AFL CIO urges NMB to dismiss UTU motion

Reconsideration of UP case would impair NMB credibility

The AFL-CIO has once again acted in support of the Brotherhood of Locomotive Engineers, this time in strongly urging the National Mediation Board to dismiss the UTU’s motion for reconsideration in the Union Pacific case.

Using its strongest language yet, the AFL-CIO said the UTU would “seriously impair (its) credibility and impartiality” if it granted UTU’s motion.

The AFL-CIO took this position in a March 27 brief filed with NMB Chief Staff Stephen E. Crable. In it, the AFL-CIO expressed concern about the “integrity of the Board’s processes” and the apparent collaboration between UTU and the National Railway Labor Conference in petitioning for reconsideration.

“The AFL-CIO’s concern about the integrity of the Board’s processes is heightened by the National Railway Labor Conference’s (NRLLC) sudden attempt to inject itself in this matter on March 16 by inviting the Board to ‘schedule hearings’ on a supposed inconsistency between the Panel determination and the Board’s simultaneously issued decision in Texas Mexican Ry Co., 27 NMB No. 46 (March 1, 2000),” the AFL-CIO wrote. “Although the NRLLC letter does not support UTU’s motion for reconsideration and seeks only some undefined later reconciliation of the holdings in the two now-concluded cases, its timing and apparent collaboration with UTU at least implicitly solicits the Board to do what we submit is foreclosed, namely, reconsider the substance of its decision in Union Pacific.”

In its motion for reconsideration, UTU argued that the NMB’s Texas-Mex ruling, which forced the creation of a combined Train and Engine Service Employee craft on that carrier (see page 7), is justifiable grounds for reopening the Union Pacific case, in which a three-person panel of labor relations experts correctly ruled that locomotive engineers and conductors belong to two distinct, separate crafts.

Power of many

Eight rail unions unite to get results in UP harassment case

A coalition of eight railroad labor unions have joined forces in Pocatello, Idaho, to battle relentless harassment from management of the Union Pacific Railroad.

Through a united front of labor solidarity, the eight unions forced a meeting with Jeff Crandall, Superintendent of UP’s Salt Lake Service Unit, and stated their case regarding an end to harassment and intimidation on the property.

Initially the carrier resisted meeting with the unions, but when confronted with the complete solidarity of eight unions, and a message delivered by BLE Local Chairman Jim Lance, Superintendent Crandall changed his mind.

“We have a problem collectively, and if we do, you do,” said Lance, Local Chairman of Division 228 in Pocatello.

The same day Lance delivered the message, Crandall made the drive from his office in Salt Lake City, Utah, to Pocatello. Later that evening, Crandall met with representatives of the BLE, Brotherhood of Maintenance of Way Employees, Brotherhood of Railroad Signalmen, International Association of Machinists, International Brotherhood of Electrical Workers, National Conference of Firemen & Oilers – SEIU, the Transportation Communications International Union-Carmen’s Division, and UTU.

Representatives of the eight unions gave specific examples of how their members were harassed by UP managers and took the firm position that the harassment must end.

In its motion for reconsideration, UTU at least implicitly solicits the Board to do what we submit is foreclosed, namely, reconsider the substance of its decision in Union Pacific.”

The impasse arose over opposition by the Brotherhood of Locomotive Engineers and the Brotherhood of Maintenance of Way Employees to a railroad retirement reform package that would give the nation’s railroads a windfall of over $400 million annually, beginning in 2003, as a result of proposed reductions in carrier contributions to the industry’s pension plan, known as Tier II. The two unions represent nearly 40% of railroad industry workers.

The basis for this proposal was data released by the Railroad Retirement Board in mid-March, which established that the industry’s take from the deal would be as much as 20% higher than originally estimated. The figures also showed that the package could be restructured to permit a full annuity at age 58, and still generate approximately $100 million annually in savings for the carriers.
Social Security changes to benefit railroad retirees

On April 7, President Clinton signed into law the elimination of the earnings cap for Social Security. And, in doing so, also eliminated the earnings cap for recipients of Railroad Retirement who are between the ages of 65-69.

By law, the Railroad Retirement Board applies the Social Security Act earnings restrictions to railroad retirement annuities, in addition to certain other work restrictions specified by the Railroad Retirement Act that are not changed by this legislation.

Under the two tier railroad retirement system, tier I railroad retirement benefits and vested dual benefits paid by the Board to employees, spouses and survivors, as well as the tier II benefits paid to survivors, are subject to earnings deductions just like social security benefits, if post-retirement earnings exceed certain amounts.

Retroactive to January 1, 2000, the amendments eliminate deductions of $1 in benefits for every $2 in earnings over $17,000 previously applied until age 70 to those of full social security retirement age. Full retirement age ranges from age 65 for those born before 1938 to age 67 for those born in 1960 or later. These deductions, however, will remain in effect for the months before the month of full retirement age during the calendar year of attainment.

In the years before the year of full retirement age, the earnings deduction of $1 in benefits for every $2 over the exempt amount, $10,680 in 2000, also remains in effect.

This legislation does not eliminate the railroad retirement work restrictions which are not included in the Social Security Act. A railroad retirement annuity is still not payable for any month in which an annuitant works for a railroad or a railroad labor union regardless of age. Nor does the legislation affect the tier II railroad retirement earnings deductions that apply to employees and spouses who work for their last pre-retirement non-railroad employers. These additional deductions of $1 for every $2 in earnings up to a maximum reduction of 50 percent continues to apply to tier II benefits, and supplemental retirement annuities, of age or the amount of earnings. The special restrictions that apply to disability annuitants have also not changed.

Earnings consist for these purposes of all wages received for services rendered, plus any net earnings from self-employment. Interest, dividend, certain rental income or income from stocks, bonds, or other investments are not considered earnings for these purposes. About $2,500 beneficiaries on the Board’s rolls are affected by the new law. Retroactive payments, averaging about $1,700, of benefits previously withheld for excess earnings, as well as the removal of any earnings deductions applied to those affected, should be completed by early July.

Removal of the earnings cap was a benefit the Brotherhood of Locomotive Engineers fought for last year during negotiations to reform Railroad Retirement. The carriers, however, refused to negotiate with the BLE and BMWE after December of 1999.

The new law, passed unanimously by both houses of Congress, does not reduce income taxes for the elderly. There are no plans to remove the earnings limit for early retirees in the 60 to 65 age group.

On April 7, President Clinton signed into law that whistleblowers, who report unsafe acts that are sanctioned by the railroad and its officials, can not be fired or disciplined. The statute you refer to is found in U.S. Code Title 49 Section 21009, it states:

Section 21009. Employee protections (a) Filing Complaints and Testifying — A railroad carrier engaged in interstate or foreign commerce may not discharge or in any way discriminate against an employee because the employee, while acting for the employee or a representative, has — (1) filed a complaint or brought or caused to be brought a proceeding related to the enforcement of this part or, as applicable to railroad safety chapter 51 or 57 of this title; or (2) testified or will testify in that proceeding. (b) Refusing To Work Because of Hazardous Conditions — (1) A railroad carrier engaged in interstate or foreign commerce may not discharge or in any way discriminate against an employee for refusing to work when confronted by a hazardous condition related to the performance of the employee’s duties, if — (A) the refusal is made in good faith and no reasonable alternative to the refusal is available to the employee; (B) a reasonable individual in the circumstances then confronting the employee would conclude that — (i) the hazardous condition presents an imminent danger of death or serious injury; and (ii) the urgency of the situation does not allow sufficient time to eliminate the danger through regular statutory means; and (C) the employee, where possible, has notified the carrier of the hazardous condition and the intention not to perform further work unless the condition is corrected immediately. (2) This subsection does not apply to security personnel employed by the carrier to protect individuals and property transported by the railroad. (c) Dispute Resolution — A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding before the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim, the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved — (1) An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier. (d) Disclosure of Identity — (1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this part or, as applicable to railroad safety, chapter 51 or 57 of this title or a regulation prescribed or order issued under any of those provisions. (2) The Secretary shall disclosure to the Attorney General the name of the employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.

Before taking any action against an employer it is important to document your safety concerns and be prepared to offer witnesses to your actions.

Have a question about federal, railway or Social Security Administration rules that impact your job, or about pending legislation governing our industry? Send it to: D.C. Feedback
Brotherhood of Locomotive Engineers 10 G. Street N.E., Suite 480 Washington, DC 20002 Or you can fax your questions to (202) 347-5237; or via e-mail to: bledc@aol.com.

If the BLE’s National Legislative Office does not have the answer on hand (such as a federal interpretation), they’ll get back to you as soon as possible. Select questions and answers will be published regularly in the pages of the Locomotive Engineer Newsletter.

This month’s installment of D.C. Feedback deals with current protections for whistle blowers.

Dear Sir and Brother,

In your letter of January 10, 2000, you request answers to the question: “Did President Clinton sign into law that whistleblowers, who report unsafe acts that are sanctioned by the railroad and its officials, can not be fired or disciplined?” The statute you refer to is found in U.S. Code Title 49 Section 21009, it states:

Section 21009. Employee protections (a) Filing Complaints and Testifying — A railroad carrier engaged in interstate or foreign commerce may not discharge or in any way discriminate against an employee because the employee, while acting for the employee or a representative, has — (1) filed a complaint or brought or caused to be brought a proceeding related to the enforcement of this part or, as applicable to railroad safety chapter 51 or 57 of this title; or (2) testified or will testify in that proceeding. (b) Refusing To Work Because of Hazardous Conditions — (1) A railroad carrier engaged in interstate or foreign commerce may not discharge or in any way discriminate against an employee for refusing to work when confronted by a hazardous condition related to the performance of the employee’s duties, if — (A) the refusal is made in good faith and no reasonable alternative to the refusal is available to the employee; (B) a reasonable individual in the circumstances then confronting the employee would conclude that — (i) the hazardous condition presents an imminent danger of death or serious injury; and (ii) the urgency of the situation does not allow sufficient time to eliminate the danger through regular statutory means; and (C) the employee, where possible, has notified the carrier of the hazardous condition and the intention not to perform further work unless the condition is corrected immediately. (2) This subsection does not apply to security personnel employed by the carrier to protect individuals and property transported by the railroad. (c) Dispute Resolution — A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding before the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim, the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved — (1) An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier. (d) Disclosure of Identity — (1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this part or, as applicable to railroad safety, chapter 51 or 57 of this title or a regulation prescribed or order issued under any of those provisions. (2) The Secretary shall disclose to the Attorney General the name of the employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.

Before taking any action against an employer it is important to document your safety concerns and be prepared to offer witnesses to your actions.

Social Security changes to benefit railroad retirees

The Brotherhood of Locomotive Engineers, in conjunction with the George M. Meany Center for Labor Studies, will be conducting six four-day hazardous waste/chemical emergency response training programs at the Center’s campus in Silver Spring, MD. The training is scheduled for the following dates:

May 21-25, 2000
June 4-8, 2000
July 16-20, 2000
August 6-10, 2000
August 13-17, 2000
August 20-24, 2000

This training addresses the required procedures at the different levels of response and worker protection in case of a hazardous materi-
The U.S. Railroad Retirement Board’s Customer Service Plan promotes the principles and objectives of providing a customer-driven quality service agency-wide. The Board’s plan specifies the level of service that customers can expect, and an important part of the plan is a pledge to keep beneficiaries informed of how well the Board is meeting the plan’s standards. The plan is reviewed and updated periodically as the Board gains more experience with it, compares its service with the best in business and considers feedback received from its customers.

The following questions and answers provide information about the Railroad Retirement Board’s performance in the key areas of railroad retirement, disability and survivor benefits, plus railroad unemployment and sickness benefits, and the handling of correspondence during Fiscal Year 1999 (October 1998—September 1999).

1. What standards were used by the Board in Fiscal Year 1999 for processing applications for railroad retirement employee or spouse annuities?

The Board’s Customer Service Plan provides that if you filed for a railroad retirement employee or spouse annuity in advance, you will receive your first payment, or a decision, within 65 days of the beginning date of your annuity. If you have not filed in advance, you will receive your first payment, or a decision, within 65 days of the date you filed your application. Of the cases processed during Fiscal Year 1999, 99.5 percent of employee and 90.7 percent of spouse applicants who filed in advance received a payment, or a decision, within 65 days of these beginning dates. Average processing times for employee and spouse applications were 10.4 and 7.7 days, respectively.

Also, of the cases processed, 98.2 percent of employee and 90.5 percent of spouse applicants who had not filed in advance received a payment, or a decision, within 65 days of the date you filed your application, or became entitled to benefits, if later. If you are already receiving a survivor annuity, you will receive your first payment, or a decision, within 35 days of the date the Board receives notice of the employee’s death. Of the cases processed during Fiscal Year 1999, 77.3 percent of the applicants for a survivor annuity received a payment or a decision within 65 days. In addition, 98.3 percent of the applicants for a lump-sum benefit received a payment or a decision within 65 days. In cases where the survivor was already receiving a spouse annuity, 90.7 percent of the applicants received a payment or a decision within 35 days of the Board bringing notified of the employee’s death. Average processing times for all recurring and lump-sum applications were 26 and 21 days, respectively.

2. What standards were used by the Board in Fiscal Year 1999 for processing applications for railroad retirement disability annuities under the Railroad Retirement Act?

The Board’s Customer Service Plan provides that if you filed for a railroad retirement disability annuity, you will receive a decision within 105 days of the date you filed your application. If you are entitled to disability benefits, you will receive your first payment within 25 days of the date of the Board’s decision, or the earliest possible payment date, whichever is later. Of the cases processed during Fiscal Year 1999, 50.6 percent of those filing for a railroad retirement disability annuity received a decision within 105 days of the date they filed their application.

The average processing time was 16.3 days. Of the cases entitled to disability benefits, 90 percent received their first payment within the Customer Service Plan’s timeframe. Average processing time was 8.9 days.

3. How did the Board’s performance in the area of survivor benefits measure up to its standards in Fiscal Year 1999?

Under the Board’s Customer Service Plan, if you filed for a railroad retirement survivor annuity or a lump-sum benefit, you will receive your first payment, or a decision, within 65 days of the date you filed your application, or became entitled to benefits, if later. If you are already receiving a survivor annuity, you will receive your first payment, or a decision, within 35 days of the date the Board receives notice of the employee’s death. Of the cases processed during Fiscal Year 1999, 77.3 percent of the applicants for a survivor annuity received a payment or a decision within 65 days. In addition, 98.3 percent of the applicants for a lump-sum benefit received a payment or a decision within 65 days. In cases where the survivor was already receiving a spouse annuity, 90.7 percent of the applicants received a payment or a decision within 35 days of the Board bringing notified of the employee’s death. Average processing times for all recurring and lump-sum applications were 26 and 21 days, respectively.

In addition, 99.5 percent of subsequent claims processed for unemployment and sickness benefits met the Board’s standard for processing. Average processing time for unemployment and sickness insurance applications were 1.6 and 2.8 days, respectively.

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4. What were the standards for the handling of applications for railroad retirement disability claims for railroad unemployment and sickness benefits and how well did the Board meet these standards?

Under the Board’s Customer Service Plan, if you filed an application for unemployment or sickness insurance benefits, you will receive a claim form, or a decision, within 15 days of the date you filed your application. If you filed a claim for subsequent biweekly unemployment or sickness insurance benefits, you will receive a payment, or a decision, within 15 days of the date the Board receives your claim form.

During Fiscal Year 1999, 99 percent of unemployment benefit applications and 99 percent of sickness applications processed met the Board’s standard. Average processing times for unemployment and sickness insurance applications were 1.6 and 2.8 days, respectively.

5. How well did the Board meet its standard for responding to correspondence?

The Board’s plan states that if you inquired by letter, you will receive a reply within 15 days of the date the Board receives your inquiry. If for any reason the Board cannot reply within that timeframe, it will acknowledge the letter and tell you how long it will be before your questions can be answered fully. In Fiscal Year 1999, 99 percent of all correspondence the Board received was responded to, either with an acknowledgement or with a final reply, within the standard.

6. How well did the Board’s performance in meeting its standards in Fiscal Year 1999 compare to its performance in Fiscal Year 1998?

Fiscal Year 1999 was a year of improvement versus the customer service standards remained at the same high level when compared to Fiscal Year 1998 performance.

The most marked improvement was shown in the processing of applications for disability benefits. For applications processed during Fiscal Year 1999, 50.6 percent received a decision within 105 days of their filing dates as compared to 28.1 percent in Fiscal Year 1998; and the average processing time was reduced by 116 days, as compared to 143.9 days last year. Of those entitled to benefits, 90 percent received their first payment within the Customer Service Plan’s standard, with an average processing time of 8.9 days, as compared to 84.2 percent and 12.3 days in Fiscal Year 1998.

The processing of disability applications requires medical evidence and related documentation to establish entitlement; and obtaining this material can be a lengthy process. The Board continues to seek methods in collecting the required documentation to provide accurate and more timely handling.

Only in the handling of sickness insurance applications was there a slight decline in performance versus the standards, when compared to Fiscal Year 1998. Performance declined marginally to 99 percent during Fiscal Year 1999 compared to 99.2 percent for the previous fiscal year. However, this performance still exceeded the target of 99.8 percent set for the Board in its Annual Performance Plan.

7. Can beneficiaries provide feedback to the Board about the service they received?

A Customer Assessment Survey form is available in every field office allowing beneficiaries to evaluate the service they received and suggest how the Board can improve its service. Persons not satisfied with the service they received may contact the manager of the office with whom they have been in contact, or the regional director who is responsible for that office. Their names and addresses are available in each office.

The addresses and phone numbers of all RRB field offices are available on the Board’s web site at www.rrb.gov or by calling the toll-free RRB Help Line at (800) 808-0772. The Help Line is an automated service available 24 hours a day, 7 days a week.

Railroad Retirement information conferences for 2000

The U.S. Railroad Retirement Board will conduct free informational conferences this year.

On-site registration begins at 8 a.m. for each conference. All sessions begin promptly at 8:30 a.m. and end at 12:15 p.m. Dates and locations are as follows:

May 11 • Kansas City, Kan.
    Reardon Civic Center, 500 Minnesota Ave.

May 12 • Denver, Colo.
    Radisson Hotel, Denver Stapleton Plaza, 3333 Quebec St.

May 12 • Little Rock, Ark.
    Embassy Suites, 11301 Financial Centre Parkway

May 12 • Strongsville, Ohio
    Holiday Inn South, 100 Alta Mesa East Blvd.

May 19 • Birmingham, Ala.
    Medical Park, 950 22nd St. North

June 2 • Woburn, Mass.
    Ramada Inn, 15 Middleshire Canal Park Rd. (Exit 35 off Rt. 95/Rt. 128)

June 9 • Billings, Mont.
    Sherraton Hotel, Tempest Room, Third Floor, 27 North 27th St.

June 15 • Eagan, Minn.
    Yankee Square Inn, 3450 Washington Drive, 1-53 E & Yankee Doodle Rd.

September 15 • Spokane, Wash.
    Airport Ramada Inn, Spokane International Airport

October 13 • Fort Worth, Texas
    Holiday Inn South, 100 Alta Mesa Blvd.

October 13 • Houston, Texas
    University Hilton Hotel, 4900 Calhoun Road, Room 275

October 27 • Metairie, La.
    Holiday Inn, 1-10 & Veterans Blvd.

November 2 • Louisville, Ky.
    Executive Inn, 97 percent Phillips Lane

November 3 • Harbourside, W.Va.
    Best Western-Gateway Conference Center, 6007 U.S. Route 60 E

November 17 • Charlotte, N.C.
    Sheraton Plaza Airport Hotel, 1-85 & Billy Graham Parkway

November 17 • Albuquerque, N.M.
    AmeriSuites, 6091 Arvada N.E.

December 8 • Jacksonsville, Fla.
    Holiday Inn-Baymeadows, 9150 Baymeadows Road
The ‘cram down’ breakdown

How the UTU ‘agreement’ to end cram down made things worse

Talks between the AFL-CIO-affiliated rail unions and the National Rail- 
way Labor Conference (NRRC) to end the practice known as “cram down” col- 
lapsed during the last week of March. To understand why the negotiations 
failed, as well as what the future holds, it is important to know how “cram down” came to be, and how an agree- 
ment recently reached by the United 
Transporation Union (UTU) actually 
made “cram down” worse.

Early History

The Transportation Act of 1920 in- 
troduced the concept of preemption, or 
overriding, of conflicting laws into In- 
terstate Commerce Commission (ICC) 
over railroad changes in existing CBAs, 
and various state laws and federal anti-
trust statutes usually were deemed to 
derive from, and subject to the Railway Labor Act or 
701, 702 (1958), holding that “Congress 
neapolis & Omaha Ry . - Lease, 295 I.C.C. 
or changed as the result of a merger.

During the latter half of the 1990s, the railroad industry tried — for the 
first time — to “cram down” changes to a CBAs, but the ICC held that CBAs were an ex- 
ception to the provisions of the ICA. The ICC rejected this approach in Chicago, St. Paul, Min- 
neapolis & Omaloa Ry . - Lease, 2851 I.C.C., 705 (1989). Since that decision, the ICC has not conferred upon us the power to determine the disputes which are sub- ject to the Railway Labor Act or questions regarding the jurisdiction of 
the National Mediation Board, which, in effect, is what North Western re- 
quests us to do.”

The ICC again expressly rejected 
the carrier’s contention that the pre-
emption provisions of the ICA rehved (1967) — or in ICC or court deci- 
sions — suggested that preemption was applicable to railroad labor rela-
tions, or to the collective bargaining agreements (CBAs) between any rail- 
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Labor and management reached a national agreement in 1936, known as 
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In 1940, the Interstate Commerce 
Act (ICA) was amended again. The na-
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Injunction against Springfield Terminal upheld by First Circuit

The First Circuit Court of Appeals upheld a lower court’s determination that Springfield Terminal Railway Company (ST) violated the Railway Labor Act by transferring switching work to Aarostook and Bangor Resources, Inc. (ABR), with whom ST shared common ownership.

In a ruling issued on April 5, Circuit Judge Carmit Lipez, writing for the 2-0-1 majority, affirmed that the dispute was a “major dispute” under the Railway Labor Act, and that the plaintiffs in the case — the Brotherhood of Locomotive Engineers and the United Transportation Union — were entitled to injunctive relief in order to preserve the status quo.

“It’s a substantial victory for us, but we know the battle isn’t over,” said Springfield Terminal General Chairman Mike Twombly, who delivered key testimony during the hearings. “It’s a real kick in the pants for Springfield Terminal. Had the ruling gone in their favor, it would have given them the green light to encroach on our collective bargaining agreements.”

The dispute began in 1996, when ST demanded that BLE and UTU members who worked on switching crews accept a 26 percent pay cut and give back work rules. In 1998, after this demand was rejected by the unions’ members, ST signed a joint use agreement with ABR — a non-union owner and the rail unions. When that failed, a personal attack on Brother Trumka, a double-crossed leader.

Continued from Page 4

Bargaining without leverage, UTU makes ‘cram down’ worse

Although the AFL-CIO rail unions unanimously rejected the UTU agreement, faced with the reality of what UTU had done, they returned to the table with the carriers, to see whether the gaping holes in the UTU agreement could be closed.

After a series of intensive negotiations, things fell apart on March 28, with irreconcilable differences over unrestricted seniority district sizes, the ability to use the new rules to transfer agreement workers into non-agreement facilities to remove them from their CBAs, and the ridiculously broad powers to “cram down” uniform system-wide “administrative procedures.”

Where things go from here

Despite deep divisions over railroa...
Tornado hits BLE office in Fort Worth

The month of March went out like a lion for members of the Brotherhood of Locomotive Engineers in Fort Worth, Texas. BLE Vice-General Chairman Dennis Pierce reported that the BN/Santa Fe Rail Link General Chairman’s office was hit by a tornado on March 28.

The BLE office is located on the 18th floor of a 35-story “glass tower” in downtown Fort Worth. More than 80 percent of the building’s windows were knocked out during the storm.

“Tornadoes do not always hit where you think they will,” Pierce said.

The tornado, classified as an F2, had winds of up to 157 mph. It hit Fort Worth at approximately 6:30 p.m. No one from the general chairman’s office was injured.

“We’ve been able to get into our offices on a limited basis and our suite did receive substantial damage,” Pierce reported. “Several of our windows were blown out when the storm hit and there was a considerable amount of water, both from the storm as well as from the floors above, that entered the offices.”

Fortunately, damage to important computer equipment was not as bad as originally feared. “Our computer system did suffer some water damage but it is back up and running with no loss of data,” Pierce said. “It appears we were lucky compared to some of the other offices in the building.”

Although some claims confer- ences that were scheduled the week of the storm had to be post- poned, we are back on schedule and most of the meetings, Public Law Boards and conferences postponed, we are back on schedule.

The pertinent portion of the bill, AB827, reads as follows:

“192.25 (2) No person operating or controlling any railroad, as defined in s. 85.01 (5), may allow the operation of any railroad train or locomotive in this state unless the railroad train or locomo- tive has a crew of at least 2 mem- bers. One of the individuals shall be a certified railroad locomotive engineer. The other individual shall be either a certified railroad locomotive engineer or a qualified trainman. A certified rail- road locomotive engineer shall be present in the cab and shall operate the lead control locomotive at all times that the railroad train or locomotive is in motion. The other crew member shall be present in the cab of the lead control locomotive at all times that the railroad train or locomotive is in motion, but may dismount the railroad train or locomotive when necessary to perform switching activities and other duties in the course of his or her job.”

Wisconsin two-person crew bill awaiting governor’s OK

Remote controls will be kept out of Wisconsin

A two-person crew bill was ap- proved by the Wisconsin State Assem- bly and Senate on March 19, and is now awaiting the signature of Governor Tommy Thompson.

Language of the bill, crafted prima- rily by the Brotherhood of Locomotive Engineers, will keep remote control technology out of Wisconsin and will keep two persons on the lead control locomotive.

“This important public and rail safety legislation could not have been achieved without the support of the BLE Divisions in Wisconsin,” said BLE State Legislative Board Chairman Keith Luebke. “To those Brothers that testified, and others who called the legis- lative hotline, thank you. At no time have I been more proud of this broth- erhood, and the membership, for rec- ognizing the inherent safety value of two people in the control cab.”

The new legislation became neces- sary when management of Wisconsin Central found a loophol in the old two- person crew law: WC has a specific run in which two locomotives are used — one at the head end and one at the rear end of the train. While WC used a two- man crew for this run, it placed one en- gineer in each locomotive. This violated the intent of the law but not the letter of the law. The new legislation will close that loophole.

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Secretary-Treasurers get hands-on training in Cleveland

Seven BLE members participated in a hands-on workshop for Secretary-Treasurers in Cleveland earlier this month.

They are, from left: John Underwood, Div. 143 (Manassas, Va.); K.P. Collins, Div. 462 (Arkansas City, Kan.); M.J. Newchurch, Div. 532 (Rochester, N.Y.); Gary Woo, Div. 152 (Fort Madison, Iowa); Lynn Hobson, Div. 165 (Louisville, Ky.); Lucy Ring, wife of H.E. Ring, and H.E. Ring, BLE Div. 397 (Indianapolis, Ind.).

Two-person crew bill gets vetoed by Wisconsin governor

A bill requiring two railroad crew members to be present in the cab of the locomotive at all times has been vetoed by Wisconsin Governor Jim Geringer.

BLE Wisconsin State Legislative Board Chairman Kevin J. McCarthy reports that the bill passed the State Senate 25-5 and the State House of Representatives 36-24.

McCarthy delivered testimony in favor of the bill to State Senate and House Committees.

The BLE encourages all members in the State of Wisconsin to contact Gov- ernor Geringer, a Republican, to voice their displeasure with his veto of this much-needed safety legislation. He can be contacted at the following:

Wisconsin State Capitol
Cheyenne, WY 82002
Phone: (307) 777-7434
Internet: http://www.state.wy.us/governor/governor_home.htm
E-mail: governor@msae.state.wy.us

Statement by John J. Sweeney on UTU disaffiliation from AFL-CIO

WASHINGTON, March 17 — We are extremely disappointed with the decision of the leadership of the United Transportation Union to disaffiliate from the national AFL-CIO. Their decision will prevent the 60,000 UTU members from having the support and solidarity of their 13 million union brothers and sisters.

The leadership of this union has attempted to destroy another AFL- CIO union’s bargaining rights at Union Pacific and take away members of another union — a direct violation of our constitution which grows out of a democratic process. The AFL-CIO adamantly defends the integrity of each affiliate against such “raiding” by other AFL-CIO unions.

We urge the leadership of the UTU to reconsider this decision. Work- ing men and women nationwide clearly have a stronger voice when they are united.

In the meanwhile, all UTU locals will be prohibited from participat- ing in any state federation or local labor council.
With the Brotherhood of Locomotive Engineers victorious in preserving distinct operating craft lines on the Union Pacific Railroad, the UTU decried them on the Texas Mexican Railway.

It is a sad story of craft elimination, and is typical of the slash and burn mentality of UTU leaders over the past 31 years. To prevent the BLE from holding a representation election for locomotive engineers and conductor crafts into a single "Train and Engine Service Employee" class on the Tex Mex.

**Conclusion**

In spite of this position taken by its own members, UTU proceeded to deliver damaging testimony which allowed NMB to rule that the crafts were, indeed, combined.

*Setting the record straight*

In reality, the letter was written and circulated by J.J. Vara, a Tex Mex locomotive engineer and member of the UTU. Vara states that he — not BLE officers — visited Snow’s house, reviewed the letter with him, and watched as Snow voluntarily added his signature to the list of names.

In a March 26 letter to UTU President Little, Vara expressed dismay that his letter had been dubbed a “fake” by Snow.

"I am grieved to read March 24th on the UTU Web site that my certified letter of January 6, 2000, to you has been termed a forgery by Brother Snow. I alone wrote and took the letter to his house where he sat and read the original, we talked, and he signed an approval of all text and attached it to his letter. I submitted it to the UTU Web site. And yes, Charlie, I did it in a different color — I am an American!" And to you, he adds, "the NMB has not that they are the savior of all rail labor."

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When the UTU was caught and sanctioned by the AFL-CIO for this dissembling, UTU led the representation election on the Union Pacific. UTU's goal was to force a combined craft of "Train and Engine Service Employees".

"The issue on the Tex Mex Railway is all about dues money and keeping our collar button in. Charlie, in 28 years, we never got through one or our actions to this extent. We got the BLE and the union in place and now, are there UTU leaders, you sign papers, you sign papers, you sign papers. We are in a union that likes it about representation."

UTU News...
I was blowing the whistle almost constantly due to the close proximity of the crossings. As we started up the grade towards the crossing, I could see the "snatch lights" illuminating on the sides of the train. As we got closer, I could see the signalman was activated and working properly. I just had come over Ida Avenue and no sooner had I checked the lights of my sequence of two longs, a short and a long for Route 173. By this point my speed was exceeding 20 mph the rest of the trip.

As we closed in on Route 173, an auto ran across the front of the train. The conductor yelled, "that son of a --- is going!" He was across and in an instant.

The moment he came directly into my path, I was about 400 feet from the crossing and closing in at a little over 56 feet per second. I got enough of a look at the car to determine that it was a full sized GM product before it was gone. The only thing I could see were the lights in my peripheral vision to my left was just a brief flash of light. With the control stand to my right, I radioed ahead mounted above the automatic brake valve and looked at the pressure of the brakes directly above the brake pipe gauges, my range of vision to the left is greatly diminished.

We continued towards the crossing with the first bit of panic building. Then Brian screamed out "Oh my God!"

At 2135 hours on the evening of Oct. 18, 1992, we were at a stop in front of a crossing. Before I could even react, there was a tremendous impact of grinding metal on metal and the sound and the shriek of grinding metal. The impact was so great that the engine leaped forward and the train entered the crossing. Brian was thrown out of his seat and all the way onto the floor. He immediately scrambled up and put himself back in his seat and onto the floor. I immediately sound and the screech of grinding metal. It was a tremendous impact and horrible crashing of the train. Not only was the front of the train involved, but both of us forward into the front bulkhead in the engine. I was pulled forward and knocked sideways and the entire contents of my seat and onto the floor. I immediately scrambled up and put myself back in my seat and onto the floor.

The emergency rate of brake pipe application was advancing through the train at a rate of 900 feet per second. This means that the entire train would not be into the emergency application for about seven seconds. In this period of time, I jumped out of the train and dived into the air. An emergency application of the brakes starts a sequence of events that cannot be controlled. Two of them are slack application as the train is slowing down rapidly, but this is not the case, you can have an incredible amount of slack to begin with. It just did not want to stop at all. I was left behind to head up to the scene. He is the only person from the railroad to have spoken to the claim agent much later. When we finally arrived at Schiller, the dispatcher had arrived just moments before Brian found out that his mom had run down the track with arms wide open to see if we were alright and if we needed assistance. He must have found that hidden strength in him and did the incredible. Both of them realize the hell I am going through and do their best to calm me down. I quit from the company a year later. The first thing I asked the two officers for is a cigarette. They interviewed me and informed me that a young girl had been called and he, too, would have to interview me before we could proceed. They stayed up there with me for quite some time to make sure I was going to be okay. I had never been able to get any medical attention.

As it started to reach us, it was coming very fast. As the body started to reach us, it was starting to increase and I hit 42 mph. The run in of slack was tremendous; impact; you, better get one quick inspection of the motive power to check for any kind of fire in the fuel tanks. I took a quick look at the doing order to get a feel for the area. There was flesh and hair on the loft front of the engine. The fireman told me to remain on the steps. I quickly climbed back into the cab to see if Brian had made it through this. We got the says he was on the crossing and we went on our way. As we got closer, we were able to see the train and into the front of the engine. I don't suppose it helped anything to know that that followed. I was first accused of speeding.

They had a witness who claimed he was there. I was there. As long as we continue to tell them to do this, of course, they would not be false. The final result were some like Brian's case, the legal proceedings that followed make the case even more complicated. By now, the train has come to a stop. (What crossing is this? Oh s---!)

The families were served with a subpoena on Thanksgiving day. Fortunately for me, I wasn't home to receive it. I guess this was my way of getting even. Screwed up their plans. I never saw the news coverage past the front of the engine. The front drawbar hit solidly right behind the right front wheel-well. The car was spun a little more than sideways and wound up with a lot of activity was beginning to happen. As it started to reach us, it was coming very fast and was going to hit us very hard. As I was allowed to inspect the right. I told him the police would take him to jail if he came any closer I proceeded to make a quick inspection of the motive power to check for any kind of fire in the fuel tanks. I took a quick look at the doing order to get a feel for the area. There was flesh and hair on the loft front of the engine. The fireman told me to remain on the steps. I quickly climbed back into the cab to see if Brian had made it through this. We got the remains of the steps. I climbed quickly back into the cab to see if Brian had made it through this. We got the says he was on the crossing and we went on our way. As we got closer, we were able to see the train and into the front of the engine. I don't suppose it helped anything to know that that followed. I was first accused of speeding.

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The legal proceedings were all settled in 1992 outside of court and fortunately for Brian and myself, we didn't have to testify. Some lawyers approached these families telling them they could make millions over. Don't accept any results, they assured me. I had done pretty well myself. I felt terrible enough that these young girls died, but don't make me the scapegoat for some other entity. With the death of the crossing the other way stated they were working just fine as he saw them there. They asked me what I thought of our trip. I was still yesterday. I still wonder if they have filed suit. They violated no rules and broke no laws. Yet I got all the guilt. I don't suppose it helped the words that I heard. I was questioned by someone close to one of the three young girls. I was also questioned by someone who claimed he was "too sick." Apparently she made a complete recovery in time to go out that evening and play cat and mouse with the car in front of them that made it across the tracks without getting hit. This was all learned during the period of discovery.

Brother "Tuch" Santucci

The final legal proceedings only helped to make this situation worse. I opened the final pages of the transcript of the lawyer's comments and there were the transcripts to prove it. Lawyers! The families made me serve with a subpoena on Thanksgiving day. Fortunately for me, I wasn't home to receive it. I guess this was my way of getting even. Screwed up their plans. I never saw the news coverage past the front of the engine. The front drawbar hit solidly right behind the right front wheel-well. The car was spun a little more than sideways and wound up with a lot of activity was beginning to happen. As it started to reach us, it was coming very fast and was going to hit us very hard. As I was allowed to inspect the right. I told him the police would take him to jail if he came any closer I proceeded to make a quick inspection of the motive power to check for any kind of fire in the fuel tanks. I took a quick look at the doing order to get a feel for the area. There was flesh and hair on the loft front of the engine. The fireman told me to remain on the steps. I quickly climbed back into the cab to see if Brian had made it through this. We got the remains of the steps. I climbed quickly back into the cab to see if Brian had made it through this. We got the says he was on the crossing and we went on our way. As we got closer, we were able to see the train and into the front of the engine. I don't suppose it helped anything to know that that followed. I was first accused of speeding.

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Editor's Note: With the Federal Railroad Administration (FRA) seeking public hearings on whistle ban legislation, it is especially important to publicize the locomotive engineer's perspective in his final grade crossing collisions.

A locomotive engineer for Illinois Central, Brother Santucci joined the BLE in July 1, 1979.
Crew watches in ‘helpless horror’

Three students killed in school bus-train collision; NTSB investigates bus driver

Two crew members on a freight train say they watched in helpless horror as a school bus sped toward a crossing in the seconds before it was struck by the train.

The accident happened the morning of March 28 in Tennega, Ga., on the Tennessee-Georgia state line. Three children were killed and five others injured, including the bus driver. Two children remained in critical condition on April 1, according to a wire service report.

The engineer and conductor on the CSX train said they watched helplessly as the bus sped toward the railroad crossing, said Ken Suydam, investigator in charge for the National Transportation Safety Board.

“Both saw the bus approaching at a rapid rate of speed and expressed concern to each other as to whether the bus would stop,” he said at a news conference.

Investigators said the school bus did not stop at the railroad crossing, but that drivers cannot adequately see an approaching train at that crossing.

“We’ve come to the preliminary conclusion that the bus did not stop at the crossing prior to entering it,” Suydam said.

The train was traveling about 50 mph and first blew its whistle about 1,000 feet from the crossing and again continuously at 620 feet away, said NTSB investigator David Rayburn. The emergency brake was applied at 160 feet away.

The impact ripped the body of the bus from its chassis and dragged it 100 yards. The children, including the driver, were ejected, and four other children remained inside the bus.

School buses are required by law to stop 15 and 50 feet from railroad crossings. Authorities won’t decide whether to file charges until they finish the investigation, which could take two more weeks, said Highway Patrol Lt. Mike Walker. •

FRA gathers data on locomotive horn regulations

Federal Railroad Administrator Jolene M. Molitoris announced on April 3 a series of public hearings held on proposed rulemaking and draft environmental impact statement (DEIS) concerning the use of locomotive train horns at highway-grade rail crossings.

This hearing gave the public an opportunity to provide oral presentations on the Federal Railroad Administration’s (FRA) notice of proposed rulemaking (NPRM) and DEIS. There were four scheduled public hearings in Illinois and Ohio: April 3 at the Field Museum of Natural History in Chicago; April 27 at the Federal Aviation Administration Building in Des Plaines, Ill.; and May 1 at Baldwin-Wallace College in Berea, Ohio.

The agency also held public hearings in California, the District of Columbia, Florida, Massachusetts, Wisconsin, Indiana, and Oregon.

The rule, proposed in January by the U.S. Department of Transportation’s FRA, was written in response to a law enacted by Congress in 1994 requiring train horns be sounded when a train approaches and enters a public highway-rail grade crossing unless certain exceptions are met.

Congress gave FRA the authority to exempt categories of rail operations or categories of highway grade crossing if there is not a significant risk of death or personal injury, the use of the horn is impractical, or supplementary measures fully compensate for the absence of the warning provided by the horn.

The proposed rule describes the safety measures that a community may employ to fully compensate for the absence of the warning provided by the horn and establish a quiet zone. These measures include the use of four quadrant gates, channelization devices or crossing closures at highway-rail crossings or photo enforcement to deter violators. The rule also proposes an upper volume limit for train horns.

Since the late 1800s, the sounding of horns or whistles in advance of grade crossings has been used as a universal safety precaution by railroads. Whistles were initially used to alert livestock on the track and to warn horse-drawn carriages and then automobiles at crossings.

The manner in which horns have been sounded at crossings (two longs, one short and one long) was standardized in 1938 and the operating practices associated with the sounding of whistles or horns were codified into railroad rule books. Today, audible warning devices are used primarily to warn motorists and for emergency situations. Most states have statutes or regulations requiring that trains provide an audible warning on approach to public highway-rail grade crossings.

Management shake-up at CSX; Conway out, Snow in

Bedeviled by rising customer frustra-
tion and falling stock prices, Ronald J. Conway was ousted on April 11 after only nine months as president of CSX, the Philadelphia Inquirer reported.

CSX and rival Norfolk Southern Corp. reported second-quarter problems and safety problems — as well as plummet-
ing stock prices — arising from their June 1 breakup of Conrail.

Conway, formerly of Conrail, was removed by John W. Snow, chairman and chief executive officer of CSX Corp., who said yesterday that he had taken personal control of his $10.8 billion company’s rail unit.

“It is time to accelerate the pace of change toward solving our problems,” said Snow, who testified at federal regulatory hearings in Washington last month that he was “deeply concerned about the present state of the railroad industry.”

In January, at a forum in Philadel-
pia, 300 shipper’s protested angrily that breakup problems persisted. A CSX vice president responded, pleading that CSX/Conrail breakup problems would be over by March 31.

“Three months from now, you are going to see a fundamentally different railroad. You’re going to see increased velocity and the number of cars on line go down. You’re going to see a bias in favor of action on our problems. We’re going to get back to the fundamentals, back to Railroad-101,” said Snow.

Conway’s two closest associates — John P. Sammon and Gary Speigel — left with him. They were so closely identified with Ron they decided to leave, Snow said. Two former Conrail executives were promoted in the reshuffling, but the top players promoted in the April 11 shake-up are all CSX veterans.

The announcement came one week after The Washington Post reported that a draft Federal Railroad Administration report found poor maintenance on CSX tracks and that many of the railroad’s lines were deteriorating.

Sources, however, said the report had nothing to do with the Conway departure. Conway’s colleagues at CSX pointed out that he had recognized the problem months ago and had several managers in the engineering department, and had increased the budget to repair track. A colleague noted that track does not deteriorate within a short time, and Conway had been presiding for only nine months.

The FRA found deteriorating track conditions in many areas of the CSX Transportation rail system, including crossings, but it did not recommend any changes for one year.

Amid the uncertainty, the agency’s track inspection car found two areas where the gauge wide enough to risk derailments on the line used by Amtrak, Virginia Railway Express and all north-south CSX freight trains between the VRE’s L’Enfant Plaza station and the Potomac River bridge. The defects were repaired immediately after they were found.

The width between rails is supposed to be 56 1/2 inches. The inspection found numerous spots around the CSX system where the gauge was spread one inch to 1 1/2 inches too wide.

That included two spots on the CSX main line between L’Enfant Plaza and the Potomac River Bridge. The defects were found because of the FRA test equipment — 1 1/2 inches too wide. •
Following four days of hearings, the Surface Transportation Board announced on March 17 that it was placing a 15-month moratorium on all rail mergers, effectively halting the proposed Burlington Northern Santa Fe-Canadian National combination for more than a year.

Just hours after the Board issued the ruling, BNSF and CN filed petitions with the STB requesting it overturn the moratorium, and also announced they would go to court to force the STB to overturn its decision. On March 31, BNSF filed a lawsuit in the U.S. Court of Appeals for the District of Columbia Circuit to stay the STB order, and on April 17, CN did the same.

The Brotherhood of Locomotive Engineers endorsed the proposed merger after securing landmark job protections and other benefits for its members. In placing the 15 month freeze on all rail mergers, the Board stated part of its intent was to prevent another round of large rail mergers that could have occurred in response to the $86 billion BNSF-CN combination, causing instability throughout the industry.

“The Board noted that the railroad industry has consolidated aggressively in recent years, with only six large railroads remaining in the United States. The filing of the CN/BNSF application and a subsequent decision on the merits by the STB, “wreaked havoc on the railroad industry,” said Robert D. Krebs, BNSF chairman and chief executive.

“In our view, (the) decision was made in the best interest of the railroad industry,” Union Pacific Railroad said in a statement issued shortly after the decision was issued. “The STB decision takes a big step towards stabilizing the industry. UP plans to actively participate in the rule-making proceeding.”

Ed Emmett, president of the National Industrial Transportation League, which represents major shipper-transportation companies, the Board stated part of its intent was to prevent another round of large rail mergers that could have occurred in response to the $86 billion BNSF-CN combination.

“The Board noted that the railroad industry has consolidated aggressively in recent years, with only six large railroads remaining in the United States,” said Ed Emmett, in a statement issued shortly after the decision was issued. “The STB decision takes a big step towards stabilizing the industry. UP plans to actively participate in the rule-making proceeding.”

In his reaction was one more of disappointment and puzzlement. “This decision appears to have been made more out of confusion, not of purpose.”

A former Interstate Commerce Commission member, Emmett said the rule-making could have been carried out simultaneously with consideration of the merger. “The STB is always accused of not taking the side of the shipper. If the Commission and some observers may wrap this in the mantle of a shipper friendly decision, in fact it was done more because of the other Class 1 railroads,” he said.

**Teamster strike going strong in 26th week**

Contract negotiations between the International Brotherhood of Teamsters and Overnite Transportation resumed on April 4, 5 and 6, making it a very busy month for the Teamsters. The unfair labor practice strike is entering its 26th week and is still going strong.

The strike against Overnite, a subsidiary of Union Pacific, began on Oct. 24, 1999. It started in Memphis, Tenn., and quickly spread to 140 terminals in 39 states.

Overnite’s labor law violations are now legendary. More than 1,000 charges against the company have been filed with the National Labor Relations Board. The as yet uncompleted round of mergers has added millions of dollars in restitution for Overnite workers whose rights were violated.

Teamsters began a comprehensive advertising campaign to inform the general public about its struggle with Overnite.

Television and radio commercials started running, newspaper ads started running, a subpoena was delivered to Overnite CEO Suggs for a hearing in Memphis on Overnite unlawful conduct, and the terminal managers were challenged to sign a pledge to obey the law.

Teamster President James P. Hoffa said, “Overnite has forced us to escalate to a new level in our campaign of support for the courageous workers on strike against its unfair labor practices.

The Teamsters will spare no resource in our campaign to civilize Overnite. We have three prongs — radio, television, and print ads in major markets around the country — all designed to bring Overnite (and its parent company, Union Pacific) to its senses.”

Also this month, dozens of Teamsters leaders, led by John Murphy, International Teamster Vice President and National Director of Organizing, delivered a subpoena to Leo H. Suggs, Overnite’s CEO, at Overnite Transportation Company’s headquarters in Richmond, Virginia.

Suggs is being subpoenaed for a hearing on a complaint issued by the National Labor Relations Board (NLRB). The hearing is scheduled for May 8, 2000, in Memphis, Tenn. The hearing is a consolidation of 25 individual charges and will focus on the unlawful firing of Overnite workers and union members Tere Holcomb, Sam Powell, Kenny Hill, Fred Clark, Kyle Medley, William Palmer, Charles Watkins, Audra Wilker, K.W. Wilbanks, Tony Brown, Wilford Hugh McCalla and Walter Jones.

In its efforts to make Overnite stop its labor law violations, the Teamsters are now trying a bottom to top approach. Overnite workers and local Teamster leaders delivered an “Overnite Pledge to Obey the Law” to managers at Overnite terminals nationwide.

“This is a simple request,” declared John Murphy, International Teamster Vice President and National Director of Organizing. “If we can’t get the bosses at Overnite’s headquarters to obey the law, hopefully, we can get the lower level Overnite managers across the country to agree to honor federal laws designed to protect America’s working families.”

The form that Overnite terminal managers were asked to sign states: “Overnite Pledge to Obey the Law: I, the undersigned Terminal Manager for Overnite Transportation Company, hereby solemnly swear that I will faithfully obey and uphold all laws pertaining to the rights of Overnite workers.”

To date, not one single terminal manager has agreed to sign the statement.

Finally, the Teamsters are planning an action at Bed, Bath & Beyond locations across the country on April 28. B&B is a major freight customer of Overnite.

**BNSF fined $10 million for falsifying evidence; ruling overturned**

A judge who fined Burlington Northern Santa Fe Corp. $10 million for what he called “false, concealed” evidence in a wrongful death trial, has reversed himself on the case with the ease on March 20, the Fort Worth Star-Telegram reported.

Texas State District Judge Bob McGrath’s sanctions were premature because they were announced without a hearing.

McGrath imposed the fine on March 14 after concluding that BNSF mistreated to represent a distant signal that was shown to the jury.

The family of BNSF engineer Randy Mann sued the railroad after he died in the February 1998 collision of two trains in Enid, Okla. Mann’s family contended he was operating past a broken signal on a foggy night, leading to the fatal collision.

The railroad says the broken signal was too far away to have caused the crash.

In addition to the $10 million fine, McGrath ordered BNSF to pay $20,000 for the plaintiffs’ court costs and attorney fees and fined railroad attorney Doug Poole $10,000 for saying that the company did nothing wrong.

The March 26 order, however, canceled the disciplinary action against attorneys.

The attorney for Mann’s family said they won’t give up. “We’re not going to let the railroad off the hook.”

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Reconsideration of UP case would wreck NMB credibility

AFL-CIO

The AFL-CIO warned that using the Tex Mex case as a basis for reconsideration of the Union Pacific case would severely damage the Board's credibility and impartiality.

"It is inconceivable that the Board would risk issuance of doctrinally incompatible decisions on the very same day. For the Board to declare now that this occurred — which it did not — would expose the Board to a deserved loss of confidence by the regulated community, and would even call its competence into question," the AFL-CIO wrote.

Finally, the AFL-CIO expressed concern about the Board's credibility and impartiality. The Board issued its Texas Mexican determination and dismissal on the precise date that the Board itself prescribed last December for the Panel to issue its Union Pacific determination. If the Board believed that its consideration of Texas Mexican had bearing on the Panel's consideration of Union Pacific — a case with a notably high public profile and involving great stakes for both union parties and the carrier — surely the Board would have either issued Texas Mexican earlier or alerted the Panel to that fact in good time to allow it current Board law... And even, if as UTU contends, the Board's adoption of the Panel's determination and dismissal of UTU's application were decisions legally distinct from the Panel's action, it is just as inconceivable that the Board itself would render simultaneous contradictory decisions within 24 hours of each other, and it would be just as injurious to its integrity and standing for the Board now to declare that it did. A complete copy of the AFL-CIO’s March 27 brief to the NMB is available on the BLE website in PDF format at: http://www.aflcio.org/afclc3032.pdf.

Eight rail unions unite to battle UP harassment in Pocatello

"Safety isn’t going to change in Pocatello until the morale changes," Brown said.

Dean Simpson, representative of the TCU-Carman’s division, said that after a recent accident the workers he represents were intimidated and "asked" to sign "letters of compliance," pledging they would personally take responsibility for avoiding injury. He said his members fear retribution if they sign such a letter and later get injured.

He also said that recent cutbacks in the car department have resulted in a shortage of carmen in Pocatello. UP has cut too many workers and the remaining are forced to work over-time in spite of high levels of fatigue.

"They can’t keep their minds on what they are trained to do," Simpson said. "What’s more, the carrier seems to think that they are trained to do something else, sometimes by choice."

He was given no refresher tour or subsequent training after working in engine service for several years. He lost his notice of dismissal while recovering in the hospital.

Under the UP Upgrade discipline policy, "By working together, this group plans to battle UP harassment in Pocatello until the morale changes.," the AFL-CIO said.

"Solidarity is a powerful tool for unions. We can accomplish so much more for our members by working collectively and standing united," Dean said he would answer all concerns and questions raised during the meeting. The unions said they expected results soon or would intensify the struggle to ensure safe working conditions for all union members.
BLE NEWS

BLE scores second big post-85 victory

Tentative GTW deal is second major win for post-85ers in just 30 days

A tentative contract agreement between the Brotherhood of Locomotive Engineers and Grand Trunk Western will give locomotive engineers a fully retroactive 12 percent pay hike and eliminate standards for deadhead pay for post-85 workers.

In the past 30 days, the BLE reached agreements with two Class 1 carriers, each providing significant gains for post-85 workers. It is evidence that the BLE produces concrete results for its members in the form of better wages and improved working conditions.

The BLE plans to use these agreements as a basis for ending subsidies and pay for all post-85 engineers in the current round of national wage negotiations.