Mr. David Ludington is personal attorney to Mr. Rod McClure.**

Mr. Ludington is the Corporate Legal Counsel for the Feather River Rail Society and is the sole recognized legal counsel of the organization and its members. He was appointed to this position on January 8, 2010.

**16: The FRRS Board cancelled work on Western Pacific steam locomotive 165.**

The FRRS has always supported the restoration of WP 165 and in April 2015 reconfirmed that it was the #1 project funding priority. Members of the Board have also worked to raise funds and find parts and labor for the project. Most recently, the donation of specialized welding services was arranged that will save about \$30,000 from the remaining project costs. All scheduled work parties for the 165 have been held and are planned to continue.

**17: Former Museum Manager David Epling was terminated due to a dispute with Gail McClure at Colfax Railroad Days (October 1-2, 2011).**

Due to financial conditions relating to the recession, the Board was looking for expenses to cut to ensure financial stability in late 2010.

One area looked at and later implemented was to eliminate the paid Museum Manager position. At the October 2010 Board Meeting, the Business Practices Committee was asked to make recommendations on museum staffing to the Board for financial reasons, which Mr. Mason was a member of. A recommendation to end the Museum Manager position was discussed and put into a written draft report by then Treasurer Mr. James Mason and sent to the Business Practices Committee on October 19, 2010 for discussion. Mr. Mason later made the claim that Mr. David Epling was instead fired for a dispute.

At the November 2010 meeting, a proposal to adopt Museum admission was approved and to start with the 2011 season, because of this the elimination of the manager position was delayed to see how the manager position would work with admissions.

On September 7, 2011, the WP Hospital was destroyed in an arson fire and the cost of clean-up presented a strain on the financial situation. The decision was made then that we needed to eliminate the position and go to volunteer operation of the store. Mr. Epling was informed two weeks before Colfax Railroad Days of this business/financial decision. Mr. Epling himself has confirmed this on many occasions. His last day was November 7, 2011, allowing him to complete year-end inventory and tie up last business with the store.

**18: Allegation that Eugene Vicknair attempted to sabotage the election by improper handling of the mailing lists.**

FRRS Counsel Mr. David Ludington stated the following:

*"I have to respond - Keith Gillette was emailed the complete lists of the Foreign and Domestic voting membership as they existed on May 13, 2015, the day on which we agreed they would be delivered while in open court on May 11, 2015. The lists are maintained in the regular course of business by Susan Scarlet, who prepared them, emailed them to Eugene, who emailed them to me, and I emailed them to Mr. Gillette. The voting membership list of Domestic voting members clearly denotes the level of each membership, including Family and Family Life members, who are to receive two ballots. There are no Foreign Family or Family Life members. I do not know how Mr. Gillette came up with his list of members who are to get two ballots. The court is not involved in the ballot issue, it is being handled by Mr. Gillette and I. Because of the apparent confusion, and to make it easier for the referee, I had Eugene ask Susan Scarlet to copy and paste the names of the Family and Family Life members into a separate document, which was done, and which has been provided to the referee with instructions on how to rectify the situation. Any insinuation that Eugene caused this is sheer fallacy."*

**19: The FRRS has poor relationships with Portola, the Union Pacific and other organizations.**

- The FRRS is engaged with the city of Portola on several programs, including joint promotions, joint grant applications, developing in city exhibits and improving museum security.
- The UP continues to support the FRRS with donations and recently placed two locomotives on long term exhibit loan (they are units the UP has put in "Stored Serviceable" status).
- The FRRS also have an exhibit of artifacts at Sparks Yard in cooperation with the UP.
- The FRRS have worked with the California State Railroad Museum, the Nevada Northern Railroad Museum, Western Railway Museum and the Northeastern Nevada Museum as part of recent conventions.
- Teams from the National Maritime Museum in San Francisco and the Golden Gate Railroad Museum regularly assist us with the restoration of the WP 0 6 0 165.
- The FRRS has traded information and support with numerous museums and shortlines.
- The FRRS regularly receives support from the Central California Traction Company, as well as donations of materials.
- The FRRS help to promote other organizations such as the Shasta Cascade Railroad Association, Rio Grande Historical and Modelling Society and the Plumas Museum.
- At our recent hearing on the lawsuit filed by the above mentioned group (CV15 00029), Portola City Manager Robert Meacher even stood in support of the FRRS.
- The FRRS has been a leader in promoting cooperation and mutual assistance between railroad museums.
- 

**20: \$3725 from the Zephyr Project was paid to a scuba diving shop in Hawaii.**

In the summer of 2014, the FRRS contracted with Fast Wraps of Reno, Nevada, a company that performs shrink-wrapping of equipment. Due to a shift in focus on the Zephyr Project to the WP diesel 805-A and diner car "Silver Plate", it was decided to "mothball" the lounge car "Silver Hostel". A proposal was put

forward to shrink-wrap it for weather preservation and, if the technique worked, to apply it to other long-term storage cars for protection against the elements.

The owner of Fast Wraps also owns several other LLCs and corporations, including one called Pelagic Magic LLC incorporated in Nevada. Fast Wraps is a subsidiary or “dba” (doing business as) of Pelagic Magic. When the invoice was received by the FRRS the payment was requested to be made to Pelagic Magic. This was paid in June 2014. A simple Google search of the name “Pelagic Magic” returns a scuba shop in Kona, Hawaii. However, a search for “Pelagic Magic Nevada” shows the Nevada Corporation and its relationship to Fast Wraps of Reno. The payment was in fact made to the Nevada Corporation related to Fast Wraps for the work performed and this is confirmed by the invoice in the FRRS records.

## **21: The FRRS has been stealing fuel from UP locomotives currently stored at the museum and in Portola Yard.**

The Union Pacific has several locomotives currently in serviceable storage in Portola Yard, including 2 that the local managers kindly arranged to have stored within the museum for us to display to visitors and members.

When this allegation arose, Vice-President Mr. Habeck contacted the Union Pacific Special Agent from Sparks, Nevada to come inspect the locomotives. The Special Agent found all locomotives were as they were supposed to be and none had been tampered with in any way. He also requested that Mr. Habeck inform him of anyone who had questions or is making similar allegations and stated that he (the Special Agent) would personally contact them to correct their information and confirm the locomotives were in proper condition with nothing removed.

## **22: Photographs of the single piston diesel injector test bed – in disrepair.**

The single piston diesel injector test bed is currently stored outside. When it was received into the yard it had a tarp placed on it for the winter. In April 2015 the tarp started to tear due to the wind and weather conditions outside. After noticing this, Ms. Baer, a local member decided to take pictures of it and make comments that the FRRS isn't taking very good care of its equipment.

On July 11, 2015 several volunteers from Reno, NV, Redding, CA, and Quincy, CA donated tarps, rope and time to re-cover the test bed.



### **The Joys of Maintenance**

*Newly reconditioned mounts and pipes for the WP 917's cooling system are seen here after being cleaned, prepped and welded by David Elems. These will be used to connect the flexible hoses on the cooling system, which had developed a leak due to rust issues on these connectors.*

## Vice-President's Report July 2015

— Steven J. Habeck  
Vice-President and Life Member, FRRS

The ongoing issues with the challenger group have taken their toll on the FRRS and the WPRM. Eugene Vicknair, myself, and several other concerned FRRS members have put in hundreds of volunteer hours solely to answer the challenger allegations, and to deal with the election boondoggle. Unlike the challengers, I will present facts:

The FRRS will, upon recommendation of our attorney, go to court and attempt to have this farce of an election stopped, and re-done correctly. Our legal counsel has received a list of election errors that have been documented, and a list of members who have contacted us and notified us of problems, or demanded that the election be stopped. Those who contacted the election referee directly were told that she would have to contact Mr. Gillette to get answers to their questions, because she didn't know the answers. Mr. Gillette's influence is all over this election, from admission of printing labels and assisting his staff, to being contacted by the election referee for guidance. That is unsatisfactory. After being accused by this group of running fraudulent elections, I see they have decided to show us how to really screw one up.

The "Save Our Society" and "Friends of the FRRS", as the challengers tout themselves, should really be "Sink Our Society", and "Fiends of the FRRS". Why? What group of supposedly-concerned members would force the FRRS to pay

\$9985.05 in fees (as of July 2, 2015; I have the documentation) to lawyers, accountants, and our bookkeeper solely in response to their allegations and demands? Yet they make a big deal over some reimbursements legally paid by the FRRS in the past. That money could have gone a long way toward restocking the Gift Shop, obtaining supplies and parts for maintenance of our RAL locomotives, funding for the 165, or many other projects. And we still can't get any kind of answer from any of these challengers as to what their plans for the future of the FRRS and WPRM might be, most likely because they haven't thought that far ahead, because of their laser-focus on destroying the reputation and credibility of some current FRRS Officers. Available to the membership is a rebuttal put together by several concerned members of the FRRS, supplying real, factual answers to many of the long-standing allegations of the challengers, who have adopted the tactic of obtaining data, then creating a story of doom and gloom and untold treachery to surround this data, rather than ask for facts and supporting data from the proper sources. You can see this rebuttal at the webpage <http://election.wplives.org> or get a copy by emailing [info@wplives.org](mailto:info@wplives.org) and requesting it.

An election with 6 candidates for 3 Board seats would normally be a healthy move for a group like the FRRS, but this one has been turned into a quagmire by the challengers. I am thoroughly and completely disgusted with these challengers, and their support group, and their tactics, and I will never forget what this group is doing to the FRRS.

## CPA Answers to FRRS 990, Reporting and Reimbursement Questions / Allegations

– Eugene Vicknair, Secretary – FRRS

In the course of this election cycle, the “SOS” group of members have made numerous comments and statements concerning the finances of the FRRS.

After I received questions from Robert Reininger which he also posted to an on-line email list, I queried the CPA who prepares the annual Form 990s for the FRRS. I was also able to speak with him about several other issues which have been raised, including statements of improper financial documentation and reimbursements.

Some background: Our CPA, Chad Hoelsing, is also a California tax lawyer with over 30 years of non-profit experience. He has been working with us since, I believe, 2010. He handles tax and accounting work for over 50 non-profits.

### The responses from our CPA:

The questions concerning our 2013 Form 990:

“1. Line 11b Legal (under fees for service) reports no cost. Does this mean that the society did not have any legal fees?”

- We had \$1,500 in legal expenses in 2013

2. Line 23 Insurance reports no cost. Does this mean that the society did not have any insurance costs?

- We had \$35,000 in insurance costs in 2013

•  
3. Line 24 Other expenses. Item a. “Administrative Support” reports \$82,556. What is the breakdown for this expense item?

- There are several items under Admin support. As mentioned there were the legal and insurances costs. The other main item was \$12,000 in professional support (which were our payments to our

bookkeeper), about \$5,000 in bank service charges (credit card fees, use fees, etc.), \$4,200 in advertising and other smaller fees for taxes, etc. All are available in the Profit and Loss Year end financial statement which Mr. Reininger received.

Our CPA confirmed to me that his office places all the Admin expenses in the one line for time savings and cost savings, rather than breaking them out. He also stated that this is perfectly acceptable to the IRS and does not present anything improper. To break out the items would cost more money and take more time in preparation.

4. Under Governance, Part VI, Section A, Line 2 regarding relationships, you report “No” indicating that there are no family or business relationships between any officers, directors or other key employees. Is that answer a mistake?”

- This appears to have been caused by a mis-communication and has been corrected. Our CPA stated that this item is not a big deal and characterized any claim that it represented an issue as “petty”.

He also had some information on a few other items, including the alleged “illegal” compensation to President McClure in 2011 and Gail McClure last year.

He informed me that there is NOTHING illegal about reimbursement, or even compensation, even if the by-laws say no compensation for officers. He stated that the Board did nothing improper. Legally, the Board has authority to do what it deems is necessary depending on the circumstances that the business of the Society demands in such cases. There is also no violation of any state law with the reimbursements presented to any of our officers (i.e.: mileage, expenses, etc.)

The statement of not preparing the proper financial paperwork. Specifically, there was the statement that we need to prepare the

following:

- Statement of Financial Position
- Statement of Activities
- Cash Flow Statement
- Statement of Functional Expenses

Our CPA did a quick review of our current documents and informed me that we already do two of these every month:

- A Statement of Financial Position is the same as our Balance Sheet. There is no functional difference, just a different name.
- A Statement of Activities is the same as our Profit and Loss Statement. Again, no functional difference.

On the other two:

- Cash Flow Statement – There is no law that requires this from a non-profit except during an audit. He stated that there is no law or practice requiring such a statement from a non-profit in regular practice.
- Statement of Functional Expenses – There is no law that requires this from a non-profit either except during an audit. To do these statements would cost extra money, would be of limited value to our organization in his opinion, and would duplicate some of the function of the 990.

Summary, we already provide two of these and the other two are not required except in specific terms of an audit.

He informed me that he has no problem with any of the records we have ever presented him, that they are very well presented and when there have been questions they have been handled quickly. As mentioned above, his firm deals with over 50 other non-profits and, in his opinion, we keep and provide much better records than many other non-profits they work with.

## **OVERVIEW of Election Legal Issues and Timeline** – FRRS Counsel David Ludington

### **Dear Feather River Rail members:**

Now that the dust has settled, I would like to set the record straight regarding the lawsuit brought by James Mason, Debra Baer, William Meeker and Robert J. Reiningger against the FRRS and Eugene Vicknair in his capacity as Secretary. First, let me emphasize that I represent the Board of Directors and cannot take sides when there is a squabble amongst the Directors. As the board's attorney, I was tasked with defending the Board and Eugene Vicknair in the lawsuit. I do not represent Rod McClure or any other Director in an individual capacity - he was not named in the lawsuit, so I do not represent him in his capacity as President of the Board at this time, any more than I represent the entire Board.

A little background is necessary to understand what precipitated the lawsuit. FRRS'S Nominations and Elections policy reads in pertinent part as follows:

(J) Each candidate may, at their option, provide to the Committee, no later than the second Monday in February, any information statement. These statements shall be separate from the ballot but mailed with the ballot to each eligible voter (with the ballot mailing). These statements shall include membership number, date of becoming a member, previous offices and positions held in the corporation for each candidate.

(K) ... Each candidate or members submitting a statement will be responsible for the cost of the printing of said statement. Likewise, in the event it becomes necessary to use a mailing service, the fees from any mailing service shall be similarly prorated. The Committee may require an advance deposit of the prorated share of the costs prior to the printing and assembly of the ballot mailing. Currently there is a flat rate charge of \$100.00 (subject to change, due to printing costs) for the inclusion of the candidate's statements, the cost of which is to be borne by that candidate him/herself. Any candidate submitting a statement shall be required to submit the payment at the time the

statement is presented, to cover costs of reproduction and mailing preparation.

Candidate James Mason submitted his Candidate Statement by email on February 9, 2015, the second Monday of the month. He did not tender the requisite \$100.00 flat rate charge for publication and mailing of his statement at the time. Instead, he mailed a check postmarked February 11, 2015, which was received February 14th. Candidate Robert Reininger also emailed his Candidate Statement on February 9th, and mailed a check on February 12th, which was received February 14th. Shortly after receipt of the late payments, I was asked for an opinion as to whether these candidates had complied with the letter of FRRS'S Nominations and Elections policy, and determined that they clearly had not, and that the Elections Committee was not obligated to include these candidates' statement in the ballot package to be sent to the members. Ed Wagner, Election Committee Chairperson, then informed these candidates their statements would not be included in the mailing, and returned their checks.

Shortly thereafter, James Mason, requested from Secretary Eugene Vicknair a copy of the "February 28, 2015 Roster" to use for "campaign purposes and not for commercial use." Robert Reininger made a similar request of Mr. Vicknair "for the purpose of soliciting votes from members." As FRRS'S membership list is its most valuable asset, Mr. Vicknair declined to provide the membership list to these candidates. On March 3rd, member Keith Gillette, who represents the petitioners in the lawsuit, sent another demand for the membership list on behalf of James Mason, William Meeker, and Robert Reininger "in order [for these candidates] to provide material relating to their candidacy for the upcoming election." Mr. Vicknair then consulted with me and referred to the California Attorney General's "Guide for Charities", which addresses this specific situation, and states in relevant part:

Q. I am a statutory voting member of a charity and would like to use the charity's mailing list to send out information. Am I entitled to use the mailing list?

A. Yes, with limitations. The mailing list of your charity is considered a valuable corporate asset, and the value diminishes if the list is distributed. California law provides for specific procedures for member mailings through a "blind" use of the list. Your information is mailed out without disclosing the contents of the list to any person.

Mr. Vicknair offered what the Attorney General's Office and case law specifically deem to be a reasonable alternative to turning over the Membership List and its contents – that Petitioners James Mason, Bill Meeker, and Robert Reininger provide their Candidate Statements to FRRS, which would then forward their documents to FRRS'S mailing house for immediate processing and mailing. Mr. Gillette did not respond. Mr. Vicknair then sent an email to Mr. Gillette asking whether he and his clients would accept reject the reasonable alternative, as under the Corporations Code,"[a]ny rejection of the offer shall be in writing and shall indicate the reasons the alternative proposed by the corporation does not meet the proper purpose of the demand made..." Mr. Vicknair also informed Mr. Gillette that the FRRS would be forced to go to court to seek a protective order if he did not get a response, or if the offer were rejected. As time was running out to seek a protective order, I had already started drafting FRRS'S petition for a protective order.

Instead of rejecting the reasonable alternative of a blind mailing, the petitioners opted to petition the court for a writ of mandate compelling the production of the Membership list and ordering that a neutral election inspector conduct the election. In other words, they beat the Board to the punch in regard to seeking a judicial determination of whether the blind mailing was a reasonable alternative to turning over the Membership list. In his moving papers, Mr. Gillette offered to take sole possession of the Membership list "as an officer of the court." He also alleged that prior elections had been tinkered with because "circumstances surrounding the results of previous elections raise questions concerning FRRS'S handling of previous elections and the fairness and

transparency of the impending election." The circumstances referred to by Mr. Gillette are/were speculative at best. At the ex parte hearing the court ordered the election be suspended, and set a briefing schedule prior to a noticed hearing on the petition. A copy of the Order issued after the ex parte hearing is attached. I opposed the petition on the ground the FRRS had offered a reasonable alternative to turning the Membership list over to anyone, and that the Corporations Code did not provide any authority for the court to appoint an election inspector. As is customary, the court issued a tentative ruling prior to the hearing, a copy of which is attached. In its tentative ruling, the court stated that the petition constituted the claimants' written rejection of FRRS'S offer of a blind mailing. A tentative ruling is just that - tentative. In no way, shape or form is it an order, and no findings are made.

At the May 11 hearing, the court called counsel into chambers, and basically brow beat counsel for both sides into a Stipulation that a neutral election inspector be appointed to handle the election, and that FRRS turn over its Membership list to Mr. Gillette to provide to the neutral election inspector, and not for any other purpose - At least that's what I believed was the stipulation I entered into on behalf of FRRS. I feel safe in saying I believe the court also understood the Membership list would not be used for any other purpose. I was unaware at the time there were voting and non-voting membership. In sum, FRRS capitulated to the petitioners' demand to turn over the membership list with mailing and email addresses, and to the appointment of an election inspector, in order to ensure there were no accusations of election fraud after the election. No writ of mandate issued; no evidence of prior election "tinkering" was offered or taken by the court, and absolutely no findings were made by the court that there had been prior election rigging or fraud. It was basically agreed that, in order to assure fairness, the election would be overseen by Mr. Gillette and me.

After the hearing, Eugene Vicknair provided me with all membership lists as they existed on May 13, 2015, the day I was to provide the list to Mr.

Gillette. (Apparently, the Membership lists had changed slightly since February 12, which is the date on which the Membership list for purposes of the election is used.) At that time, I became aware there were voting and non-voting membership classes. I did not turn over the non-voting membership lists - For what purpose would the inspector need these? In any event, no order issued after the May 11 hearing, because I had objections to the proposed form of the order drafted by Mr. Gillette.

My disagreement with Mr. Gillette as to what had been stipulated to came to a head, and on June 23, Mr. Gillette returned to court for the sole purpose of clarifying the terms of the stipulation - he contended I agreed to turn over the non-voting membership lists. That was the sole reason for returning to court. When in court, we also addressed the issue of whether there would be candidate witnesses at the ballot counting, although that issue was technically not before the court. I urged that witnesses be allowed per FRRS'S Election policy, and Gillette wanted no one there other than the attorneys. Again, the Judge called counsel into chambers to attempt to work out a resolution. None could be reached, and brief argument was made in open court. In sum, the court ordered that all membership lists be turned over to Mr. Gillette, which has been done. The Judge was made aware of the fact that Mr. Gillette had used the membership lists for his own purposes, and that others had been mailing information to the members. Mr. Gillette stated that he had intended to use the list for his own purposes all along. In any event, it was too late to do anything about the mailings. I got the impression the Judge erroneously believed the incumbents all had access to the mailing lists, and were doing their own mailings. The Judge also ruled there would no witnesses when the ballots were counted, other than the attorneys. The only other Order that has issued from the court was entered on June 23, and is attached. It does not address the issue of turning over the non-voting membership lists, and this issue is now moot.

In regard to the election itself - I believed, erroneously perhaps, that it could be run and handled by me and Mr. Gillette, working in

coordination with the election inspector. There have definitely been glitches. In an effort to save money, I agreed that Mr. Gillette's office could prepare and/or assemble the materials to be provided to the election inspector. His office did this, using much of what Ed Wagner had already assembled. You are all aware of what was sent with the ballots. In regard to the screw-up with many Family and Family Life members not receiving two ballots, Mr. Gillette contends he tried to put together the list of those members who were to receive two ballots from the materials provided by Ed Wagner. He did not do it right. Despite the fact the Membership lists clearly denote Family and Family Life members, the right question were not asked, and this was not conveyed by other than possibly a phone conversation. Nevertheless, we're where we are today. I understand the Board will be visiting the issue of having the ballots re-sent, whether by

agreement between Mr. Gillette and me, or by court order. I have asked for information regarding improprieties in the ballot/election process so far, and am awaiting receipt thereof. With good cause, and the Boards approval, I will seek to have the election process begin anew; i.e., new ballots sent out, and a new date chosen for the ballot counting.

I urge the Board to publish (this letter) to the membership, so they might understand what took place in court, and what is being done to ensure a fair election.

David T. Ludington  
FRRS Legal Counsel  
July 23, 2015



*David Elems ("Fritz") and Steve Habeck pause their conversation on 20 June, 2015 at the West end of the Diesel Shop. Preparations are well underway for the next day's festivities for Father's Day, including an Amtrak Special which would be watered/re-supplied on the museum grounds.*

*– Matt Elems Photo*

**- FRRS Membership -****Yearly Dues**

Associate \$25.00  
 Active \$50.00  
 Family \$80.00  
 Sustaining \$150.00

**Single Life Membership** - \$1800.00

**Family Life Membership** - \$3000.00

**Institutional** - \$60.00 (annual membership for 501c(3) groups)

These are the dues for the duration of one year, with Life and Family Life being a one-time payment.  
 Five year payment plans are available for life memberships.

**Associate** memberships do not have a vote, receive The Train Sheet but not the Headlight and are for one person only.

**Active** memberships receive both The Train Sheet and the Headlight, have voting rights and are for one person only.

**Family** memberships receive both The Train Sheet and the Headlight, have two votes and include two adults and all minor children residing at the same address.

**Sustaining** memberships receive both The Train Sheet and Headlight, have voting rights and are for one person only.

**Life** memberships receive both The Train Sheet and Headlight, have voting rights and are for one person only for life.

**Family Life** memberships receive both The Train Sheet and the Headlight, include two adults and all minor children residing at the same address, and have two votes (one per member) for life.

Send all applications, renewals and address changes, including email changes, to:  
 Feather River Rail Society - Membership Dept. - P.O. Box 608 - Portola, CA 96122-0608  
 Address / email changes may also be sent to [membership@wplives.org](mailto:membership@wplives.org)

**Mission Statement**

"The Feather River Rail Society is dedicated to the preservation, interpretation and education of the public, as to the history and people of the Western Pacific Railroad."

**Mission Goals**

To preserve and interpret the history of the WP, the "Willing People" as a vital link in the development of the rail industry on the West Coast, including the steam and diesel evolution, WP's influence in the passenger tourism industry, the impact of freight competition between neighboring railroads, and WP's influence in the lumber, mining and agriculture industry from Plumas County throughout California, Nevada and Utah.

**WPRM Admission and Train Ride Fares for non-members (effective April 1, 2011)****Admission**

- Adults 19 and over... \$8.00
  - Youth 4 - 18... \$4.00
  - Child under 3... free
  - Family... \$20.00
- (2 adults plus any related children 18 and under)

**Train Rides**

- Adults 19 and over... \$4.00
  - Youth 4 - 18... \$2.00
  - Child under 3... free
  - Family... \$10.00
- (2 adults plus any related children 18 and under)

Admission and Train Ride tickets are good all day.

**Cab Rides**

- Adult 19 and over... \$20.00
  - Youth 4 - 18... \$10.00
- Cab rides are for one (1) ride only.

Admission and Train Rides for FRRS members are free. Cab ride is extra fare with member discount.

***The Train Sheet needs your photos and articles!***

If you are working on projects for the Society, volunteering on restorations, performing archives work, helping out at off-site events, etc., or if you get some nice photos of FRRS or museum happenings that you want to share, **please contact us to have them printed in The Train Sheet.**

Photos should be at least 5" high by 7" wide and 300 dots per inch.

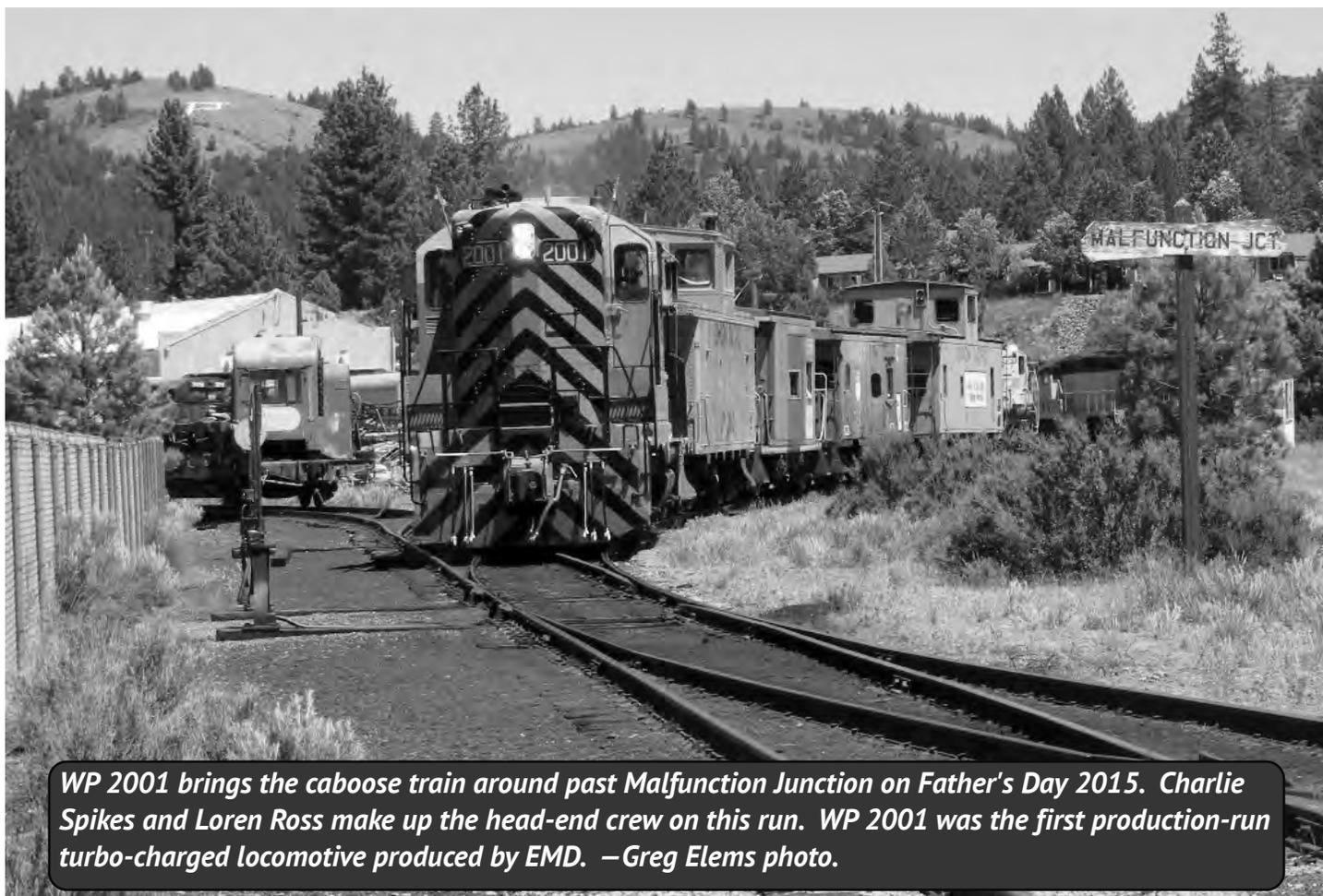
Articles should focus on FRRS related events, people or your own personal experiences with the Society.

To contribute, contact Editor Matthew Elems by email at [trainsheet@wplives.org](mailto:trainsheet@wplives.org).

The Train Sheet  
Feather River Rail Society  
P.O. Box 608  
Portola, CA 96122-0608

Change Service Requested

**PRSR STD**  
U.S. Postage  
**PAID**  
Permit No. 580  
Manhattan, KS  
66502



*WP 2001 brings the caboose train around past Malfunction Junction on Father's Day 2015. Charlie Spikes and Loren Ross make up the head-end crew on this run. WP 2001 was the first production-run turbo-charged locomotive produced by EMD. —Greg Elems photo.*