

MEMORANDUM OF AGREEMENT

Between The

BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

And The

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

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Interdivisional service may be established between Denver – La Junta and Trinidad – Denver under the following conditions:

1. Interdivisional pool freight engineers will operate between Denver – La Junta and Trinidad – Denver, through the terminal of Pueblo. Trinidad and Denver will be established as the home terminals in this bi-directional operation. Trinidad will be the away-from-home terminal for Denver-based engineers. Denver will be the away-from-home terminal for Trinidad-based engineers. La Junta will be the off-duty point for Denver and Trinidad engineers who will then be transported to Trinidad under paragraph 15 of this agreement.

1.1 The district miles between Denver and La Junta shall be 184. The district miles between Trinidad and Denver shall be 210. Engineers called for and departing the terminal (i.e. train commences movement from the departure track) in this service will be allowed the above mileage except when the service is interrupted by an emergency such as flood, washout, derailment and the engineer is returned to the originating terminal. In that event, the engineer will be placed first out after eight hours rest, being given first consideration for deadhead to its home terminal.

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1.2 Engineers in interdivisional service shall not be used to perform non- interdivisional service.

1.3 The schedule agreement applicable to an engineer in this service shall be determined by the allocation of the assignment.

2. A pool of engineers shall be established and maintained at Denver and Trinidad, the home terminals, sufficient to man the service between Denver, La Junta and Trinidad. BNSF will determine the ratio of calling home terminal and away- from-home terminal pool freight engineers at Denver and Trinidad, dependent upon the needs of the service and engineer availability. The ratio of calling engineers with the same home terminal in comparison to engineers from the other home terminal, at either Denver or Trinidad, shall not exceed 5:1, except as provided below.

2.1 In the event of a bona fide emergency (as defined in Section 1.1), the calling ratio shall not apply. However, this section does not mitigate the company's obligation to maintain equity as required in Section 11 of this agreement and the attached Agreed-to Questions and Answers.

2.2 In the absence of an available away-from-home terminal engineer, more than 5 home terminal engineers may be called.

2.3 If either party to this agreement is of the opinion that application of the 5:1 ratio creates undue hardship and imbalance, the matter will be discussed between the Local Chairmen and the Crew Superintendent. Failing resolution, the matter may be appealed by the General Chairman to the Assistant Vice President of Labor Relations.

3. Except in cases of emergency, engineers in this service shall lay-off and report for service at the home terminal only.

4. When a pool freight engineer arrives at the home terminal, the engineer shall be placed to the bottom of the home terminal board. When a pool freight engineer arrives at the away-from-home terminal, the engineer shall be placed to the bottom of the away-from-home terminal board. These shall be the "inactive" boards.

5. BNSF shall, at 4 a.m., 8 a.m., noon, 4 p.m., 8 p.m., and midnight, "activate" engineers from the "inactive" boards to a so-called "active" board. When engineers are activated, their order of call shall be determined and shall govern the order of engineers called for service. BNSF shall endeavor, to the extent possible, to activate only the number of engineers that BNSF believes are to be used during the following eight-hour period. If a rested engineer is not available at the time of activation, then a made-up or so-called "cut-in" engineer may be activated. So-called "cut-in" engineers may be eliminated from the active list at activation time.

5.1 Activations must be made and published within plus or minus thirty (30) minutes of the specified activation times.

6. 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.

6.1 An "inactive" turn declining the opportunity to work shall retain its position on the board.

7. BNSF may re-sort activated away-from-home terminal engineers around home terminal engineers on the active list, at 7:00 a.m. and/or 7:00 p.m. The intent of this provision is to reduce held away from home terminal time and deadheading, but not to arbitrarily sort the active boards for other purposes. "Cut-in" engineers may be eliminated from the active list during re-sort. It is understood that an engineer may only be re-sorted once before being placed on duty after being placed on the active board.

8. 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 1/2 hours, an engineer at the home terminal could not have an on-duty time prior to 5 and 1/2 hours after being activated. At locations where the calling time is 2 hours, an engineer at the home terminal could not have an on-duty time prior to 6 hours after being activated. This provision shall not apply to engineers at the away-from-home terminal.

8.1 Engineers who have not received a call for service within sixteen (16) hours of their activation time as specified in Section 5 will be handled as follows:

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8.1.1 Engineers at the home terminal shall receive line mile compensation for the round trip and be placed at the bottom of the home terminal "inactive" board.

8.1.2 Engineers, regardless of seniority date, at the away from home terminal shall be deadheaded home and paid' line miles at the working rate.

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8.1.3 The payments contemplated by this Section 8 shall not be due under circumstances where BNSF can document that the excessive activation was due to circumstances beyond the control of the company, e.g., washout, rock slide, derailment, flood, fire or act of God.

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8.2 Engineers at the away from home terminal who receive a call to deadhead to the home terminal after having been tied up in excess of twelve (12) hours at the away from home terminal shall receive payment of line miles for such deadhead.

Example: If an engineer is deadheaded by the Interstate route between Denver and Trinidad or Trinidad and Denver, he or she would be allowed 210 line miles. If, however, they go to La Junta first, they would be allowed 268 miles (184+84).

9. The active board shall be updated at each activation time by deleting engineers that have been called during the prior four hours and adding engineers being activated.

10. La Junta – Pueblo engineers may recover their respective "equity" at La Junta in the south loop operation. The designated BLE representatives shall advise the appropriate BNSF Officer of the number of turns to be allocated to the First Boise & Pueblo Subdivision seniority district.

10.1 If there are no bidders with applicable prior rights to an allocated turn or extra list slot, engineer's seniority dates will govern.

10.2 All pool and extra board assignments in this operation will be allocated on the basis of the pool turns in this service, total trains and train miles as paid for under the prior method of operation, producing a ratio of:

Trinidad North BN	50
Denver SF	50

10.3 All assignments, including extra boards, will be allocated on the above percentage basis by use of the allocation table that is Attachment A to this agreement. Trinidad allocations will be taken at the Trinidad home terminal; Denver allocations will be taken at the Denver home terminal.

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10.4 Unless all of the parties reach some other mutually acceptable arrangement, as nearly as possible the number of engineers in these pools and under these allocations will be

adjusted so as to enable them to make between 4200 and 5200 miles per month, and the Local Chairmen and Superintendent or their representatives will cooperate to that end; company to furnish check of miles upon request of the local chairmen.

10.5 The involved local chairmen will apply the equity percentages set forth above to the train miles moving over these lines during the previous month. The involved local chairmen can then apply any mutually acceptable solution to recover any lost equity. If the local chairmen agree to have equity recovery positions bid, and there are then no proper bidders, the miles of equity recovery involved will be treated as waived. If the local chairmen fail to agree, the involved general chairmen will promptly meet to make all necessary adjustments, or to reach and agree to any other mutually acceptable arrangement. If the General Chairmen fail to agree, any involved party may invoke the arbitration procedures in Section 4 of Article IX of Arbitration Board No. 458, dated May 19, 1986 in order to reach a permanent mechanism for making equity adjustments.

11. As of 12:01 a.m. each Tuesday, BLE Local Chairmen will be provided a status report of trips made by Denver and Trinidad engineers during the preceding seven-day period (from the preceding Sunday at 12:01 a.m.).

11.1 BNSF will be obligated to obtain a trip equity reflecting 50% of the trips made by Denver engineers and 50% of the trips made by Trinidad engineers, plus or minus 4 trips, at any point between 12:01 a.m. on the 12th day and 11:59 p.m. on the 14th day.

11.2 If, at any point during the 72-hour period from 12:01 a.m. on the 12th day and 11:59 p.m. on the 14th day, the trip equity balance is within four trips, no adjustment shall be made to balance the pool. A new balance cycle shall not begin until 12:01 a.m. on the 15th day, or 12:01 a.m. on the third Sunday.

11.2.1 When the trip equity balance is within four trips at any point between 12:01 a.m. on the 12th day and 11:59 p.m. on the 14th day of the cycle, the number of trips within the allowable parameter of four shall be carried over to the next balance cycle.

11.3 If a balance within four trips cannot be reached at any point during the 72- hour period from 12:01 a.m. on the 12th day and 11:59 p.m. on the 14th day of the cycle, BNSF shall be obligated to balance the trip equity (within four trips) to the home terminal pool with the lesser number of trips realized from the beginning of the balance cycle based on the imbalance as of 11:59 p.m. on the 14th day. This to be accomplished by deadheading or working a sufficient number of engineers working the home terminal pool with the lesser number of trips (who are at either the home terminal or the away-from-home terminal) by 11:59 p.m. of the 14th day.

12. In connection with relieving pool freight engineers in this service tied up under the Hours of Service Law, the following will prevail when it is necessary to call an engineer out of the terminal:

Trains running from Denver to La Junta

From Denver and up to Pueblo, the ID pool engineer (in this service) standing first out at Denver will provide hours of service relief.

From Pueblo to La Junta, an engineer from the coal loop extra board at La Junta may provide hours of service relief.

Trains running from Trinidad to Denver

From Trinidad up to Pueblo, the ID pool engineer (in this service) standing first out at Trinidad will provide hours of service relief.

From Pueblo to Denver, an engineer from the Denver extra board may provide hours of service relief.

12.1 In connection with the establishment of the interdivisional freight pools created by this agreement, new loop extra lists will be created to protect service as follows:

Denver: Will protect service originating at Denver including this pool. This board will be administered in accord with ATSF rules.

Trinidad: Will protect service originating at Trinidad including this pool and may include dogcatching service between Texline and Trinidad. This board will be administered in accord with C&S rules.

13. Engineers in this service shall receive a \$1.50 meal allowance if on duty eight (8) hours or less, or a \$6.00 meal allowance if on duty in excess of eight (8) hours.

14. All miles run in excess of the miles encompassed in the basic day shall be paid for at the applicable interdivisional overmile rate. Weight-on-drivers additives will apply to mileage rates calculated in accordance with this provision.

15. When an engineer is required to report for duty or is relieved from duty at a point other than the on and off duty points fixed for the service established hereunder, BNSF shall authorize and provide suitable transportation for the engineer. Suitable transportation includes BNSF owned or provided passenger carrying motor vehicles or taxi but excludes other forms of public transportation.

15.1 Crews transported from La Junta to Trinidad shall be paid the greater of mileage (84 miles) at the basic pro rata through freight rate, or time consumed calculated from time relieved (train comes to rest at La Junta), on a minute basis at the basic pro rata through freight rate, separate and apart from the service trip.

15.2 In the event a crew member requests transportation at the conclusion of the trip under 15.1 above, and time waiting for transportation from tie-up until arrival of said transportation exceeds 30 minutes, all time waiting from expiration of 30 minutes until arrival of said transportation or arrival of the last crew being transported in that van (whichever is later) shall be paid to the engineer at the basic through freight rate in addition to all other earnings.

16. Engineers shall be allowed a meal allowance, at the rate provided under National

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Agreements, for four hours at the away from home terminal and another allowance after being held an additional eight hours and another after being held an additional sixteen hours.

17. Disciplinary hearings or investigations involving engineers in this interdivisional service will be held at their home terminal, except when the majority of the principals and principals' witnesses who are to attend live at other locations.

18. Engineers in this service may advance their vacations so as to coincide with layover days at the home terminal as well as mark-up during the final 24-hour period of vacation in order to avoid missing a round trip.

18.1 Employees assigned to this service who are entitled to take personal leave days pursuant to the provisions of the 1996 BN Memorandum of Agreement will be allowed to compact and be paid for up to five (5) personal leave days commencing at the time the crew is ordered at the home terminal until the turn is next again due to be ordered at the home terminal. This provision does not otherwise change any part of either the 1996 BN or the 1996 ATSF Memorandums of Agreement.

19. Engineers (both pre and post-1986) in this service may be moved from one long pool train to another long pool train traveling in the same direction and paid an allowance of one (1) hour at the basic through freight rate for each occurrence. Engineers may not be moved to a train traveling in the opposite direction.

20. When an engineer in this service is tied up under the Hours of Service Law or required to give up a train, the engineer shall be promptly deadheaded to the destination terminal.

20.1 When an interdivisional pool freight engineer is tied up under the Hours of Service Law and is to be transported to the distant terminal to complete the trip, and the time waiting for transportation exceeds one hour from the time the engineer ran out of time under the Hours of Service Law, he or she will be paid, on a minute basis, for all time spent waiting for transportation to the distant terminal. The payment shall cease upon arrival of said transportation. Example: An engineer is tied up under the law at 8:00AM. The van arrives at 9:30AM. The engineer will be paid 90 minutes. Another engineer is tied up under the law at 8:00PM. The van arrives at 8:50PM. This engineer will not receive any additional compensation under this provision.

20.2 If an interdivisional pool freight engineer is tied up under the Hours of Service Law while en route to La Junta, he will be allowed the mileage of the assignment, actual time from the overtime threshold until arrival at Trinidad, with a one hour minimum, paid at overtime rates and the payments specified in sections 15.1 and 15.2.

21. It is not intended that engineers in this service will be required to perform local freight work such as station, plant and industrial switching.

21.1 If, however, such service is required, the engineers shall receive actual time

consumed with a minimum of thirty minutes (30") at the pro rata rate, for each point at which such switching is performed, in addition to all other earnings for the day or trip.

21.1.1 Other than setting out bad order cars, spotting of cars at a particular location on a designated track, switching out cars from behind other cars, or making other than a straight set- out and/or pick-up, shall be considered station or industrial switching.

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21.2 When a crew in this service is required to stop at more than three (3) points en route for the purpose of making any change in the train content (other than setting out bad orders), the crew shall be allowed actual time aggregated with a minimum of thirty minutes (30") at the pro rata rate, in addition to all other compensation for the day or trip. "Change in train content" means when cars are added to or taken from the train.

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21.3 The provisions of the conversion rules are set aside when payment is made pursuant to this Section 21.

21.4 Payments made pursuant to this Section 21 are duplicate time payments as contemplated by the 1986 Award of Arbitration Board No. 458.

22. Call and Release

22.1 When an engineer assigned to this interdivisional service is called and released, after time of going on duty, but before road trip commences, the engineer will be paid a basic day or actual time whichever is greater, and stand first-out for service after securing not less than eight (8) hours rest under the Hours of Service Law, subject to call after six (6) hours.

22.2 When an engineer is called and released before going on duty, he will be paid 1/2 of a basic day at the pro rata rate for the service called and maintain standing on the board.

NOTE: If an engineer is called and released, held time will not be broken. However, there will be no duplicate time payment for held time and time on duty.

23. Employees in pool freight and in unassigned service held at other than home terminal will be paid on the minute basis for the actual time so held after the expiration of sixteen hours from the time relieved from previous duty at a rate per hour of 1/8" the daily rate paid them for the last service performed. Should an employee be called for service or ordered to deadhead after pay begins, held away from home terminal time shall cease at the time pay begins for such service. Payment accruing under this rule shall be paid for separate and apart from pay for the subsequent service or deadheading.

24. Every employee adversely affected either directly or indirectly as a result of the implementation of this Agreement shall receive the protection afforded by 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%; to provide for a period of payment equivalent to length of service not to exceed 6 years and for allowances in Sections 6 and 7 to be increased by subsequent general wage increases.

25. Except as specifically modified herein, all other agreements and understandings concerning work performed between Denver – La Junta and Trinidad – Pueblo remain in effect.

Signed at Ft. Worth, TX on Sept. 1, 2003 and effective Sept. 3, 2003

FOR THE BURLINGTON NORTHERN
AND SANTA FE RAILWAY CO.:

(signed) Wendell Bell
General Director-Labor Relations

FOR THE BROTHERHOOD OF
LOCOMOTIVE ENGINEERS:

(signed) Austin Morrison
General Chairman

(signed) Pat Williams
General Chairman

Approved:

(signed) Stephen Speagle
Vice President

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AGREED TO QUESTIONS AND ANSWERS:

Q. If the balance between pools were to be "4" at 11:00 p.m. on the eleventh day of the balancing cycle and did not reach "4" at any point between 12:01 a.m. on the 12th day and 11:59 p.m. on the 14th day, while ending up 8 one-way trips out of balance at 11:59 p.m. on the 14th day, what is the obligation of the Carrier?

A. The Carrier would be obligated to balance the trips in favor of the pool with the lesser number of trips in the amount of 4 one-way trips (8 one-way trips out of balance – 4 one-way trip limit = 4 one-way trips). The new balance cycle will start with 4 one-way trips in favor of the pool with the greater number of trips.

Q. When the Carrier is obligated to make the trip balance as contemplated by the above Question and Answer, how shall it be accomplished?

A. The Carrier will call from the pool with the lesser number of one-way trips the required number of engineers from the home terminal and/or away-from-home terminal to deadhead by 11:59 p.m. of the 14th day.

Q. What is the penalty if the Carrier fails to deadhead the number of engineers required as described above?

A. The required number of engineers that should have been called to deadhead by 11:59 p.m. of the 14th day will, when going on duty after 11:59 p.m. of the 14th day, be allowed a one-way working trip in addition to all other earnings on the trip.

Q. If the balance of trips between the pools were to be 10 out of balance on the 7th day of the balancing cycle, yet a 4 balance was reached at 9:00 p.m. on the 12th day, while ending up 8 trips out of balance at 11:59 p.m. on the 14th day, what is the obligation of the Carrier?

A. The Carrier would not be obligated to make any adjustments since a "4" balance was reached between 12:01 a.m. on the 12th day and 11:59 p.m. on the 14th day.

Q. If at 11:59 p.m. on the 14th day the balance was off by 7 one-way trips between the pools, yet 3 engineers were en route, what is the obligation of the Carrier?

A. Carrier would not be obligated to make any adjustments, since the 3 engineers en route as of 11:59 p.m. on the 14th day will be counted as having completed their trips for purposes of trip balance, i.e., within 4 one-way trips.

Q. Will engineers who are on duty but have not departed as of 11:59 p.m. on the 14th day be counted in the trip balance?

A. Yes.

Q. How will engineers overtaken by the Hours of Service Law be treated with respect to trip balance?

A. Engineers in this service overtaken by the Hours of Service Law will be credited with the entire one-way trip for balancing purposes. Likewise, an engineer in this service properly utilized to perform Hours of Service relief will be credited with an entire one-way trip for balancing purposes.

Q. What if there is an involuntary service interruption affecting this pool between 12:01 a.m. on the 8th day and 11:59 p.m. of the 14th day of the balancing cycle?

A. The Carrier will attempt to balance the trips at some point between 12:01 a.m. on the 12th day and 11:59 p.m. on the 14th day. However, if conditions were such that a trip balance of "4" cannot be obtained between 12:01 a.m. on the 12th day and 11:59 p.m. on the 14th day as a result of the service interruption, the Carrier will not be responsible for balancing trips between the pools for that particular cycle; however, the imbalance will be carried over to the next balancing cycle.

Q. If a trip balance of "4" is obtained on the 12th or 13th day of the cycle, when does a new cycle begin?

A. Regardless of when a "4" balance is reached between 12:01 a.m. on the 12th day or 11:59 p.m. on the 14th day, a new balance cycle begins at 12:01 a.m. on the 15th day, or every third Sunday at 12:01 a.m.

Q. Will any trips incurred as a result of work/wreck trains be utilized for trip balancing purposes?

A. No, only trips incurred in ID freight service will be included in trip balance.

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