

MEMORANDUM OF UNDERSTANDING

BETWEEN

BNSF RAILWAY COMPANY

AND

**UNITED TRANSPORTATION UNION
(Former CB&Q)**

The intent of this Memorandum of Understanding (MOU) is to resolve and codify ebb and flow procedures between the ground and engine service crafts in conjunction with the application of Article XIII of the UTU 1985 National Agreement and subsequent understandings, including but not limited to the September 3, 1991 Letter of Understanding. It is therefore understood:

1. UTU (GO-245) agrees to withdraw their existing jurisdictional grievance with BNSF Railway Company (BNSF) concerning the promotion of junior demoted engineers into the engine service quota ahead of senior demoted engineers as contemplated in the current application of Memorandum of Agreement between BLET and BNSF Railway Company, effective March 15, 2005 (commonly referred to as the BLET Primary Recall Agreement).
2. The parties further agree that the entrance into and eligibility for the ground service crafts is under the sole jurisdiction of the UTU. Therefore, in an effort to establish a proper and consistent application of the aforementioned UTU agreements and/or understandings, the following provisions will govern these procedures.
 - A. If a promoted engineer possesses a fireman's seniority date prior to November 1, 1985, but can no longer hold any position or assignment in engine service as an engineer, fireman or hostler (if employee has a hostler date prior to November 1, 1985, a.k.a. hostler fixture) within the Zone, as defined in Attachment A of UTU Implementing Agreement No. 4, effective June 1, 1975, between BNI and UTU-E, and pursuant to the UTU 1972 National Manning Agreement and UTU/BNSF Letter of Understanding dated September 3, 1991, he/she is eligible to exercise his/her ground service seniority.

Note: An engineer working as a fireman under this provision who voluntarily chooses to forego subsequent promotion to engineer within the Zone in seniority order, will not be permitted to work in either the fireman or ground service crafts while in this non-promoted status.

- B. If a promoted engineer possesses an engine service seniority date after October 31, 1985, and he/she can no longer hold any position or assignment in engine service as an engineer, fireman on a designated passenger position within the Zone, as defined in Attachment A of UTU Implementing Agreement No. 4, effective June 1, 1975, between

BNI and UTU-E, pursuant to UTU 1985 National Agreement and UTU/BNSF Letter of Understanding dated September 3, 1991 he/she is eligible to exercise his/her ground service seniority.

- C. If an engineer assigned to the engine service quota is decertified under existing federal regulations and is not otherwise restricted from service, he/she is eligible to exercise his/her ground service seniority. Such decertified engineers will be eligible to remain in the ground service craft only through the expiration of the decertification time period defined in the federal regulations.
 - D. If an engineer assigned to the engine service quota is otherwise rendered not eligible to work in engine service, other than under the provisions of 2(C) above, he/she is not eligible to exercise his/her ground service seniority.
3. Engineers who have exhausted their engineer seniority and are eligible to exercise their ground service seniority pursuant to Article 2 herein, must exercise such displacement as follows:

- A. The individual must displace the junior ground service employee on the extra board or the junior conductor in the respective unassigned pool.

If the individual does not have sufficient seniority to hold any position in unassigned road service, he/she may displace to a position in assigned road service.

If the individual does not have sufficient seniority to hold any position in unassigned or assigned road service, he/she may displace to yard service.

If the individual does not have sufficient seniority to hold any ground service position within the Zone, he/she will be afforded full displacement rights under Rule 79.

Note: All displacement privileges granted herein are limited to the Zone in which the individual last performed service as an engineer (seniority permitting), and are subject to the exceptions of Article 2(B).

- B. Nothing in this Article can be construed to nullify or modify a ground service employee's obligations under either the road/yard tie down provisions of Article 7 of Implementing Agreement No. 7 effective September 1, 1975, or the craft tie down provisions of Memorandum of Agreement between UTU and BNI, file no. BN 9/14/79. Employees possessing both engine and ground service seniority who voluntarily exercise their ground service seniority thereby subject themselves to the above tie down provisions will remain subject to the tie down even if they are assigned to the engine service quota in the interim. In such cases, the tie down(s) will continue to be applicable and run concurrent with whichever craft assigned.

Example 1: On April 1, an employee makes a voluntary exercise of ground service

seniority from road to yard service pursuant to the provisions of Implementing Agreement No. 7. On April 8, the employee is incorporated into the engine service quota and subsequently again eligible to exercise ground service seniority on April 15. This employee is still obligated to remain in yard service through April 28 and his/her ground service displacement is limited to yard service (seniority permitting).

Example 2: On April 1, an employee makes a voluntary exercise of ground service seniority from the conductor craft to the brakeman craft pursuant to MOA BN 9/14/79. On April 8, the employee is incorporated into the engine service quota and subsequently again eligible to exercise ground service seniority on April 15. This employee is still obligated to remain in the brakeman craft through April 28 and his/her ground service displacement is limited to the brakeman craft (seniority permitting).


Example 3: On April 1, an employee makes a voluntary exercise of ground service seniority from road to yard service pursuant to the provisions of Implementing Agreement No. 7. On April 8, the employee is incorporated into the engine service quota and subsequently again eligible to exercise ground service seniority on April 30. This employee is no longer obligated to remain in yard service and is subject to the displacement privileges outlined in Article 2A.

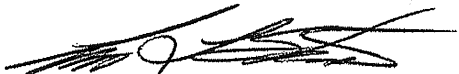
It is further understood that this MOU is limited in scope to the former CB&Q property under the jurisdiction of UTU General Committee of Adjustment GO-245.

This MOU is without prejudice to either party's positions and will not be referred to for any reason, in any forum, excepting in the adjudication of disputes emanating here from.

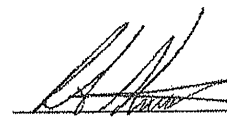
This understanding is signed on 27th day of May, 2009 at Fort Worth, TX to be effective on June 5, 2009.

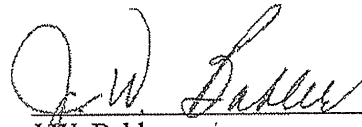
For BNSF Railway Company:


M.H. Siegele, Jr.
AVP, Labor Relations


G.L. Shire
General Director, Labor Relations

For United Transportation Union:


R.S. Knutson
General Chairman


J.W. Babler
Vice President


Side Letter No. 1
(Memorandum of Understanding - Ebb & Flow)

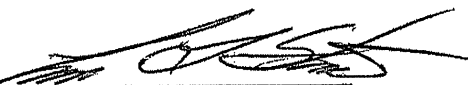
June 5, 2009

The parties agree that all employees possessing both engine and ground service seniority who have exercised their ground service seniority subsequent to January 1, 2007, outside the provisions of Article 2 of this MOU, will not be eligible to remain in any ground service craft.


It will be incumbent on the UTU to furnish BNSF within thirty (30) days of the effective date of this MOU, a list of the names of engineers working in ground service who are not eligible under the terms of this Letter of Understanding. However, if an engineer can demonstrate that he/she would have otherwise been eligible to return and remain in the ground service craft pursuant to Article 2, he/she will be permitted to remain in ground service. In the event there is a dispute regarding whether or not an engineer properly flowed from the engine service quota to ground service, the parties agree to meet within thirty (30) days of receipt of the list of names and review the Crew records to determine the proper placement of the ground service employee(s) in dispute.

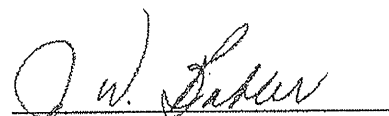
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