

MEMORANDUM OF AGREEMENT
Between The
BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY
And The
BROTHERHOOD OF LOCOMOTIVE ENGINEERS

Pursuant to Carrier's Notice dated May 27, 2003 the following will govern the operation of interdivisional pool freight service between Kansas City and Wellington or Arkansas City via various routes.

1. Two interdivisional freight pools shall be established at Kansas City. One pool will be designated as the Wellington Pool, the other pool shall be designated as the Arkansas City Pool. Even numbered turns in the Wellington Pool shall be considered Eastern Division prior rights and odd numbered turns shall be considered Middle Division prior rights. Even numbered turns in the Arkansas City Pool shall be considered Middle Division prior rights and odd numbered turns shall be considered Eastern Division prior rights. Temporary vacancies in either pool are to be filled from the current extra board protecting west pool service at Kansas City.
 - 1.1 The parties intend that employees holding position in the Wellington Pool shall usually be used to Wellington and that employees holding turns in the Arkansas City Pool shall usually be used to Arkansas City, subject to the following:
 - 1.1.1 Trains called at Kansas City for Wellington shall be filled by the first-out rested engineer in the Wellington Pool. There shall be no restriction on changing the destination of the train to Arkansas City, at any time, and the Wellington engineer shall, without penalty, operate the train to Arkansas City.
 - 1.1.1.1 In the event a Wellington engineer works to Arkansas City, BNSF may:
 - 1.1.1.1.1 Place the engineer in normal rotation with the other Kansas City engineers at Arkansas City, subject to the application of existing first-in / first-out principles applicable to pool freight engineers at the away-from-home terminal and said engineer shall be subject to conditions attendant to Arkansas City Pool engineers at the away-from-home terminal.
 - 1.1.1.1.2 Deadhead the engineer in combined service to Wellington.

1.1.2 Trains called at Kansas City for Arkansas City shall be filled by the first-out rested engineer in the Arkansas City Pool. There shall be no restriction on changing the destination of the train to Wellington, at any time, and the Arkansas City engineer shall, without penalty, operate the train to Wellington.

1.1.2.1 In the event an Arkansas City engineer works to Wellington, BNSF may:

1.1.2.1.1 Place the engineer in normal rotation with the other Kansas City engineers at Wellington, subject to the application of existing first-in / first-out principles applicable to pool freight engineers at the away-from-home terminal and said engineer shall be subject to conditions attendant to Wellington Pool engineers at the away-from-home terminal.

1.1.2.1.2 Deadhead the engineer in combined service to Wellington.

1.1.3 In the event there is no rested and available engineer in the Wellington Pool at Kansas City for an anticipated Wellington train, an Arkansas City engineer may be called for the service, and in the event there is no rested and available engineer in the Arkansas City Pool at Kansas City for an anticipated Arkansas City train, a Wellington engineer may be used.

1.1.4 Engineers from either pool at the away-from-home terminal may be called to work from that away-from-home terminal to perform service or deadhead to Kansas City, or may be called to combine service and deadhead to the other away-from-home terminal for service to Kansas City.

1.1.4.1 Engineers at the away-from-home terminal are also subject to the Hours of Service Relief conditions covered under Section 8 of this Agreement

2. Engineers in either pool contemplated by this Agreement may be operated between Kansas City and Wellington or Arkansas City via Newton and/or Emporia over any route, i.e., between Kansas City and Emporia via Topeka or Olathe; between Emporia and Wellington via Newton or Augusta; between Emporia and Arkansas City via Newton or Augusta/Douglas or Augusta/Mulvane. Pool freight engineers in this interdivisional service will protect only interdivisional service runs and except as expressly provided under the terms of

this agreement shall not be used in any other service. Emporia and Newton shall be eliminated as terminals for engineers operating in this interdivisional service.

3. Engineers arriving at the home terminal of Kansas City shall be placed to the bottom of an "inactive" board for that pool.
 - 3.1 At 4 a.m., 8 a.m., noon, 4 p.m. 8 p.m. and midnight, BNSF shall "activate" engineers from the "inactive" board to the "active" board of the respective pool. When engineers are activated, their order of call shall be determined and shall govern the order of engineers called for the service. BNSF shall endeavor, to the extent possible, to activate only those number of engineers that BNSF believes are to be used during the eight-hour period following the four-hour period contemplated by Section 3.3 below. So-called "cut-in" engineers may be eliminated from the active list at activation time.
 - 3.1.1 Activation must be accomplished and published within plus or minus thirty (30) minutes of the activation times.
 - 3.2 When a "cut-in" engineer stands to be called from the active board, rested home terminal engineers in this service shall be offered the opportunity to work the turn. If a turn on the active board accepts the work, the "cut-in" turn shall replace the slot held by the turn accepting the work. If a turn on the inactive board accepts the work, the "cut-in" turn shall be eliminated.
 - 3.2.1 An "inactive" turn declining the opportunity to work shall retain its position on the board.
 - 3.3 Once an engineer is activated at the home terminal, that engineer shall not be subject to receiving a call for service until the expiration of four (4) hours. For example, at locations where the calling time is 1 and ½ hours, an engineer at the home terminal could not have an on-duty time prior to 5 and ½ hours after being activated.
 - 3.4 Engineers who have not received a call for service within sixteen (16) hours of being activated shall receive line mile compensation for a round trip and be placed to the bottom of the home terminal "inactive" board.
 - 3.4.1 The payments contemplated by this Section 3.4 shall not be due under circumstances where BNSF can document that the excessive activation was due to circumstances beyond their control, e.g., line obstruction, derailment, flood, fire or act of God.
 - 3.5 Engineers may, prior to being activated, mark their turn to the foot of their respective inactive board (the foot meaning behind the last inbound

engineer in that pool), except on Holidays recognized under the applicable Agreement.

- 3.6 All pool vacancies (not including vacation vacancies) known to be for ten (10) days or more will be assigned, with no respective deduction in the number of positions carried on the extra board. All pool vacation vacancies known to be for ten (10) days or more will be assigned, with a respective deduction in the number of positions carried on the extra board.

4. District miles:

4.1 Eastbound via Emporia Subdivision

| | | |
|-------|---|-----|
| 3.1.1 | Via 1 st Subdivision to Wellington | 238 |
| 3.1.2 | Via 2 nd Subdivision to Wellington | 223 |
| 3.1.3 | Via 1 st Subdivision to Arkansas City (Mulvane) | 256 |
| 3.1.4 | Via 1 st Subdivision to Arkansas City (Douglass) | 244 |
| 3.1.5 | Via 2 nd Subdivision to Arkansas City (Mulvane) | 241 |
| 3.1.6 | Via 2 nd Subdivision to Arkansas City (Douglass) | 229 |

4.2 Eastbound via Newton

| | | |
|-------|--|-----|
| 3.2.1 | Via 1 st Subdivision to Wellington | 261 |
| 3.2.2 | Via 2 nd Subdivision to Wellington | 246 |
| 3.2.3 | Via 1 st Subdivision to Arkansas City | 278 |
| 3.2.4 | Via 2 nd Subdivision to Arkansas City | 263 |

4.3 Westbound via Emporia Subdivision

| | | |
|-------|---|-----|
| 3.3.1 | Via 1 st Subdivision to Wellington | 238 |
| 3.3.2 | Via 2 nd Subdivision to Wellington | 224 |
| 3.3.3 | Via 1 st Subdivision to Arkansas City (Mulvane) | 255 |
| 3.3.4 | Via 1 st Subdivision to Arkansas City (Douglass) | 243 |

- | | | |
|-------|---|-----|
| 3.3.5 | Via 2 nd Subdivision to Arkansas City (Mulvane) | 241 |
| 3.3.6 | Via 2 nd Subdivision to Arkansas City (Douglass) | 229 |
| 4.4 | Westbound via Newton | |
| 3.4.1 | Via 1 st Subdivision to Wellington | 262 |
| 3.4.2 | Via 2 nd Subdivision to Wellington | 248 |
| 3.4.3 | Via 1 st Subdivision to Arkansas City | 279 |
| 3.4.4 | Via 2 nd Subdivision to Arkansas City | 265 |
5. All miles run in excess of the miles encompassed in the basic day shall be paid for at a rate calculated by dividing the basic daily rate of pay in effect on October 31, 1985 by the number of miles encompassed in the basic day as of that date (subject to the application of Article I, Section 8 of Award of Arbitration Board No. 559). Car scale and weight-on-drivers additives will apply to mileage rates calculated in accordance with this provision.
 6. Engineers in this service held at the away-from-home terminal will be paid continuous time for all time held after expiration of sixteen hours from the time relieved from the previous duty at the rate paid for last service until called for service or deadhead. Held time shall cease at the time pay begins for such service. Held time or time counted toward the beginning held time will not be broken if an engineer is called and released, except that there shall be no duplicate payment for held time and on-duty time.
 7. If an engineer at the home terminal stands to deadhead separate from service to either away-from-home terminal, but has already deadhead separate from service at least once either way between the home and either away-from-home terminal during the current payroll period, the engineer will be runaround on the board, without penalty, and the next engineer on the board that has not deadhead separate from service at least once either way between the home and either away-from-home terminal during the current payroll period will be called for the deadhead.
 - 7.1 An engineer runaround on the board account application of this paragraph may regain their turn at the home terminal provided that Crew Support is properly notified upon the engineer's arrival at the home terminal.
 8. In connection with relieving interdivisional pool freight engineers tied up under the Hours of Service Law, the following will prevail when it is necessary to call a road engineer out of the terminal.

8.1 Westbound Trains

8.1.1 Between Kansas City and Emporia, including Emporia, the first-out rested crew in this service at Kansas City.

8.1.2 Between Emporia and either Wellington or Arkansas City, the Newton extra board.

8.1.2.1 In the event the Newton extra board is exhausted, the first-out away-from-home terminal crew in this service may be called. When an away-from-home terminal crew is used in Hours of Service Relief pursuant to this Section, the crew will, without penalty to BNSF, go first –out for service or deadhead to Kansas City upon securing adequate rest.

8.2 Eastbound Trains

8.2.1 Between Wellington or Arkansas City and Emporia, including Emporia, the first-out interdivisional pool crew in this service at either Arkansas City or Wellington.

8.2.2 Between Emporia and Kansas City, the extra board at Kansas City.

9. In order to expedite the movement of interdivisional pool freight runs, the carrier shall have sole discretion to determine the conditions under which engineers may stop to eat. When engineers who are working or deadheading in this service are not permitted to stop and eat, they will be paid an allowance of \$1.50 for the trip, unless the engineer is on duty in excess of eight hours. Engineers on duty in excess of eight hours in this service who are not allowed to stop and eat will be paid the appropriate meal allowance applicable to interdivisional service.
10. Applicable schedule rules will apply to pool freight engineers required to attend formal investigations; however, a engineer or individual member thereof in interdivisional service who is ordered by the carrier to appear for a formal investigation at a location other than the assignment's home terminal will be compensated for the deadhead in accordance with existing agreements regardless of whether any discipline is assessed. To the extent possible, formal investigations will be held at the employee's home terminal.
11. Engineers in this service will be permitted to advance the starting date of a scheduled vacation period to coincide with the start of layover days.
12. It is not intended that engineers in this service be required to regularly perform local freight work such as station, plant and industrial switching.

13. When an engineer is called and released prior to the on-duty time, the engineer will be paid $\frac{1}{2}$ of a minimum day at the rate of service for which called and will maintain board standing
14. When an engineer in this service is called and released after the on-duty time but before the road trip begins, the engineer will be paid a minimum day at the rate of service for which called and stand first out.
15. In cases where employees are called and released prior to leaving their calling place, no payment will be allowed.
16. Engineers will not be required to trade trains in opposite directions.
17. Employees in this service will be permitted to lay off at the away-from-home terminal only in the event of illness or injury to the employee or immediate family member. When permitted to lay off under these circumstances, the employee will be permitted to ride a train to the home terminal.
18. Every employee adversely affected either directly or indirectly as a result of the implementation of this Agreement shall receive the protection afforded by Sections 6, 7, 8 and 9 of the Washington Job Protection Agreement of May 1936, except that for the purposes of this Agreement, Section 7(a) is amended to read 100% (less earnings in outside employment) instead of 60% and extended to provide period of payment equivalent to length of service not to exceed 6 years and to provide further that allowances in Sections 6 and 7 be increased by subsequent general wage increases.
19. Agreement provisions governing the operation of interdivisional service between Kansas City and Newton, including extra service, as contained in Agreement dated April 30, 1990, are unchanged.
20. Except as expressly modified by this Agreement, all rules, agreements, interpretations or practices, however established, remain in effect.

Signed at Fort Worth, Texas this _____ day of _____, 2003 and effective at 12:01 a.m. on the _____ day of _____, 2003

FOR THE BURLINGTON NORTHERN
AND SANTA FE RAILWAY COMPANY:

FOR THE BROTHERHOOD OF
LOCOMOTIVE ENGINEERS:

Assistant Vice President Labor Relations

General Chairman

APPROVED:

General Director Labor Relations

Vice President – BLE

SIDE LETTER #1

Mr. P.J. Williams
General Chairman BLE
509 SW Wilshire
Suite D
Burleson, TX. 76028

Dear Mr. Williams,

During the negotiations culminating in the agreement signed this date providing for interdivisional service between Kansas City and Wellington via two routes, you expressed concern regarding the preservation of work to the Newton or "third rail" employees.

This letter will serve to reinforce the discussions over the negotiating table and our mutual understanding that nothing in this agreement is intended to transfer existing "third rail" or "Newton" work to this service. Paragraph 2 of this agreement specifically preserves the service between Kansas City and Newton, including extra service and the savings clause, paragraph 24, recognizes that, unless explicitly changed, "all rules, agreements, interpretations or practices, however established, remain in effect." This includes, but is not limited to, the "Middle Division Extra Boards at Kansas City" and "Middle Division Seniority District No. 1 Newton Extra Boards" provisions contained under Section 6 of the April 30, 1990 Agreement. Moreover, we understood that Middle Division crews would handle, as they have in the past, traffic originating and/or terminating at Newton.

We understood, in clear and unambiguous terms, that it was not the intent of this agreement to eliminate, re-route or reassign Middle Division work to this new interdivisional service. The intent of the new interdivisional service is, primarily, to provide the flexibility that allows BNSF to route trains operating between Wellington and Kansas City over either route as traffic conditions require.

If the foregoing accurately reflects our understanding, please affix your signature in the space provided.

Sincerely

I AGREE:

Assistant Vice President
Labor Relations

General Chairman – Brotherhood
of Locomotive Engineers

SIDE LETTER #2

Mr. P.J. Williams
General Chairman BLE
509 SW Wilshire
Suite D
Burleson, TX. 76028

Dear Mr. Williams,

During the negotiations culminating in the agreement signed this date providing for interdivisional service between Kansas City and Wellington via two routes, you expressed concern regarding the preservation of work to the Newton or "third rail" employees that was addressed under Side Letter #1.

Part of this so-called "third rail" work involves the performance of Hours of Service Relief to westbound trains expiring under the Law west of Emporia. Part of the new interdivisional service contemplated by this Agreement involves the running of trains in the Kansas City – Wellington/Arkansas City Pools through Newton. We understood, as a threshold issue, that these trains were simply being allowed to traverse various routes thereby giving BNSF the flexibility to manage its traffic flow through this area and that the Newton employees did not have a right to claim equity to any traffic in these pools. On the other hand, the Newton crews have in the past performed certain Hours of Service Relief west of Emporia and, as a product of negotiation, we agreed that Newton crews would be allowed to perform Hours of Service Relief to westbound trains in this service that expired west of Emporia.

We understood that when Newton crews provide Hours of Service Relief west of Emporia and are directed to take the train to either Wellington or Arkansas City via Newton, the extra crew may, without penalty, operate through Newton. Moreover, it was clearly understood that BNSF's willingness to allow the Newton crews to perform the Hours of Service Relief identified in the Agreement does not, in any manner, suggest that the new interdivisional service established by this Agreement is operating through any home terminal as contemplated under National Agreement provisions addressing interdivisional service.

If the foregoing accurately reflects our understanding, please affix your signature in the space provided.

Sincerely

I AGREE:

Assistant Vice President
Labor Relations

General Chairman
Brotherhood of Locomotive
Engineers