



Election 2020 SEE PAGE 4 FOR LIST OF BLET-ENDORSED CANDIDATES

Court vacates FRA approval of KCSM engineers certification

A three-judge panel of the United States Court of Appeals for the District of Columbia Circuit has vacated Federal Railroad Administration (FRA) approval of the Kansas City Southern Railway (KCSR) certification program under which locomotive engineers employed by a contractor of Kansas City Southern de México ("KCSM") have been permitted to operate over Texas Mexican Railway (Tex-Mex) tracks in the United States since July 10, 2018. Under the decision, the matter has been remanded to FRA "either to 'offer a fuller explanation of the agency's reasoning at the time of the agency action,' or to 'deal with the problem afresh by taking new agency action.'"

This ruling followed a challenge by the Brotherhood of Locomotive Engineers and Trainmen (BLET) and the Transportation Division of the International Association of Sheet Metal, Air, Rail, and

Transportation Workers ("SMART-TD") to the Agency's actions in approving the certification program.

The Court agreed with the unions' position, holding that FRA "fail[ed] to provide a reasoned explanation for its approval of the materially altered engineer certification program administered by one of the railroads." The Court further held that KCSM was under a statutory and regulatory obligation to have its own engineer certification program, which requirements FRA failed to enforce, finding that:

"By virtue of the Railroad Administration's passive approval system and the complete absence of any accompanying explanation for the agency's approval of [KCSR's] modified engineer certification program, the administrative record is devoid of any explanation or reasoning for the administrative steps taken and legal determinations made by the agency in approving the engineer certification program. Likewise, in

searching the administrative record for the rationale by which the agency allowed [KCSR] to certify the engineers of another railroad, despite the former's apparent lack of control over [KCSM's] crew members, we come up empty-handed. And in a hunt for the reason that service under a foreign regulatory system was credited to allow an abbreviated certification program, we hear only crickets.

"... what we confront in this case is a total explanatory void. There is no reason—not one word—in the administrative record for the Railroad Administration's material and consequential decision making on important matters of railroad safety. Not even [KCSR's] certification program itself, as submitted to the agency, provides an explanation for the relevant determinations that the Agency presumably reached."

However, the Court declined to rule on several other objections made by the unions that related to conductor certification,

transfer of the air brake testing waiver in place for northbound trains, and inadequacy of hours-of-service recordkeeping, finding that there had been no final agency action so the Court lacked jurisdiction to address these objections. In doing so, the Court acknowledged FRA's "shadowy and unwritten processes make it difficult for aggrieved parties to navigate the ... jurisdictional constraints."

BLET National President Dennis R. Pierce and SMART-TD President Jeremy R. Ferguson applauded the decision. "We congratulate the Court for exposing just how much FRA has become captive to the railroad industry," the Presidents said. "This is a significant victory for Tex-Mex crewmembers, but is just one skirmish in the war to preserve well-paying American jobs. We also thank all the counsel who worked so hard on this case, especially Special Counsel Kathy Krieger for an outstanding job." ◎◎

ARBITRATOR APPROVES REPLACING AMERICAN CREWS WITH MEXICAN CREWS IN LAREDO

A three-year contract struggle against actions by Kansas City Southern Railway Company (KCS) and its affiliate Texas Mexican Railway (Tex-Mex) to replace BLET-represented crews that shuttled trains between Laredo Yard and the U.S.-Mexico border concluded on August 4th, when a majority of a Special Board of Adjustment (SBA) ruled in the Carriers' favor.

In July 2017, then-BLET General Chairman C. M. Heise learned of the Carriers' plans to replace Tex-Mex shuttle crews with crews supplied by the Kansas City Southern de México ("KCSM"), another subsidiary of KCS's parent corporation, over the 9-mile route between the International Bridge and Laredo Yard. When a year's worth of discussion failed to produce a mutually acceptable resolution, the crew replacement was implemented on July 10,

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CSX TRAIN Q01709 travels near Mentor, Ohio, on June 9, 2020.

At the throttle is Brother Greg W. Lund, President of BLET Division 421 (Buffalo, N.Y.). This was one of Brother Lund's last trips before his retirement on June 30, 2020. Brother Lund is now happily retired after 41 years of service.

Photo by Adam Vester, a CSX locomotive engineer and member of BLET Division 382 in Buffalo, N.Y.



BLET President's Message

Your Union, Your Job,
Your Vote **pg. 2**

Rail bosses tighten the screws

Carriers game RUIA system
to the harm of workers **pg. 5**



Contract ratified

Members approve new deal
with WNY&P **pg. 6**


BLET PRESIDENT'S MESSAGE BY DENNIS R. PIERCE

YOUR UNION, YOUR JOB, YOUR VOTE

As I prepared to write this month's message, I took the time to review the President's Message that I wrote just ahead of the Presidential Election in 2016. As part of that message, I said the following:

"As I have said time and time again, each and every member of the BLET has the right to vote as he or she sees fit. Our right to make personal choices about our elected officials is one of the benefits of living in a democracy, and that right should never be trampled upon. Having said that, it is equally important that we as union members do not allow the way that we vote in national elections to divide us. Our opponents would love nothing more than to divide and conquer the labor movement, and much of what has been said in the national elections are proof of exactly that."

My comments then are just as true now. I also added the following in that message:

"Cast your vote as you see fit, but do it without any misconceptions about what it is that you are buying into. If you feel compelled to vote for Trump, picture your railroad CEO as President of our great nation. Look long and hard at whether or not your railroad CEO would change his spots simply by being given a position of great power in government. It's never happened before, and there is no factual evidence that Donald Trump will do anything different from what he has always done. He will further empower his fellow CEOs to make and take more, all at the expense of the working class. That has been his lifelong business model and it's how he maintains his wealth. This billionaire CEO has said that 'having a low minimum wage is not a bad thing for this country,' and complained that 'wages are too high.' This is a man who considers a bankruptcy a success because he comes out ahead personally. Do



you really want a billionaire CEO to appoint a Presidential Emergency Board who will recommend your future wages, health care payments and working conditions if our current round of national contract negotiations does not produce a voluntary settlement?"

It is clear that in spite of my concerns, many BLET members and Union members across the country were convinced in 2016 to vote for Donald Trump. I truly do understand that they had hope in their hearts when they cast that vote that a Trump Presidency would live up to the hype, and that working class Americans would see gains. Unfortunately, that has not happened in the working class America that you and I labor in. Instead, many of the concerns that I shared in my 2016 message are our new reality.

For example, it was President Trump who appointed former Conrail CEO Ronald Batory to be Administrator of the Federal Railroad Administration (FRA). In this important role, Administrator Batory has been far more the voice of the railroad industry, rather than the voice of the nation's rail safety regulator. In general terms, he ended the long-standing regulatory structure of the Rail Safety Advisory Committee, effectively eliminating your voice in matters of rail safety

and replaced it with a far less influential body. He also ended the regulatory effort that would have mandated two person crews, and then attempted to eliminate states' rights to adopt and enforce their own two person crew laws. He also authorized the use of non-certified/non U.S. citizen locomotive engineers to operate trains within our great nation, all at the expense of good American Union jobs. Whether you agree with your Union's political recommendations or not, these facts are still true. President Trump's handpicked FRA Administrator has steadfastly worked against your best interests.

President Trump also appointed two new members to the National Mediation Board (NMB), and it is those two who have worked on behalf of the railroad industry to make it harder for railroad employees to unionize. More recently, they have worked to force SMART TD into arbitration regarding the meaning of its moratorium clauses on the Carriers' terms, even while the legal issues surrounding the Carriers' attacks on crew consist were still in the courts. BLET and other rail unions joined in the initial legal action to stop the NMB's efforts favoring the rail carriers, and while the NMB pulled back as a

result of that legal action, they immediately turned around and once again are acting at the behest of the railroads. This latest NMB attack, all to benefit the Carriers and harmful to rail workers, is also now in the courts.

Again, regardless of your political leanings, it is a true statement that these actions by those appointed by President Trump have come at the expense of hard working railroad Union members. Perhaps even more harmful was President Trump's first appointment to the U.S. Supreme Court. That handpicked Justice cast the deciding vote against public sector Unions in the Janus case, undermining the very right of public sector Unions to exist by requiring them to represent all employees while being financially supported by only some of those employees. This is what has been lost on many Union members since the Janus decision. Unions are not entities in and of themselves; they are a collective of Union members working together to improve their workplace. Never forget that an attack on any Union is an attack on that Union's members; that also is true regardless of your political views.

Coming full circle, on August 18, 2020, the International Brotherhood of Teamsters (IBT) announced its endorsement of Joe Biden for President of the United States of America. This endorsement was made by the General Executive Board of the International Union, after polling Locals, Joint Councils and other subordinate units of the Union. The majority of those units polled supported that endorsement, and the International Union moved forward based upon its internal polling.

Since the endorsement, some BLET members have publicly stated that they will again support Donald Trump in spite of the IBT's recommendation, even though there has been no stron-

ger supporter of Amtrak over the past 47 years than Joe Biden. As I said in 2016, "... that is their right, but there is one thing that we must all understand before the election happens. CEOs are generally all the same. Whether they run large Class I Railroads, or empires like Donald Trump's, their cut of the corporate profits are more when yours is less. If you don't like the policies that your CEO has put upon you in recent years, how can you expect anything but more of that treatment if you put a clone of your CEO in the White House?" That is just as true now as it was in 2016.

I have said since the election process started that we should make our decisions based upon facts and with a full understanding of what each politician has done for or to workers up to now. Facts about what Donald Trump had previously done to hurt working class Americans contributed to the IBT's presidential endorsement in 2016. President Trump's actions above, while in office, directly contributed to the IBT's 2020 endorsement of Joe Biden.

Perhaps most important, our next President stands to appoint the Presidential Emergency Board that could address crew size in our industry, which stands to affect the jobs and direct livelihood of each BLET member. The track record above clearly shows that the rail Carriers, and employers in general, have been overwhelmingly favored by President Trump's appointments. The choice is yours, but I must again ask that you cast your vote very carefully this fall. Your decision will significantly impact how effectively your union will be able to protect your interests in the workplace, because electing the wrong candidates will deprive your Union of the tools it needs to fight the Carriers.

DENNIS R. PIERCE
BLET NATIONAL PRESIDENT

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BLET NATIONAL DIVISION ELECTRONIC COMMUNICATIONS POLICY

Official communications between BLET members and the National Division require a hard copy of the correspondence, bearing a signature, being received by the National President to be considered an "official communication." This is to provide that the actual question(s) are addressed, and ensures that when official interpretations are made they have

reference to a specific request and can be used in future correspondence.

The volume of e-mails received makes it impossible for the National President to answer all unofficial communications. Therefore, it is the policy of the BLET that e-mails addressed to the National President will be reviewed and forwarded to the appropriate officer or staff for a timely

response; however, an e-mail message is not considered an official communication.

Moreover, anonymous e-mails and e-mails that do not provide sufficient information concerning the sender to enable National Division staff to confirm the sender's membership status will not receive any reply or acknowledgement. This policy is intended to allow the National

President to be aware of the opinions and suggestions of the membership, while at the same time providing a timely response to the member's unofficial communication, if a response is necessary, without needlessly expending limited BLET resources.

ADOPTED AT CLEVELAND, OHIO ON JULY 22, 2010. ©©



GENERAL PRESIDENT'S MESSAGE BY JAMES P. HOFFA

UNIONS ARE EVEN MORE ESSENTIAL IN THE TIME OF COVID-19

Workers are facing unprecedented challenges in the age of the coronavirus. Many have lost their jobs, been temporarily laid off with no idea when they are going to return or been forced to work despite the ongoing health crisis. It has been a stressful time for millions across the country.

But instead of letting anxiety over an uncertain future get the best of them, many workers are choosing to get organized. Hardworking Americans, even those toiling in sectors that have traditionally not been union-friendly, are recognizing the value that comes from membership. As many struggle to get proper personal protective equipment and sanitized workspaces, they understand that coming together with co-workers can have benefits.

Even before COVID-19 took hold across the nation, union popularity was on the rise. A 2019



poll by Gallup found 64 percent of Americans approved of unions, the highest level since 2003. Why, you may ask? Because in an age of growing income inequality, more and more people under-

stand that when workers organize, they get better pay, benefits and working conditions.

The median union worker makes \$10,000 more annually than the median non-union

worker. They are also more likely to receive health insurance and retirement benefits and work in a safer workplace. At a time when there is so much at risk, joining the labor move-

ment offers some proven results.

The Teamsters, who represent more than a million essential workers, are on the front lines against efforts by politicians to provide overly broad, blanket liability protection to businesses, making it more difficult for workers or patrons to hold employers accountable if they discard safety standards.

While Teamsters and workers everywhere are ready to get back to work, there must be safety and health standards in place that are effective and enforceable. If employers purposefully discard safety guidelines, this union is making sure that penalties will exist.

Hardworking Americans are facing tough times right now. A union will ensure that they are protected.

Fraternally,

JAMES P. HOFFA
TEAMSTERS GENERAL
PRESIDENT

66 Hardworking Americans, even those toiling in sectors that have traditionally not been union-friendly, are recognizing the value that comes from membership. As many struggle to get proper personal protective equipment and sanitized workspaces, they understand that coming together with co-workers can have benefits. 99

AMERICAN CREWS REPLACED WITH MEXICAN CREWS IN LAREDO

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2018. This came days after a federal judge enjoined a strike by the Tex-Mex crews, which had been supported by 98% of the members who cast a ballot.

The arbitration hearing was held exactly two years after the Tex-Mex crews had been replaced. The Chairman and Neutral Member of the SBA was arbitrator Sidney Moreland IV. The BLET was represented on the Board by Vice President J. Alan Holdcraft; the Carrier was represented by its Vice President – Labor Relations Maqui Parkerson.

The General Committee of Adjustment (GCA) argued that numerous provisions of the collective bargaining agreements (CBAs) for locomotive engineers and for conductors and trainmen were violated by the Carriers' actions. In general, the GCA argued that the CBAs reserved the work of moving Tex-Mex trains on Tex-Mex property exclusively for Tex-Mex employees. More specifically, the GCA pointed to 68 years of practice under a pair of 1950 Agreements specifying that all cross-border traffic was to be exchanged at the border, memorializing operations that had been established in 1920.

The GCA further argued that the Carriers' actions violated National Agreement interchange rules because the interchange tracks designated by the Carriers were not in close proximity to the border, and ex-

isting work equities were not being maintained. Lastly, the GCA pointed to numerous provisions in the so-called "Interchange Agreement" between Tex-Mex and KSCM where the two railroads agreed that all trains operating north of the border are considered Tex-Mex, not KCSM, trains.

The GCA showed that Tex-Mex employees in Laredo lost over 25,000 pay hours as a result of the Carriers' actions and requested a cease and desist order and monetary relief for every affected Tex-Mex worker.

The Carriers countered that what they'd done was merely a change of interchange points, and that employees cannot claim exclusivity to interchange service. Further, they said that the 1950 Agreements had become defunct over time, and that the control aspects in the Interchange Agreement only dealt with customs requirements not pertinent to the CBAs.

The Carriers also blamed Mexican law, which limits the performance of railroad work to Mexican nationals, for their inability to provide work equities, and argued that they had complied with the "close proximity" requirements of National Agreement interchange rules because Laredo Yard was the closest point to the Bridge.

A majority of the Board accepted the Carriers' arguments and ruled against the GCA. In a separate Dissent, BLET Vice President Holdcraft wrote that the majority's decision contained "significant errors." For example, he pointed out that the record was replete with proof of an

undisputed history of the century-long practice, which the majority simply dismissed as irrelevant. Holdcraft noted that the majority failed to appreciate the unprecedented nature of the changes the Carriers had implemented and badly misconstrued the road switcher rules in the CBAs. Finally, he criticized the majority's reliance on the Carriers' business rationale for the changes, because "that's not the standard for determining compliance with the Agreement."

BLET National President Dennis R. Pierce expressed the National Division's disappointment in the outcome of the arbitration, and thanked those who have been at the center of the fight for the past three years, saying "As stated in the Organization Member's dissent, the majority missed the mark by a long shot with its decision. This ruling is an affront to BLET's Tex-Mex membership, and an attack on the collective bargaining rights of all American workers. The Carrier was wrong in 2017 when it gave the jobs of hard working Americans to Mexican Nationals, it was wrong in 2018, and it's wrong today."

"That said, I also want to acknowledge some of the people who have been in the forefront of this struggle. I want to thank former General Chairman Chris Heise and current General Chairman Mike Ball for their leadership; I also want to specifically recognize the tremendous contributions made by Vice General Chairman Alfonso Arellano, whom we called upon time and again to build a

detailed factual and historical case. I appreciate the work by retired Vice President Cole Davis and Vice President Alan Holdcraft, who provided constant assistance and advice to the GCA. And I thank retired General Counsel Mike Wolley and Special Counsel Kathy Krieger for their hard work on all aspects of the Laredo case. Finally, I want to acknowledge the National Division staffers, especially my assistant Tom Pontolillo, who worked tirelessly behind the scenes to help build the case and craft the presentation. Regardless of the outcome, this team should be proud of its efforts."

President Pierce also vowed that the struggle will continue. "This ruling is disappointing, to be sure. However, we will continue the fight. We will continue to litigate the refusal by the Trump Administration's Federal Railroad Administration to comply with its statutory obligations to properly regulate safety between Laredo Yard and the International Bridge. We will also continue to pressure Congress to adopt reciprocal legislation, missing in the Trump-negotiated USMCA (NAFTA 2), to put U.S. locomotive engineers and trainmen on an equal footing with their Mexican counterparts. And we will continue to fight trade agreements that kowtow to the multinationals, like KCS, that put profits before people." @

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AND DISSENT IS AVAILABLE AT:**
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BLET LEGISLATIVE BOARD 2020 ELECTION ENDORSEMENTS

EDITOR'S NOTE: THESE ENDORSEMENTS ARE BASED ON RECOMMENDATIONS FROM THE VARIOUS BLET STATE LEGISLATIVE BOARD CHAIRMEN. THEY REPRESENT THE CANDIDATES WHO YOUR ELECTED BLET OFFICERS BELIEVE WILL BEST REPRESENT THE INTERESTS OF RAILROAD WORKERS AND MIDDLE CLASS AMERICANS.

**DUE TO FEDERAL
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(FEC) REGULATIONS,
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Rail bosses tighten screws on workers, reps

As freight rail traffic levels rebound strongly from the economic slowdown caused by the coronavirus (COVID-19) pandemic, railroad management has unleashed an unprecedented barrage of measures to manipulate recalls from furloughs, make already draconian attendance policies even more punitive, and interfere with union representatives who fight to protect their members from this abuse.

The BLET's National Division and the SMART Transportation Division both have received multiple reports from their General Committees of Adjustment on various Class I railroads indicating two specific types of recall-related conduct that could jeopardize tens of thousands of dollars in unemployment benefits. These benefits are paid pursuant to the Railroad Unemployment Insurance Act (RUIA), which is administered by the U.S. Railroad Retirement Board.

At least one carrier is disputing unemployment claims for all days later than the date of a recall notice, regardless of when the furloughed worker actually received the notice and irrespective of collective bargaining agreement provisions that provide the employee with a certain number of days within which to report. These provisions allow furloughed railroad workers to make necessary arrangements to settle personal and family obligations, such as child care, to

accommodate a return to work without being penalized economically for the position in which the carrier's furlough originally placed them.

The GCAs have also reported that one or more carriers have recalled furloughed employees who, after reporting for work, are then furloughed for a second time. In at least one instance, an employee quit other employment he had found, only to be kicked to the street again by the railroad without ever having performed service. And, for workers receiving RUIA benefits, a one-week waiting period during which no benefits are paid could be triggered, depending upon the timing and duration of this second furlough.

The leaders of both unions expressed outrage over these actions.

"Just when one thinks the carriers can't possibly stoop any lower, they try to game the RUIA system to their benefit," said BLET National President Dennis R. Pierce and SMART-TD President Jeremy R. Ferguson. "Since RUIA tax rates are experience-based, maybe the carriers are looking to minimize next year's hit. But cutting their losses on the backs of union members and their families in this fashion is reprehensible."

In an August 14 letter, BLET and SMART-TD General Chairpersons jointly blasted BNSF management for changes to that Carrier's attendance policy. According to the letter, the changes would be im-

plemented via a blitz of threatening letters to workers who took off from work on what are now, but were not then, viewed by the Carrier as being "high impact" days. Most of these are family-friendly days, including national holidays, and letters apparently are being sent even in cases where permission to take the time off had been granted to workers.

"The carrier continues to remain inflexible when it comes to respecting workers' attempts to have lives outside of work," the union presidents said. "If a worker happens to have chosen to engage in a family event, to enjoy a holiday or some sort of emergency cropped up on one of these unknown-until-now 'high-impact' days, he or she can now expect to receive a threatening letter and have a watchful eye just waiting to issue punishment if they dare have off time that coincides with another of these days."

The unions' General Chairpersons also pointed out that thousands of BNSF operating employees remain furloughed, and that this reserve is more than sufficient to meet any service needs on "high impact" days while, at the same time, allowing reasonable time off from work. Further, they report that the Carrier continues to do nothing to address long-standing problems with poor line-ups, denial of reasonable vacation and personal leave requests, excessive held away-from-home terminal times dur-

ing holidays, excessive on-duty times and denied holiday pay claims. As a reminder, even in the midst of a pandemic-stricken U.S. economy, BNSF reported second-quarter earnings of more than \$1.13 BILLION in net earnings and an 61.1% operating ratio thanks to the essential work done by employees who are being targeted for discipline and punishment by this policy.

BNSF also is attempting to pressure working local union representatives to not take time off from work to represent their members. In some cases, local representatives are invited to conferences with the railroad, then are denied the time off work to attend the conference, forcing them to mark off for union business. When they do so, the railroad warns that their use of union business mark-offs is excessive and they, too, may fall subject to that Carrier's intensified attendance policy.

"Shame on BNSF for expanding their anti-worker attendance policy in a way that is plainly anti-family," Pierce and Ferguson said. "In no event will our union representatives be intimidated into not performing the duties of their offices. Our members should keep in mind that Election Day in November will determine whether these examples of unconscionable corporate misbehavior will continue to receive the approval of federal government officials at the highest levels." @@

56 MPH

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United Rail Unions sue to block carriers from modifying Healthcare benefits without bargaining

On August 5, 2020, 12 rail unions whose members and their families are covered by the NRC/UTU Plan and the Railroad Employees National Health and Welfare Plan, filed suit against the nation's Class I railroad carriers in the United States District Court for the District of Columbia.

The suit asks the court to force the carriers to bargain in good faith with the unions over mandatory subjects of bargaining. The involved issues have been the subject of collective bargaining for decades and are in fact part of the carriers' bargaining notices served on November 1, 2019 pursuant to Section 6 of the Railway Labor Act (RLA). At issue are carrier attempts to restrict access to certain medications and to forcibly reconfigure health care networks.

The unions are: the American Train Dispatchers Association; the Brotherhood of Locomotive Engineers and Trainmen; the Brotherhood of Maintenance of Way Employees; the Brotherhood of Railroad Signalmen; the International Association of Machinists and

Aerospace Workers; the International Association of Sheet Metal, Air, Rail and Transportation Workers, Mechanical Division; the International Association of Sheet Metal, Air, Rail and Transportation Workers, Transportation Division; the International Brotherhood of Boilermakers; the International Brotherhood of Electrical Workers; the National Conference of Fireman & Oilers District, Local 32BJ, SEIU; the Transportation Communications Union/IAM; and the Transport Workers Union.

The rail carriers are: BNSF Railway Company; Kansas City Southern Railway Company; CSX Transportation; Grand Trunk Western Railroad Company; Norfolk Southern Railway Company; Soo Line Railway Company; and Union Pacific Railway Company. Also named in the suit is the National Railway Labor Conference (NRLC), whose National Carriers' Conference Committee (NCCC) is the designated bargaining agent of the railroads.

The unions have asked the court to:

- issue a declaratory judgment that the carriers are obligated to bargain in good faith with the unions on proposed

health and welfare changes in accordance with the collective bargaining procedures outlined under the RLA;

- issue a declaratory judgment that health and welfare plan design changes are a mandatory subject of collective bargaining pursuant to the RLA;

- issue a declaratory judgment that the NRLC may not force plan design changes upon its employees without the agreement of the unions, to be achieved through the mandatory dispute resolution process of the RLA;

- issue an order enjoining the NRLC from trying to force these health and welfare changes via arbitration rather than addressing them in collective bargaining; and

- issue an order requiring the NRLC to engage in good faith negotiations with the unions over their proposed health and welfare changes through the RLA's major dispute resolution procedures.

The chief executives of the 12 unions issued the following statement concerning the lawsuit:

The railroads' attempt to evade their legal obligation to bargain on these issues of great importance to our mem-

bers has left us with no choice but to enforce these legal rights in court. If implemented without successfully negotiated application, the carriers' proposals could be extremely harmful to our members and their families. Even more outrageous, the process they are attempting to impose would allow rail carriers to reduce employees' access to medicines and doctors in the middle of a pandemic. When they should be rewarding the contributions of their essential employees with hazard pay, the rail carriers instead attempt to reduce medical benefits when they are needed most. Events like these are why railroad managers were labeled as "Robber Barons" over a century ago; their actions today are proof positive that the label still applies. Unfortunately for working class Americans, this is the way of many corporations across the country in Donald Trump's America; essential employees are treated as expendable employees. We will not stand idly by while management attacks the core legal rights our members enjoy.

Updates will be provided as developments warrant. @@

COORDINATED BARGAINING COALITION: NATIONAL NEGOTIATIONS UPDATE, JULY 31, 2020

Bargaining teams from 10 unions that make up the Coordinated Bargaining Coalition (CBC) for this round of national freight rail negotiations participated in a Zoom conference with National Railway Labor Conference (NRLC) Chairman Brendan Branon and participating Carrier representatives on July 28, 2020. This meeting was held for the sole purpose of reviewing power point presentations relative to each side's respective positions on issues contained within their Section 6 Notices. While there were no negotiations during the Zoom conference, the meeting was beneficial to both sides in an effort to keep the process moving forward in a good faith effort to achieve a voluntary agreement.

The first formal negotiating session took place, in person, earlier this year on February 26 and 27 and a second meeting had been scheduled for March 31. This meeting was cancelled because of the COVID-19 pandemic, and all subsequent scheduled meetings were also cancelled. Tuesday's conference was the first time the parties had convened in any manner since February.

Members of the unions participating in the CBC will be kept apprised of further developments on your contract negotiations as developments warrant.

Collectively, the CBC unions represent more than 105,000 railroad workers covered by the various organizations' national agreements, and comprise over 80% of the workforce who will be impacted by this round of negotiations. @@

BLET members ratify new contract with WNYP

By a unanimous vote, members of the Brotherhood of Locomotive Engineers and Trainmen (BLET) have ratified a new collective bargaining agreement with the Western New York & Pennsylvania Railroad (WNYP). It governs about a dozen members.

Ratified on June 15, 2020, the agreement runs through 2025 and provides wage increases of about 25% over the life of the agreement. It includes an immediate \$2.00 per hour increase in pay and general wage increases effective January 1 each year through January 1, 2025, and also provides additional pay for each tour of duty on remote control assignments.

Personal Time Off was also improved. In addition, the Discipline and Investigation rule, Article 23, was modified to provide for limited electronic commu-

nication between the parties with a fall back provision that if communication is not accomplished within 24 hours, the documents will be mailed via U.S. Mail.

The negotiating team consisted of National Vice President Mike Twombly, Head of the BLET Short Line Department, Special Representative Paul Aird, Director of the BLET Short Line Department, and Frank Graves, the WNYP Grievance Committee Chairman for BLET Division 16. The WNYP membership belongs to Division 16 and is represented by the BLET's Short Line Department.

"I thank Brother Twombly, Brother Aird and Brother Graves for their hard work on this contract," BLET National President Dennis R. Pierce said. "I also thank our WNYP membership for being involved and making their voices heard during the ratification process."

The WNYP main line extends for 190 miles from Hornell, on New York's southern tier to Meadville in northwestern Pennsylvania. A branch 90 miles long extends from Machias, N.Y. to North Driftwood, Pa., cresting the Allegheny Mountains at Keating Summit. Interchange is made with Norfolk Southern at Hornell, Meadville and North Driftwood, and with Buffalo & Pittsburgh Railroad at Salamanca, N.Y. and Corry, Pa. Interchange is also conducted with Oil Creek & Titusville Line (OCTL) at Rouseville, Pa. WNYP began independent operations in 2001 after concluding a long-term lease with Norfolk Southern and obtaining certain property tax abatements granted by Southern Tier Extension Rail Authority (STERA). WNYP is controlled by Livonia, Avon & Lakeville Railroad Corp. of Lakeville, N.Y. @@



RRB Q&A Part 2 of 2: Unemployment and sickness benefits for railroad employees

EDITOR'S NOTE: THIS IS PART 2 OF A TWO PART SERIES OF ARTICLES. PART 1 APPEARED IN THE LAST ISSUE OF THE LOCOMOTIVE ENGINEERS & TRAINMEN NEWS

The Railroad Retirement Board (RRB) administers the Railroad Unemployment Insurance Act (RUIA), which provides two kinds of benefits for qualified railroaders: unemployment benefits for those who become unemployed but are ready, willing, and able to work; and sickness benefits for those who are unable to work because of sickness or injury. Sickness benefits are also payable to female rail workers for periods of time when they are unable to work because of health conditions related to pregnancy, miscarriage, or childbirth. A new benefit year begins each July 1.

The following questions and answers describe these benefits, their eligibility requirements, and how to claim them. The Q&A also details how the Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, affects the RRB's administration of benefits under the RUIA. Part 1 of this Q&A (items #1-9) were published in the previous issue of the *Locomotive Engineers and Trainmen News*.

10 How does a person apply for and claim unemployment benefits?

Employees can apply for and claim unemployment benefits online or by mail. Individuals who have established an account through **myRRB** at **RRB.gov** can log in and file their applications and their biweekly claims online. Employees are encouraged to establish their accounts while still working to expedite the filing process for future unemployment benefits, and for access to other online services.

To apply by mail, claimants must obtain an *Application for Unemployment Benefits* (Form UI-1) from RRB.gov, or their labor organization or railroad employer. The completed application should be mailed to the local RRB office as soon as possible and, in any case, must be filed within 30 days from the date the claimant became unemployed, or the first day for which he or she wishes to claim benefits. Benefits may be lost if the application is filed late. Claimants who know in advance that they will be filing an unemployment application or claim late should include a signed statement explaining why they are unable to meet the required time frame.

Persons can find the address of the RRB office serving their area by visiting RRB.gov and clicking on **Field Office Locator**, or by calling the agency toll-free at 1-877-772-5772 and selecting the appropriate option from the automated menu.

The local RRB field office reviews the completed application, whether it was submitted online or by mail, and notifies the claimant's current railroad employer, and base-year employer, if different. The employer has the right to provide information about the benefit application.

After processing the application, biweekly claim forms are made available on the RRB's website, or are mailed to the claimant, as long as he or she remains un-

employed and eligible for benefits. Claim forms should be signed and sent on or after the last day of the claim. This can be done online or by mail. The completed claim must be received by the RRB within 15 days of the end of the claim period, or within 15 days of the date the claim form was made available online or mailed to the claimant, whichever is later. Claimants **must not** file both an online and a paper claim form for the same period(s). Once an individual submits a claim online, all subsequent claim forms will be made available online only, and will no longer be mailed.

Only one application needs to be filed during a benefit year, even if a claimant becomes unemployed more than once. However, a claimant must, in such a case, request a claim form from the RRB within 30 days of the first day for which he or she wants to resume claiming benefits. These claims may then be filed online or by mail.

11 How does a person apply for and claim sickness benefits?

An *Application for Sickness Benefits* (SI-1a) can be obtained from **RRB.gov**, a railroad labor organization, or a railroad employer. Applications for sickness benefits **must** be submitted to the agency by mail, or by fax at 312-751-7185. Subsequent claims may be completed online by those with **myRRB** accounts.

An application including a doctor's statement of sickness is required at the beginning of **each** period of continuing sickness for which benefits are claimed. Claimants should make a special effort to have the doctor's statement of sickness completed promptly since claims cannot be paid without it.

The RRB suggests that employees keep an application for sickness benefits on hand, and that family members know where the form is kept and how to use it. If an employee becomes unable to work because of sickness or injury, the employee should complete the application and then have his or her doctor complete the *Statement of Sickness* (SI-1b). If a claimant receives sickness benefits for an injury or illness for which he or she is paid damages, it is important to be aware that the RRB is entitled to reimbursement of either the amount of the benefits paid for the injury or illness, or the net amount of the settlement, after deducting the claimant's gross medical, hospital, and legal expenses, whichever is less.

If the employee is too sick to complete the application, someone else may do so. In such cases, a family member should also complete a *Statement of Authority to Act for Employee* (Form SI-10), which accompanies the statement of sickness.

After completion, the forms should be mailed to the RRB's headquarters in Chicago within 10 days from when the employee became sick or injured. However, applications received after 10 days but within 30 days of the first day for which an employee wishes to claim benefits are generally considered timely filed if there is a good reason for the delay. Upon receipt, the RRB will process the application and determine if the employee is el-

igible for sickness benefits.

After processing the application, the RRB provides biweekly claims to the qualified employee as long as he or she is eligible for benefits and remains unable to work due to illness or injury. Biweekly claims are made available for completion online (by those with an account at myRRB) or mailed to the claimant. Completed claim forms must be received at the RRB within 30 days of the last day of the claim period, or within 30 days of the date the claim form was made available online or mailed to the claimant, whichever is later. Benefits may be lost if an application or claim is filed late. Claimants who know in advance that they will be filing a sickness application or claim late should include a signed statement explaining why they are unable to meet the required time frame.

As with claims for unemployment benefits, once a claim for sickness benefits is submitted online, all subsequent claims will be made available online only, and will no longer be mailed.

Claimants are reminded that while claim forms for sickness benefits can be submitted online, applications must be mailed to the RRB. Statements of sickness may be mailed with the sickness application or faxed directly from the doctor's office to the RRB at 312-751-7185. Faxes must include a cover sheet from the doctor's office.

12 Is a claimant's employer notified each time a biweekly claim for unemployment or sickness benefits is filed?

The RUIA requires the RRB to notify the claimant's base-year employer each time a claim for benefits is filed. That employer has the right to submit information relevant to the claim before the RRB makes an initial determination on the claim. Benefits may not be paid at this time but the employee will receive a notice and have the right to appeal. In addition, if a claimant's base-year employer is not his or her current employer, the claimant's current employer is also notified. The RRB must also notify the claimant's base-year employer each time benefits are paid to a claimant. The base-year employer may protest the decision to pay benefits. Such a protest does not prevent the timely payment of benefits. However, a claimant may be required to repay benefits if the employer's protest is ultimately successful. The employer also has the right to appeal an unfavorable decision to the RRB's Bureau of Hearings and Appeals.

The RRB also conducts checks with other Federal agencies and all 50 States, as well as the District of Columbia and Puerto Rico, to detect fraudulent benefit claims, and it checks with physicians to verify the accuracy of medical statements supporting sickness benefit claims.

13 How long does it take to receive payment?

Under the RRB's Customer Service Plan, if a claimant files an application for unemployment or sickness benefits, the RRB will release a claim form or a denial

letter within 10 days of receiving his or her application. If a claim for subsequent biweekly unemployment or sickness benefits is filed, the RRB will certify a payment or release a denial letter within 10 days of the date the RRB receives the claim form. If the claimant is entitled to benefits, his or her benefits will generally be paid within one week of that decision.

If a claimant does not receive a decision notice or payment within the specified time period, he or she may expect an explanation for the delay and an estimate of the time required to make a decision.

However, some claims for benefits may take longer to handle than others if they are more complex, or if an RRB office has to get information from other people or organizations, or under special circumstances such as the current pandemic.

Regarding the payments authorized under the CARES Act, after making necessary programming changes to claims processing systems, the RRB started paying extended unemployment benefits and unemployment recovery payments on May 11, and May 28, respectively. As for payment of the additional monies related to the elimination of the 7-day waiting period, the agency hopes to complete the needed programming changes for this provision in the near future. The RRB will initially make retroactive payments to individuals eligible for the payments listed above who had previously submitted unemployment claims before moving on to processing new claims.

Claimants who think an RRB office made the wrong decision about their benefits have the right to ask for review and to appeal. They will be notified of these rights each time an unfavorable decision is made on their claims.

14 How are payments made?

Railroad unemployment and sickness insurance benefits are paid by Direct Deposit. With Direct Deposit, benefit payments are made electronically to an employee's bank, savings and loan, credit union or other financial institution. New applicants for unemployment and sickness benefits will be asked to provide information needed for Direct Deposit enrollment.

15 How can claimants get more information on their railroad unemployment or sickness claims?

Claimants with online **myRRB** accounts can log in to view their individual railroad unemployment insurance account statement. This statement displays the type and amount of the claimant's last five benefit payments, the claim period for which the payments were made, and the dates that the payments were approved. Individuals can also confirm the RRB's receipt of applications and claims.

In addition, claimants can call the agency toll-free at 1-877-772-5772 to access information about the status of unemployment and sickness claims or payments. Individuals can send a secure e-mail to their local office by accessing **Field Office Locator** at RRB.gov and clicking on the link at the bottom of their local office's page. @@



Locomotive Engineers And Trainmen News Brotherhood Of Locomotive Engineers And Trainmen

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Independence, Ohio 44131

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VOLUME 34 • NUMBER 6 • September 2020

LOCOMOTIVE ENGINEERS & TRAINMEN NEWS (ISSN 0898-8625)

is published monthly by the Brotherhood of Locomotive Engineers & Trainmen,
7061 East Pleasant Valley Road, Independence, Ohio 44131

USPS: 0002-244 ISSN: 0898-8625

POSTMASTER: Send address changes to

Locomotive Engineers & Trainmen News — BLET Record Department,
7061 East Pleasant Valley Road, Independence, Ohio 44131.

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Photo of the Month: September 2020

JUST SOUTH OF SCENIC MT. SHASTA, Union Pacific locomotive 8734 travels northbound through Dunsmuir, Calif., along the Black Butte subdivision on its way to Klamath Falls, Ore., on July 28, 2020. Photo by Michael Huerta, whose brother Phillip is a Union Pacific locomotive engineer and member of BLET Division 692 (Tracy, Calif.).



Are you a photographer? The National Division's Public Relations Department, which produces the Newsletter each month, has received numerous inquiries lately from BLET members volunteering to contribute their

images to the "Photo of the Month" section of the Newsletter. If you'd like to submit a photo for consideration, you may call Editor John Bentley at (216) 241-2630, ext. 248, or you can email: Bentley@ble-t.org.

Please note only high resolution images can be used. Members are also encouraged to review their employer's policies regarding the use of cameras and other electronic devices while on duty.

Advisory Board July 2020 Activity

In accordance with the BLET Bylaws, summaries of BLET Advisory Board members' activities are published monthly:

NATIONAL PRESIDENT DENNIS R. PIERCE: National Division Office, Independence, Ohio; General supervision of BLET activities; General office duties; Correspondence and telephone communications; Supervision of Office Administration; General Supervision of Special Representatives; President, Teamsters Rail Conference; Policy Committee, Teamsters Rail Conference; Collective Bargaining Coalition/National Carriers' Conference Committee mtg.

FIRST VICE PRESIDENT E.L. (LEE) PRUITT: National Duties include but not limited to: Trainmen's Dept.; National Publications Committee; National Legislative Board; Teamsters Rail Conference Policy Committee; and PRAC; General office duties, telephone, email, correspondence communications, etc.

NATIONAL SECRETARY-TREASURER STEPHEN J. BRUNO: General supervision of Accounting Dept., Record Dept., Online Services Dept., Tax Compliance Dept.; Safety Task Force; PAC and FEC reports and filings; Implementation and training for BLET membership database/Union Track; Pension, STD, 457 plan Trustee; Mtgs. with vendors and financial institutions; Union Track issues, development, testing, status updates; Merrill Lynch, BLET finance committee.

VICE PRESIDENT & NATIONAL LEGISLATIVE REPRESENTATIVE JOHN P. TOLMAN: Assigned to BLET Washington, DC office; General office duties, telephone and correspondence communications, Washington, D.C.; Various receptions and office visits with members of Congress and the leadership of both the GOP and Democratic parties, Washington, D.C.

VICE PRESIDENT MARCUS J. RUEF: Chairman, National Railroad Adjustment Board (NRAB); National Mediation Board (NMB) Advisory Forum—Labor Member; Department Head, BLET Arbitration Department; Assigned to CN-Wisconsin Central, CN-Illinois Central, Indiana Harbor Belt, Metra (Chicago), CP Rail System/US (Soo); Arb. website development, NRAB, Chicago; Assist GC Semenek w/ discipline research and discipline appeals, CP; Assist GC Hau w/ discipline submissions and discipline appeals, WC; PLB 7667, adopt awards 206-211, CP; Connectivity assessment for PLB 7166, CP; Executive session, PLB 7154 Case 275, IC; Mtg. w/ GC Hau and LR to discuss pilot claims, WC; PLB 7166 hearing, Referee Darby, CP; Further discussion DL 477, Referee Wesman, NRAB; Assist ISRR ratification vote count; NRAB admin. matters; Status mtg., re: Arb website development, NRAB.

VICE PRESIDENT MIKE TWOMBLY: Department Head and designated representative of the BLET National Short Line Division (NSLD) and Organizing Department with responsibility for hearings, conferences, appeals, First Division Appeals and all other daily business involving the NSLD assigned railroads in conjunction with Carrier Officers and advancement of BLET organizing strategies and opportunities; NVP assigned to: CN—Grand Trunk Western; Springfield Terminal; Delaware & Hudson; St. Lawrence & Atlantic; New York Susquehanna & Western; Connecticut Southern; New England Central; Louisville & Indiana; Huron & Eastern; Wheeling & Lake Erie; Tacoma Municipal Belt Line Railroad; National Short Line Division (Local Division 16) railroads: Union Railroad, Belt Railway of Chicago, South Buffalo Railway, Western New York & Pennsylvania and Gary Railway; General office duties, telephone, email, correspondence communications, etc.; On duty at home office, NVB and NSLB Department Head combined daily re-

sponsibilities; Huron & Eastern Section 6 negotiations; Local Division 16 monthly mtg.; NYS&W Section 6 negotiations, Cooperstown, N.Y.; CN-GTW monthly conference (Labor Management Resolution Conference).

VICE PRESIDENT MICHAEL D. PRIESTER: Assigned to all BNSF (former ATSF, former C&S, CRI&P, FWD, former STL-SF, BNSF/MRL), Panhandle Northern, Great Western Railway of Colorado; Missouri & North Arkansas, Montana Rail Link, Otter Tail; General office duties, telephone, email, correspondence communications, etc.; Conference call with all BNSF GCs; Multiple BNSF operations update conference calls w/ BLET GCs; Conference call w/ GC Psota and Local Chairmen.

VICE PRESIDENT R.C. (RICK) GIBBONS: Assigned to: All Norfolk Southern General Committees (Northern, Eastern and Southern Lines); Chicago, Ft. Wayne & Eastern; Indiana & Ohio (G&W); General office duties, telephone, email, correspondence communications; Vice President duties; On duty at home office; BLET National Division officers and staff conference call; NS-Southern GCA mtg.; IORY negotiations, assisting GC Cole; PLB 7574, assisting GC Sturdivant, NS-Southern Lines.

VICE PRESIDENT JAMES P. LOUIS: National Division Department Head, BLET Education & Training Dept.; Department Head of the BLET Internal Organizing, Mobilizing & Strategic Planning Dept.; Department Head, BLET Passenger Dept.; Assigned Amtrak; Keolis Commuter Services; Keolis Rail Services of Virginia, LLC; Transit America Services, Inc.; Long Island Rail Road; New York & Atlantic; Metro-North; New Jersey Transit; PATH; SEPTA; PLB 5210, assisting PATH GC McCarthy; National Division technology mtgs.; E&T issues; SBA 940, assisting NJ Transit GC Brown; Contract issues, assisting LIRR GC Sexton; Contract issues, assisting Amtrak GC Kenny; Contract issues, assisting SEPTA GC Hill; Regional meeting and convention hotel planning and related issues; IBT training.

VICE PRESIDENT MARK L. WALLACE: Assigned to all Union Pacific GCAs (Eastern District, Northern Region (former C&NW), Western Lines (Pacific Harbor Lines), Western Region (Portland & Western RR), Central Region, and Southern Region); Utah RR; Longview Portland & Northern and Longview Switching, and Portland Terminal; General office duties, telephone, emails, correspondence, communications, etc.; On duty at home office; Assist UP GC's with various on-property issues; Assist GC Leyshon w/ prep for PLB 7228 and hearing; Assist GC Geisler in preparation for PLB 7173; National Wage Team mtg.; Coordinated Bargaining Coalition mtg.; Bargaining session w/ NCCC.

VICE PRESIDENT J. ALAN HOLDCRAFT: Assigned to all CSX Transportation GCAs (Eastern Lines, Western Lines, Northern Lines (Bombardier Transportation Services), Conrail Shared Assets/CSX Northern District); KCS—Kansas City Southern/Louisiana & Ark. RR.; KCS—Texas Mexican Railway; KCS—Mid South Rail, South Rail, Gateway Western RR, Illinois Midland (G&W); General office duties, telephone, email, correspondence communications, etc.; Served as Board member on PLB 6884 w/ GC Spradlin; Served as Board Member on Special Board of Adjustment regarding cross border dispute at Laredo, Texas; Served as Board Member on PLB 7239 w/ GC Billy Evans; Coordinated Bargaining Coalition /NCCC negotiations.

Kansas DOT proposes safety rule requiring two-person train crews

The Brotherhood of Locomotive Engineers and Trainmen is applauding the Kansas Department of Transportation (KDOT) for proposing a statewide two-person crew regulation to help ensure safe train operations within the state.

On July 27, KDOT proposed the new safety regulation, which would require railroads to maintain a minimum of two crew members in the cab of the lead locomotive while operating within the state.

Kansas Governor Laura Kelly said: "Kansas has faced issues ranging from crew member fatigue to derailments, which pose a threat to our safety and security — but by maintaining the current practice of requiring a two-person crew we can ensure the health and safety of Kansas workers. This pro-

posed regulation is a common-sense, necessary measure to protect our state's railroad crew members and keep every community along the tracks safe."

According to a KDOT press release, "The benefits of the proposed rule and regulation is railroad and community safety, including the role of two-person crews can play in helping to prevent potential accidents or derailments and in emergency situations. Nearly all railroads in Kansas are currently operating two-person crews and will have no increased labor costs from the implementation of this regulation."

Brother Tyler Jones, Chairman of the BLET's Kansas State Legislative Board, said: "When I became Chairman in April of 2016, a two-person crew bill died in the committee. We didn't believe a law was

possible given the make-up of the House and Senate in Kansas. Republicans have held control of both Chambers since 1993, and Kansas has been a right-to-work state for 62 years. But what a difference one election can make. We got a win for labor."

Other states with minimum train crew requirements are Wisconsin, Arizona, Oregon, California, West Virginia, Colorado, Nevada, Washington, and Illinois.

BLET National President Dennis R. Pierce said: "I thank Governor Kelly and the members of the Kansas Department of Transportation for this proposed safety regulation. It is essential to have two crew members inside the locomotive cab to save lives and to ensure the safe operation of trains throughout the state of Kansas." ©©

THE PROPOSED REGULATION READS AS FOLLOWS:

K.A.R. [36-43-1].

Crew Requirements.

a. Railroads operating within Kansas shall maintain a minimum of two crew members in the control compartment of the lead locomotive unit of a train.

b. Compliance with subsection (a) of this Section shall not be required during switching operations, brake testing, safety inspections, or while performing setouts in conjunction with road service.