Advisory Board approves Teamster documents

In one of the most historic moments in the 140-year history of the Brotherhood of Locomotive Engineers, the union’s Advisory Board on July 10 unanimously approved documents that govern a merger with the International Brotherhood of Teamsters (IBT).

If the documents are approved by a membership vote, then the Brotherhood of Locomotive Engineers will become the Brotherhood of Locomotive Engineers and Trainmen (BLET), a division of the IBT Rail Conference.

“The groundwork for consolidation of these two great unions has been laid and Thursday’s vote by the BLE’s Advisory Board signifies an emerging partnership between our two unions,” said IBT General President Jim Hoffa.

“We believe the BLE’s membership, as well as Teamster members, will benefit greatly from this partnership now and in the future.”

“This is the right move at the right time for our organization,” said BLE International President Don Hahs. “A merger with the Teamsters will boost our collective bargaining and lobbying strength while benefiting the memberships of both organizations.”

“A merger would give BLE members a voice in part of North America’s largest transportation union.

“In our new partnership we’re going to have the docks, the trucks and the trains,” Hoffa said. “And it really can’t be stated any simpler than that.”

According to Section 1(e)(2) of the BLE’s Constitution & Bylaws, the merger documents must be mailed to the union’s leadership for review (union leadership includes the Advisory Board, general chairmen, state and provincial legislative board chairmen, and the president of each division). Section 1(e)(2) also requires that the documents be posted on the BLE website on the day they are mailed. •

WHEREAS, the International Brotherhood of Locomotive Engineers exists to promote and protect the rights, interests and safety of our members through solidarity, aggressive representation and education; and

WHEREAS, at 140 years, the International Brotherhood of Locomotive Engineers is the senior rail labor organization in the Western Hemisphere, founded on May 8, 1863; and

WHEREAS, our union and rail workers are under attack; and

WHEREAS, the BLET has no illusions that railroad carriers take advantage of any division in the solidarity of railroad employees in an effort to dominate their work forces; and

WHEREAS, rail labor’s ability to negotiate fair and equitable contracts has been limited by “divide and conquer” techniques employed by the growing strength of rail management; and

NOW THEREFORE, be it RESOLVED that we the undersigned do hereby unanimously pledge to fight to preserve the goals of our forefathers, to protect our union’s ideals of brotherhood and unity, to move the organization forward, and to be the caretakers of our rich tradition by approving documents that would create the Brotherhood of Locomotive Engineers and Trainmen, a division of the Rail Conference in the U.S., and the Teamsters Canada Rail Conference of the International Brotherhood of Teamsters; and

BE IT FURTHER RESOLVED, that we encourage our members to review these documents closely and to exercise their democratic right to vote on this document, and that they vote in favor of creating the Brotherhood of Locomotive Engineers and Trainmen, a division of the Rail Conference, and the Teamsters Canada Rail Conference of the International Brotherhood of Teamsters; and

BE IT FURTHER RESOLVED, that we also unanimously approve the creation of the International Brotherhood of Teamsters’ Rail Conferences in both the U.S. and Canada and we encourage Rail Labor to unify under this umbrella for the betterment of all rail workers.

Members of the BLE Advisory Board sign a resolution on July 10 after unanimously voting in favor of documents that govern a merger with the International Brotherhood of Teamsters. Seated: International President Don Hahs. Standing, from left: Vice-President Stephen Speagle; Vice-President Rick Radek; Vice-President Merle Geiger; Vice-President Paul Sorrow; Vice-President & U.S. National Legislative Representative Raymond Holmes; First Vice-President Ed Rodzewicz; Vice-President & Canadian Director Gilles Halle; Vice-President Lee Pruitt; Vice-President & National Legislative Representative-Canada George Hucker; General Secretary-Treasurer Bill Walpert; Vice-President Dale McPherson; Vice-President Paul Wingo Jr., and Leo McCann, President of the American Train Dispatchers Department of the BLE.
SPARKS, Nev. — BLE members would benefit from one of North America’s largest political action funds and organizing budgets if they decide to merge with the International Brotherhood of Teamsters (IBT).

That’s according to IBT Secretary-Treasurer C. Thomas Keegel, who described the structure of the IBT and explained how it can help the BLE in a speech delivered during opening ceremonies at the BLE’s 63rd annual International Western Convention in Sparks, Nevada, on June 3.

Keegel said the IBT has budgeted $14 million for organizing in 2003, and that number more than doubles to nearly $30 million when factoring in funding from the IBT’s Joint Councils. “We plan to organize anything and everything that moves,” Keegel said.

The BLE has successfully organized several shortline railroads in the past few months, such as the Tex Mex, IA&E, and Utah Railroad. Assistance from the IBT could help the BLE continue and expand its shortline organizing campaign.

Keegel also pointed out that the IBT had the nation’s largest union PAC fund during the 1999-2000 election cycle, which was more than $8.9 million. “Just as we would negotiate with the International Brotherhood of Teamsters (IBT), we are in discussions now with the IBT,” Keegel said, that the combined organization might leverage our strength.”

In addition to the PAC fund and Organizing Department, BLE members would receive assistance from the IBT’s Strategic Campaign, Government Affairs, Communications, Education, Research, Safety & Health, and Legal Departments.

“This is an exciting time and I am excited about the future,” Keegel said. “I see the merger as a win-win. It’s a win for the IBT and a win for the BLE.”

Keegel predicted that the next several years will be a time of great change for organizing labor, and credited BLE leaders for staying ahead of the game by preparing for the future.

“If you don’t change tactics in the 21st century, you will be left behind,” Keegel said. “The BLE has done well with the resources you have, but members have come to realize that 55,000 members won’t cut it in today’s economy.”

Keegel also pointed out that the IBT would create a “kick ass union.” Keegel said, that would allow the BLE to keep its autonomy and dues structure.

Hahs discusses Teamsters at IWC opening

SPARKS, Nev. — More than 200 BLE members and their families gathered in Sparks, Nevada, on June 3 and heard opening remarks by BLE International President Don Hahs at the 63rd annual International Western Convention.

President Hahs received a standing ovation when introduced by GIA Hotel owner and host John Ascuaga. Hahs told the crowd that members of the BLE’s Advisory Board will meet in Cleveland during early July to review and vote on the BLE merger documents.

The BLE’s Nevada State Legislative Board passed a few days after the BLE held its International Western Convention in Sparks. •

30th community enacts remote control safety resolution

As this issue of the Locomotive Engineer Newsletter goes to press, a total of 30 different communities — 21 cities and nine counties — have enacted safety resolutions that call for improved safety of remote control train operations.

Since the last Newsletter was published, the city councils of Flat Rock, Woodhaven and Flint all recently voted for resolutions against current remote control operations. All of the resolutions cite the danger to the residents of each city and ask the Federal Railroad Administration to conduct a review of the use of the technology.

In addition, the city council of Reno, Nevada, passed a remote control safety resolution on June 9th, becoming the 30th city to enact such a resolution.

Greg Powell, Chairman of the BLE’s Michigan State Legislative Board, credited the BLE Division 850 for their work on securing the passage of these resolutions.

Chairman Powell recognized BLE Division 850 (Flat Rock) Legislative Representative Dennis Prater, Division 850 member Fred Abar and the rest of Division 850 for their work on the Flat Rock resolution. He also thanked Flat Rock Councilman David Karoly and Mayor Richard C. Jones and the rest of the Flat Rock City Council for their efforts.

Powell credited the members of BLE Division 650 (Durand, Mich.) for their work on the Flint resolution, especially Division 650 Legislative Representative Bernard Cox. Chairman Powell also thanked the entire Flint City Council and City Clerk Jene M. Brown.

Also, Chairman Powell thanked the Mayor of Woodhaven, Karen M. Mazo, and the City Council, who were “really helpful.”

Despite heavy opposition from Union Pacific Railroad, the city of Sparks, Nevada, unanimously passed a remote control resolution on June 9. The Reno measure cites the possible danger to its citizens due to remote control and has the use of remote-controlled locomotives in the city until the Federal Railroad Administration takes action to improve the safety of the operations. The resolution was passed a few days after the BLE held its International Western Convention in the city.

The BLE’s Nevada State Legislative Board Chairman Joe Carter was instrumental in gaining passage of the resolution. He said that several representatives of Union Pacific attended the meeting to oppose the resolution. Ted Lewis, Regional Safety Director, and Wayne Horiiuchi, Union Pacific Corporate Lobbyist, voiced their opposition to the resolution, and Horiiuchi presented a video and chart alleging the safety of the technology.

Chairman Carter extoled thanks to BLE Division 158 (Sparks, Nev.) Local Chairman Lindy Klock for updating the remote control operations audio-video presentation. He would also like to thank BLE Division 236 (Portland, Ore.) member and mobilizer Jeff Cherney for his work in getting the resolution passed. Chairman Carter also thanked the display of U.S. colors. Members of the Native American Pudamuuna-4-H Drum Group presented a special “good luck” greeting and ceremonial dance.

Hotel owner and host John Ascuaga welcomed the locomotive engineers to Sparks and complimented the BLE on remaining strong throughout the course of the 9/11 tragedy.

Sparks City Council member Gino Martini provided a welcome address. BLE Nevada State Legislative Board Chairman Joseph Carter also addressed the audience.

The 2003 IWC was organized by Chairman J.L. Valentine and members of BLE Division 158 in Sparks. •
Amtrak releases five-year plan; Bush Administration plan relies heavily on state funding

In recent months, both Amtrak and the Bush Administration have unveiled long-range plans for the passenger railroad.

The Amtrak Plan
Amtrak’s five-year strategic capital investment and operating plan would try to restore its physical plant and train equipment to a state of good repair and improve the railroad’s operational reliability. The plan is based on prudent investments in existing infrastructure and equipment, and proposes no new significant passenger services — focusing instead on improving the reliability and cost-efficiency of the passenger railroad’s existing services.

To support the strategic plan, Amtrak proposes that annual federal funding range from $1.8 billion in FY 04 to under $5.1 billion in FY 08 for the combined capital investment and operating needs. More than half of this funding would be invested in two major capital categories: the 1,908 track miles of infrastructure that Amtrak owns and maintains and the passenger fleet, which would be better standardized to increase reliability and efficiency. The passenger fleet would be reduced by about 10 percent (from 2,576 passenger cars and locomotives today to 2,057 in FY 08).

The White House Plan
Under the Bush Administration’s six-year plan, the White House proposes to cut about half the capital costs for passenger routes (mainly new short-distance corridors between urban areas) and states would assume liability for operating costs nationwide.

Under the administration’s plan, which was unveiled in late April, the badly deteriorated rail infrastructure between Washington and Boston would be leased for 99 years to a federal-state compact that could apply for capital-improvement grants and could also finance improvements through private debt markets.

The plan is not in final legislative form, and several key questions remain unanswered, including how much money the administration would be willing to commit. If the federal government funds half the capital costs of only a moderate number of the urban corridors that states already have in the planning stages, it will spend many billions of dollars more per year on passenger service than it does now in subsidizing Amtrak.

States are likely to view the program in sharply different ways. For California and Oregon, which are already paying most of the capital and operating costs of their expanding passenger rail systems, the plan could provide a windfall of new capital funds.

But the states of the Northeast Corridor, which now pay for a minor portion of capital improvements, would be expected to pay for a portion of such improvements, potentially a new multibillion-dollar liability. Some estimates put the cost of making the deferred capital improvements as high as $12 billion. Almost 90 percent of the trains in the corridor currently enter commuter trains serving Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut and Massachusetts.

The White House plan faces an uphill battle in Congress, which has repeatedly voted to keep Amtrak running in its present form but has provided far less money than needed to keep the system in good repair.

Amtrak Police Officer Rodney Clumbers clamped a safety catch for at least 15 minutes to prevent any explosion. A homeless man who has a record of drug arrests was charged in the incident, said the labor movement would oppose any Amtrak financial legislation that “turns its back on Amtrak workers.”

In his testimony, Hall strongly supported a study released in early June by the Economic Policy Institute, Amtrak Privatization: The Route to Failure, which rejects proposals — similar to those advanced by the Bush Administration — to restructure and privatize Amtrak.

Instead, it calls for substantially greater public investment in Amtrak to improve the quality and breadth of service.

The study — available at www.epinet.org — examines the 1994-1996 privatization of the British rail which led to ramp delays, increased accident rates, and higher fares. Hall said that not only has the British government reversed course and re-nationalized passenger rail, but that the leaders of the political party responsible for privatizing the trains have promised that, if it were to get back into power, it would not do it again.

A man who brandished a hand grenade during a robbery attempt at Union Station was arrested on June 9 after an Amtrak police officer grabbed the partially activated device from him.

Amtrak Police Officer Juann Tubbs, 38, of assault on subway trains has promised that, if it were to get back into power, it would not do it again.

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BLE International President Don Hahs, podium, receives a standing ovation after his introduction by GIA President Onita Wayland during opening ceremonies on June 3 at the 63rd annual International Western Convention in Sparks, Nevada. From left: International Brotherhood of Teamsters representative Greg Bell; IBT General Counsel Patrick Szymanski; IBT Secretary-Treasurer C. Thomas Keegel; GIA President Wayland; BLE President Hahs; IWC Chairman Jeffrey Valentine; Sparks City Councilman Gino Martini; and BLE Nevada State Legislative Board Chairman T. Joseph Carter.

From left: International President Don Hahs, podium, receives a standing ovation after his introduction by GIA President Onita Wayland during opening ceremonies on June 3 at the 63rd annual International Western Convention in Sparks, Nevada. From left: International Brotherhood of Teamsters representative Greg Bell; IBT General Counsel Patrick Szymanski; IBT Secretary-Treasurer C. Thomas Keegel; GIA President Wayland; BLE President Hahs; IWC Chairman Jeffrey Valentine; Sparks City Councilman Gino Martini; and BLE Nevada State Legislative Board Chairman T. Joseph Carter.

A member of the Native American Pudumunu Tribe 4-H Drum Group performs the “butterfly dance,” which is a good luck dance, as part of the opening ceremony.

Don Anderson of BLE Division 898 (Jasper, Alberta) played the bagpipes during opening ceremonies. He is the Provincial Legislative Board Chairman of Alberta and serves as Legislative Representative of Division 898.

From left: Division 28 (Tucson, Ariz.) Local Chairman Jim Booth and Division 228 (Pocatello, Idaho) Local Chairman Jim Lance. Brother Lance is also Secretary-Treasurer of the IWC.

Candy Valentine, wife of IWC Chairman Jeffrey Valentine, works as a belly-dancing instructor and was gracious enough to perform at the IWC barbecue with several of her students. Mrs. Valentine is third from the left.

President Hahs, left, with Ronnie D. Hall and his wife, Sherry. Brother Hall is Local Chairman of BLE Division 566 (Del Rio, Texas), which is President Hahs’ home Division.

Members of the Nevada Army National Guard present the flags during opening ceremonies.

2004 International Western Convention
August 17-22 • Albuquerque, N.M.
Members of the IWC Committee hard at work at the registration table. Seated, from Left: J.L. Valentine, Chairman IWC ‘03 - Sparks; Steve Barnett, Treasurer; and Steve Rabenstein, President, Division 158; Standing, from left: Lindy Klock, Local Chairman, Division 158; and Dave Horn, Division 158.

Pat and Barbie Lynch (center, standing and seated) and members of BLE Division 446 will host the 2004 IWC in Albuquerque, N.M., from August 17-22. Seated, from left: Tammie Fuller, Barbie Lynch, and Brenda Butkovich. Standing, from left: Rick G. Fuller, Secretary-Treasurer of Division 446 (Gallup, N.M.); Pat Lynch, Local Chairman of Division 446; and John T. Butkovich, President of Division 446.

From left: John Koone, CN/IC-CC&P General Chairman; Bill Walpert, BLE General Secretary-Treasurer; and C. Thomas Keegel, International Brotherhood of Teamsters Secretary-Treasurer and keynote speaker at the 63rd annual IWC.

From left: Collecting donations on behalf of the Grand International Auxiliary is Brenda Hayes, GIA Canadian Vice-President & Canadian Director, and Anita Caruso, GIA International Secretary.

From left: Lew Fraser, Local Chairman and Legislative Representative of BLE Division 215 (Grand Junction, Colo.), George Last, Chairman of the Colorado State Legislative Board; and Carole Fraser.

Joe Carter, right, Chairman of the BLE’s Nevada State Legislative Board, presents Tom Keegel, IBT Secretary-Treasurer, with a personalized BLE jacket.

From left: Hard at work in the Secretary-Treasurer Workshop. From left: Sellar Nugent, Secretary-Treasurer of the Oregon State Legislative Board; and Harvey Makowski, Secretary-Treasurer of Division 76 (Winnipeg).

From left: Timothy L. Smith, Chairman of the California State Legislative Board; and Darrel N. Azarcon, First Vice Chairman of the CSLB.
At the Legislative Representatives’ Workshop, from left: Mike Muscha, North Dakota State Legislative Board Chairman; Mike Weston, Legislative Representative of Division 186 (Denver, Col.); and George Last, Colorado State Legislative Board Chairman.

At the welcome reception on June 2, from left: Ron Marney, Legislative Representative of Division 126 (Bakersfield, Calif.); Bobbie Makoski; and Harvey Makoski, Secretary-Treasurer of Division 76 (Winnipeg).

From left: Debbie O’Donohue; Frances Srubas; Rick Gibbons; and Janice Hahs, encouraging folks to attend the 68th annual Southwestern Convention Meeting in Branson, Mo., later this year (see page 8 for more details).

At the Legislative Representatives’ Workshop, from left: Buzz Reeves, Local Chairman of Division 692 (Stockton, Calif.); Bill Hill, Local Chairman of Division 592 (Dalhart, Tex.); Craig Carstenson, Local Chairman of Division 415 (Sacramento/Roseville, Calif.) and 1st Vice General Chairman for the UP Western Lines; and Lindy Klock, Local Chairman of Division 158 (Sacramento/Sparks) also on the arrangements committee for the IWC 2003.

IWC attendees who participated in the Local Chairman workshop, seated from left: Lee Woodard, Division 221 (Provo, Utah); Timothy S. Holden, LC of Division 55 (Ogden, Utah); Scott Presley, President of Division 221; Scott Bridgman, Division 158 (Sparks, Nev.); and Wes Taylor, LC of Division 118 (Belleville, Ill.). Standing, from left: Ken Kroeger, Special Representative & Coordinator of the Education & Training Dept.; Rick Radek, BLE Vice-President & Director of Arbitration; Mal Nelson, LC of Division 362 (La Grande, Ore.); Dave Geisler, LC of Division 133 (Denver); Alvin Sykes, LC of Division 214 (Long Beach, Calif.); David Clark, LC of Division 892 (Seattle); Joan Rios, LC of Division 553 (Calexico City, Calif.); and Bill Wolpert, General Secretary-Treasurer and Director of the Education & Training Department. Present but not pictured are Pat Lynch, LC of Division 446 (Gallup, N.M.); Ronnie Rhodes, LC of Division 585 (Little Rock, Ark.); and Allan Fegley, LC of Division 103 (Cheyenne, Wyo.).
Leadership of BLE Canada strongly condemned an attempted raid of its Canadian Pacific membership by the United Transportation Union, while an elected BLE officer has been relieved of his duties for assisting the UTU raid.

On July 8, BLE International President Don Hahs appointed George Hucker, BLE International Vice-President & National Legislative Representative of Canada, as temporary trustee of the BLE’s CP Rail (East) General Committee of Adjustment. Special Representative R.J. Toole was also appointed administrative assistant to Vice President Hucker.

In a letter dated July 8, President Hahs invoked his authority under Section 16 of the BLE Constitution & Bylaws and placed the CP Rail GCofA under trusteeship.

In his letter, President Hahs told the officer in question that: “Specifically, you have violated your duty by using your BLE title and office to promote the election of the United Transportation Union (UTU) to replace the BLE as collective bargaining representative for Canadian Pacific engineers and may have expended BLE funds to further that campaign.

“You are hereby directed to relinquish to Brother Hucker and Brother Toole possession and control of all the funds, books, papers and other properties of the general committee.”

On July 4, UTU representatives approached BLE members at their work terminals and invited them to sign applications in order to join the UTU.

In a letter to Ken Georgetti, President of the Canadian Labour Congress (CLC), BLE Canadian Director Gilles Halle said that the UTU’s actions violate the “no raiding” provisions of the CLC Constitution. He also requested that Georgetti immediately appoint a neutral umpire to investigate the UTU’s actions.

In the United States, the UTU was found guilty of violating the “no-raiding” clause of the AFL-CIO constitution on numerous occasions. In fact, UTU withdrew from the AFL-CIO several years ago to avoid financial penalties for its constant raiding of BLE.

A joint letter from Canadian Director Halle and Vice-President Hucker accuses the UTU of timing its raiding campaign in an attempt to derail the proposed merger of the BLE and the International Brotherhood of Teamsters.

“The UTU recognizes the powerful stranglehold on surface transportation that could result with a BLE/Teamster merger,” the letter states. “The size of the membership, the resources and money behind such a merger, if it were to take place, would in itself be a huge threat to the negotiating abilities and long-term survival of the UTU.”

Brothers Halle and Hucker also said the raid will have long-term, negative consequences on the workers and has damaged each union’s ability to negotiate with the carriers.

“The UTU, by these actions, has done what the company has been attempting to achieve for countless years—divide and conquer.”

**Rail Canada Traffic Controllers strike at CP Rail**

More than 200 members of the Brotherhood of Locomotive Engineers’ Rail Canada Traffic Controllers (RTC) are considered to be performance. Rail traffic controllers (RTC) are held to a high standard of performance. Rail traffic controllers (RTC) are held to a high standard of performance. Rail traffic controllers (RTC) are held to a high standard of performance.

The negotiations between RTC and Canadian Pacific began on September 1, 2002 with both the union and the company serving notice to commence collective bargaining as required by the Canadian Labour Code. In March 2003, the union filed for conciliation due to the fact that Canadian Pacific was placing additional demands on the RTC and the negotiations had stalled.

Robert Bouvier, President of Teamsters Canada, joins BLE Canadian Director Gilles Halle, BLE Local Chairman Dan McGiver, and dozens of BLE and Teamsters members as the striking Rail Traffic Controllers rally on the picket lines in front of Windsor Station in Montreal on June 26.
BLE NEWS

BLE appeals CIRB decision on VIA Rail

On June 15, the Brotherhood of Locomotive Engineers filed a judicial review by the Federal Court of Appeals of a decision made by the Canada Industrial Relations Board.

The decision, number 230, was rendered by Vice Chair Michele A. Pineau. The case involves a long-standing dispute over seniority rights on VIA Rail. The BLE believes that, among other things, the CIRB decision exceeded the Board’s jurisdiction.

VIA Rail and the BLE’s Canadian National General Committee of Adjustment have also appealed the decision.

Resolutions

Continued from page 2

SAFETY TASK FORCE HOTLINE

(800) 306-5414

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Resolutions

Continued from page 2

wished to thank all of the City Council members. In addition to Flint, Flat Rock and Woodhaven, Mich., and Sparks, Nev., 17 other U.S. cities have adopted similar resolutions: Baton Rouge, La.; Detroit, Mich.; Shreveport, La.; Marysville, Mich.; Boston, Mass.; Cleveland, Ohio; Pine Bluff, Ark.; North Little Rock, Ark.; Beards ton, Ill.; Bakersfield, Calif.; Woodbridge, N.J.; Belen, N.M.; Maple Heights, Ohio; Alliance, Neb.; Evansville, Ind.; Dupo, Ill.; and Durand, Mich.

had been constructed dialectically to a weekend conductor job by reason of the two hour advanced calling time policy. In sending the case back to trial, the Eighth Circuit observed that the engineer faced the choice of either taking a lower-paying conductor job that he could report to on time or risking disqualification by showing up late to work on a repeated basis.

This was sufficient in the court’s judgment that a reasonable person could conclude that the railroad created an environment in which he had no choice other than to demote himself.

The engineer recently joined the BLE. No trial date has been set. This is case 14 AD Cases 385 (USCA 8th Cir. April 29, 2003). •

Also, nine counties have passed similar remote control resolutions. They are: Douglas County, Wisc.; West Baton Rouge Parish, La.; Pointe Coupee Parish, La.; Cuyahoga County, Ohio; Erie County, Ohio; Whitley County, Ky.; Unicoi County, Ohio; and Contra Costa County, Calif.

PDF copies of the resolutions are available on the BLE website: <http://www.ble.org/pr/pdf/judreviewwp.pdf>.

VIA Rail and the BLE’s Canadian National General Committee of Adjustment have also appealed the decision.

An appeals court rules in favor of engineer

The U.S. Court of Appeals for the Eighth Circuit has reversed and remanded to trial an Americans with Disabilities Act decision by a lower court in the case of a locomotive engineer from the Dakota, Minnesota & Eastern Railroad.

The engineer was an on-call locomotive engineer who had limited use of his right hand and arm due to injury. The added length of time that it took him to complete his daily activities, such as bathing, eating and dressing, required him to receive a call to report to work more than two hours in advance.

The railroad, under new management, refused to give him more time to complete his daily activities, and imposed a two hour call rule for all on-call locomotive engineers.

The appellate court said that he

had been constructed dialectically to a weekend conductor job by reason of the two hour advanced calling time policy. In sending the case back to trial, the Eighth Circuit observed that the engineer faced the choice of either taking a lower-paying conductor job that he could report to on time or risking disqualification by showing up late to work on a repeated basis.

This was sufficient in the court’s judgment that a reasonable person could conclude that the railroad created an environment in which he had no choice other than to demote himself.

The engineer recently joined the BLE. No trial date has been set. This is case 14 AD Cases 385 (USCA 8th Cir. April 29, 2003). •

Also, nine counties have passed similar remote control resolutions. They are: Douglas County, Wisc.; West Baton Rouge Parish, La.; Pointe Coupee Parish, La.; Cuyahoga County, Ohio; Erie County, Ohio; Whitley County, Ky.; Unicoi County, Ohio; and Contra Costa County, Calif.

PDF copies of the resolutions are available on the BLE website: <http://www.ble.org/pr/pdf/judreviewwp.pdf>.

VIA Rail and the BLE’s Canadian National General Committee of Adjustment have also appealed the decision.

An appeals court rules in favor of engineer

The U.S. Court of Appeals for the Eighth Circuit has reversed and remanded to trial an Americans with Disabilities Act decision by a lower court in the case of a locomotive engineer from the Dakota, Minnesota & Eastern Railroad.

The engineer was an on-call locomotive engineer who had limited use of his right hand and arm due to injury. The added length of time that it took him to complete his daily activities, such as bathing, eating and dressing, required him to receive a call to report to work more than two hours in advance.

The railroad, under new management, refused to give him more time to complete his daily activities, and imposed a two hour call rule for all on-call locomotive engineers.

The appellate court said that he

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