

**REPORT OF THE  
DIVISION OF RISK MANAGEMENT**

**Virginia Railway Express  
Claim Experience,  
July 1992 to January 2011**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 11**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
2011**



## Preface

The *Code of Virginia*, §56-446.1.G directed: “The Virginia Division of Risk Management shall be designated to examine the history of claims made and amounts recovered against the Virginia Railway Express arising from or in connection with the provision of passenger rail service in the Commonwealth, and to provide a complete review of those findings to the General Assembly by November 30, 2010.”

The Department of the Treasury’s Division of Risk Management examined the history of claims made and recovered against the Virginia Railway Express from July 1992 to January 2011 and summarized their findings in this report. In summary, the Virginia Railway Express (VRE) has provided a total of 50,600,979 passenger trips during this period and liability and property claims paid by the Division of Risk Management in connection with the provision of passenger rail service by VRE totals \$3,189,564.

## **Executive Summary**

The Virginia Railway Express (VRE), a commuter rail service of The Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission, commenced operations June 22, 1992. VRE provides commuter rail service from the Northern Virginia suburbs to downtown Washington, D.C. As of January 17, 2011, VRE has provided total of 50,600,979 passenger trips.

Treasury's Division of Risk Management (DRM) has been responsible for much of the VRE excess liability and property insurance as well as claim management within insurance policy deductibles or self-insured retentions. Liability and property claims paid by the Division of Risk Management in connection with the provision of passenger rail service by VRE totals \$3,189,564.

DRM examined the history of claims made and recovered against the Virginia Railway Express from July 1992 to January 2011 and summarized their findings in this report.

## VIRGINIA RAILWAY EXPRESS CLAIMS EXPERIENCE HISTORY

The Virginia Railway Express (VRE), a commuter rail service of The Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission, commenced operations June 22, 1992. VRE provides commuter rail service from the Northern Virginia suburbs to downtown Washington, D.C.

Treasury's Division of Risk Management (DRM) has been responsible for much of the VRE excess liability and property insurance as well as claim management within insurance policy deductibles or self-insured retentions. DRM examined the history of claims made and recovered against the Virginia Railway Express from July 1992 to January 2011 and summarized their findings in this report. In summary, the Virginia Railway Express (VRE) has provided a total of 50,600,979 passenger trips during this period and liability and property claims paid by the Division of Risk Management in connection with the provision of passenger rail service by VRE totals \$3,189,564.

From the beginning of service in 1992, administrative responsibility for claims management was divided by the Master Agreement between the participating jurisdictions into two programs; (1) AMTRAK, the rail operator, would manage all claims of \$10,000 or less, and (2) the DRM would handle claims in excess of \$10,000, but within the deductible or self-insured retention limits of the commercial insurance. This limit has varied between \$2,000,000 and \$5,000,000, depending on the terms of the insurance in place at the time. Property damage claims have had a \$250,000 deductible.

VRE replaced AMTRAK with KEOLIS as rail service operator in 2010. KEOLIS then assumed management of all claims of \$15,000 or less. DRM retains responsibility for claims against VRE in excess of \$15,000.

VRE claims history begins with its first claim filed April 12, 1993 and its first settlement of \$94,603.51 made on November 24, 1993. Since that first claim, the DRM claims staff has managed 101 claims made against VRE, with a total paid and reserved to date of \$2,990,850.72. There were 438 smaller claims managed by the rail operators, AMTRAK and KEOLIS resulting in claim payments of \$198,712.95.

The single largest claim event for VRE was the January 5, 2006 derailment resulting from a failed switch on CSX Transportation tracks near Quantico. The total cost of the derailment was \$694,196.42. This accident accounted for 16 claims with \$125,739.73 in payments and \$262,675.51 in property damage claims. The derailment also resulted in \$305,781.18 in liability claims paid on behalf of CSX due to contractual obligations between the parties.

Claims asserted by AMTRAK employees under the Federal Employees Liability Act (FELA) accounted for the largest liability cost to VRE. The 14 claims resulted in payments of \$1,524,304.69. VRE contractually moved this expense to the rail operator and will receive no further FELA claims.

**VIRGINIA RAILWAY EXPRESS CLAIMS EXPERIENCE**  
**July 1, 1992 to January 1, 2011**

**LIABILITY AND PROPERTY CLAIMS SUMMARY**

Total Claims Received	540
Total Paid and Reserved	\$3,189,563.67
Total Closed Claims	536
Total Open Claims	4
Claims Received by DRM over \$10,000	101
Paid and Reserved by DRM	\$2,990,850.72
Liability Claims Received	54
Liability Paid and Reserved	\$2,660,597.57
Property Claims Received	47
Property Claims Paid	\$ 330,253.15
Claims Received by AMTRAK under \$10,000	405
Paid by AMTRAK	\$ 198,712.95
Claims Received by KEOLIS under \$15,000	33
Paid by KEOLIS	0
<b>CLAIMS RELATED TO RAIL OPERATION:</b>	
AMTRAK Federal Employees Liability Act (FELA) Claims	14
Total Paid by DRM for AMTRAK FELA	\$1,524,304.69
CSX Transportation Liability Claims Paid	\$ 305,781.18

**1. LIABILITY CLAIMS BREAKDOWN**

CLAIMS OVER \$10,000 JULY 1992 TO JANUARY 2011:

- 54 liability claims paid and reserved at a cost of \$2,660,597.57
- 3 liability claims remain open with reserves of \$374,394.22

CLAIMS UNDER \$10,000 JULY 1992 TO JUNE 2010:

By agreement executed in 1989, AMTRAK handled small claims valued at or below \$10,000. This arrangement continued until the July 2010 when VRE contracted with KEOLIS. VRE reported the following AMTRAK experience:

- 405 claims
- \$198,712.95 paid

## CLAIMS UNDER \$15,000 JULY 2010 TO JANUARY 2011:

By agreement in 2010, KEOLIS handles small claims valued at or below \$15,000. This arrangement continues. The claim service for KEOLIS reports for the period July 1, 2010 to December 31, 2010:

- 33 claims
- No payments

## 2. PROPERTY CLAIMS BREAKDOWN

CLAIMS JULY 1992 TO JANUARY 2011:

- 47 property damage claims settled at a cost of \$330,253.18, of which \$262,675.51 resulted from the January 5, 2006 derailment.

## 3. OTHER CLAIMS DIRECTLY RELATED TO VRE OPERATIONS

FELA CLAIMS:

- \$1,524,304.69 paid for 14 claims attributed to indemnity and defense expenses incurred from claims asserted by AMTRAK employees who were injured while assigned to work on VRE trains. (FELA-Federal Employees Liability Act) This cost is now assumed by rail operator.

CSX TRANSPORTATION CLAIMS:

- \$305,781.18 in paid claims attributed to indemnity and defense expenses incurred as a result of the VRE obligation to indemnify and defend CSX Transportation in connection with the January 5, 2006 derailment.









