

**UP-SP TRACKAGE RIGHTS IMPLEMENTING AGREEMENT 1B2**

between

**THE BURLINGTON NORTHERN AND SANTA FE RAILWAY Co.**

and

**BROTHERHOOD OF LOCOMOTIVE ENGINEERS**

1. The purpose of this agreement is to provide for expedited changes in services, facilities, operations, seniority districts and existing collective bargaining agreements to effectuate the trackage rights approved by the Surface Transportation Board in Decision No. 44 of Finance Docket No. 32760. The purpose is also to enable the company to provide effective competition to the combined UP-SP in corridors where such trackage rights have been granted, and to allow for integration of these trackage rights operations with other BNSF operations.

2. This particular Agreement covers immediate operations in the Houston - Memphis corridor only. Other Implementing Agreements, to be reached later, may amend this Agreement and will address operations in other corridors.

3. This Agreement builds on the parties' earlier Implementing Agreement and focuses on operations in the Houston - Memphis corridor upon effectuation of directional service along both former SP and former UP lines in this corridor. This Agreement will be revisited and, as necessary, renegotiated to continue to fulfill its purpose as the operational setting in this corridor changes.

4. Soon, BNSF's service, when UP institutes the same sort of operation, will have northbound movements over the former UP's route from Houston, through Longview and Little Rock to Memphis. The return, southbound movement will be over the former SP's Rabbit Line--that is, from Memphis, through Pine Bluff and Shreveport to Houston.

**IT IS AGREED:****Article 1 - Trackage Rights Territories****Section 1.**

A. In order to effectuate the movement of trains on the trackage rights territories, and to get engineers in place to operate them, two crew bases will be established, one at Longview and one at Memphis.

B. Engineers assigned at Longview will work Longview to Little Rock and Pine Bluff to Shreveport in bi-directional service. Engineers assigned at Longview will protect any yard assignments established at Longview.

C. Engineers assigned at Memphis will work Memphis to Pine Bluff and Little Rock to Memphis in bi-directional service and protect any yard assignments established at Little Rock or Pine Bluff.

D. In case of main line service interruptions, the Engineers referred to in paragraphs B and C would have the right to operate necessary detour movements.

**Section 2**

The carrier will establish an engineers' combination extra board at Longview to protect work on the Longview to Little Rock/Pine Bluff territory. The carrier will also establish a separate extra board at Memphis to protect work on the Memphis to Little Rock/Pine Bluff road territory. Extra board employees will not be required to stay on outlying jobs more than 1 week in each 4 week period if other employees are available on the extra board who have not worked on an outlying job in the previous 3 weeks.

**Section 3**

A. When a Longview crew, destined to Little Rock, must tie up under the Hours of Service Law at or east of Sheridan Junction, the first out Memphis crew at Little Rock may be used to provide relief. When so used, the Memphis crew will be transported to the train and handle it through Little Rock without release, and handle the train on to Memphis.

Memphis crews used in this manner will be paid actual miles transported and run east of Little Rock with a minimum of 25 miles (in addition to the regular trip miles).

Likewise, when a Memphis crew, destined to Pine Bluff, must tie up under the Hours of Service Law at or west of Humphrey, the first out Longview crew may be used to provide relief. When so used, the Longview crew will be transported to the train and handle it through Pine Bluff without release, and handle the train on to Shreveport. Longview crews used in this manner will be paid actual miles transported and run east of Pine Bluff with a minimum of 25 miles (in addition to the regular trip miles).

Likewise, when a Longview crew, destined to Shreveport, must tie up under the Hours of Service Law at or west of Alden Bridge, the first out Houston crew may be used to provide relief. When so used the Houston crew will be transported to the train and handle it through Shreveport without release, and handle the train on to Houston. Houston crews used in this manner will be paid actual miles transported and run east of Shreveport with a minimum of 25 miles (in addition to the regular trip miles).

Likewise, when a Houston crew, destined to Longview, must tie up under the Hours of Service Law at or east of \_\_\_\_\_, the first out Longview crew may be used to provide relief. When so used the Longview crew will be transported to the train and handle it through Longview, without release, and handle the train on to Little Rock. Longview crews used in this manner will be paid actual miles transported and run west of Longview with a minimum of 25 miles (in addition to the regular trip miles).

B. The Longview extra board will be used to dogcatch trains operating between Pine Bluff and Shreveport; if no one on that board is rested and available, a pool engineer may be used. The Memphis West extra board will be used to dogcatch trains operating between Little Rock and Memphis; if no one on that board is rested and available, a pool engineer may be used.

C. If an engineer at his/her away from home terminal is used to dogcatch a train destined to that away from home terminal, that engineer, upon arrival with the dogcaught train at the away from home terminal, will be immediately released and deadheaded to the home terminal.

#### Section 4

The former SL&SF Engineers' Schedule rules will apply in the two trackage rights territories described in Section 1 above.

### Article 2 - Selection of Forces

#### Section 1

A. The engineers presently working at Shreveport and Memphis West will have prior rights to service protected by their respective crew bases.

B. On the effective date of this agreement, two new engineers' seniority districts are created: the East Texas district and the Memphis West seniority district. Prior righted Shreveport engineers will be placed on the East Texas roster; prior righted Memphis West engineers will be placed on the Memphis West roster. Engineers hired, promoted or transferring to these new districts after the effective date of this agreement will be placed on the roster below the prior righted engineers.

C. Before engineers are hired or a local promotional class is created on either of these two new districts, the carrier will post a 10-day bulletin on the balance of the former SL&SF territory, stating on the notice the number of engineers needed, in order to give engineers an opportunity to transfer to the new districts. Bidders will be selected based on their engineer's seniority date.

#### Section 2

The attached Memorandum of Agreement will govern the rights of engineers to return to their original seniority district.

### Article 3 - Supplements

The elements contained within this article are included strictly and only in exchange for the Organization's cooperation in expeditiously reaching a voluntary Implementing Agreement without resort to the delays and risks associated with arbitration under Section 4 of the Norfolk & Western Conditions. Since these elements go beyond the "selection of

forces" issues which are the proper and limited subject matter of Section 4, they shall have no application, precedential value or persuasive force in any other setting, including failure of ratification.

#### Section 1

Should the carrier cease operations on one or more of the new districts, or if, for a three year period after initiation of operations, there is a sustained reduction in service on one or more of the new districts which causes the displacement (from the engineers' quota) or dismissal of engineers, the affected engineers who make an actual *bona fide* change in residence back to their former location or to a new location will receive all the benefits of the BLE Moving Benefits Package, signed on February 19, 1996.

#### Section 2

A. Upon commencement of the bi-directional operation, Carrier will provide transportation between Little Rock and Pine Bluff for all crews protecting a tour of duty which originates and/or terminates at Pine Bluff or Little Rock, in order to have such crews in place to make the return trip by the other line. Similarly, the Carrier will provide transportation between Shreveport and Longview for Longview-based crews.

B. Whether at the beginning or at the conclusion of a tour of duty, Memphis - based crews transported from Pine Bluff to Little Rock and Longview - based crews transported from Little Rock to Pine Bluff shall be paid time consumed in being transported, calculated from time relieved (train comes to rest), on a minute basis at the basic pro rata through freight rate, separate and apart from the service trip, with a minimum of two (2) hours. Longview - based crews, transported from Shreveport to Longview shall be paid the greater of mileage (55 miles), at the basic pro rata through freight rate, or time consumed, calculated from time relieved (train comes to rest), on a minute basis at the basic pro rata through freight rate, separate and apart from the service trip.

C. In the event individual crew members elect not to avail themselves of transportation as described above, payments shall nevertheless be paid to such crew members.

D. Individual crew members who choose to reside in the Shreveport vicinity may, for a period of 2 years from commencement of bi-directional operations, request

carrier-paid commuter van service from Shreveport to Longview for commencement of a trip out of Longview. In such event, the crew member(s) shall not be considered on duty or under pay, nor shall they be entitled to the highway mileage payments set forth above; rather, such van service shall be considered merely as a convenience to crew members who may elect to maintain their personal residences closer to Shreveport than to Longview.

E. In the event a crew member requests transportation at the conclusion of a trip under B above, and time waiting for transportation from tie-up until arrival of said transportation exceeds 45 minutes, all time waiting from expiration of 45 minutes until arrival of said transportation shall be paid to the crew member at the pro rata basic through freight rate.

### Section 3

A. During a two-year period following commencement of operations and when the Longview or Memphis pool requires 4 or fewer engineers, employees in pool freight service in that zone shall earn a payroll period compensation guarantee of not less than the engineers' guaranteed extra board rate, applied as per side letter #1 of May 31, 1996.

B. The amount of the employee's payroll period compensation guarantee may be prorated or reduced on the basis of 1/13, 1/14, 1/15 or 1/16 (depending on the number of days in the payroll period) for each 24 hour period or portion thereof, when an employee lays off or is otherwise unavailable for service. Penalty payments and payments for attending operating rules classes, training classes, physical examinations and holidays shall be paid in addition to the guaranteed amount.

### Section 4

Overmiles on these runs will be paid as if these were Intra-seniority District runs under Arbitration Board No. 458 and the May 31, 1996 BN-BLE Agreement.

### Section 5

Due to the extraordinary efforts by the crews in this operation and certain other considerations which we have discussed, Held Away from Home Terminal payments shall be made on a continuous time basis after expiration of 16 hours. It is expressly

understood and agreed that this is done without any prejudice to either party's position, and will not be referred to in any other context whatsoever.

#### Article 4 - General

##### Section 1.

A. The parties have negotiated this Agreement mindful of the fact that their futures are linked and that we must work together to succeed over the long term. Therefore, the parties mutually pledge and commit themselves to act reasonably in the application of this agreement.

B. The parties will meet within 90 days of the implementation of this Agreement to review its operation.

##### Section 2

A. All pre-existing agreements that conflict with the terms of this agreement are superseded to the extent of the conflict.

B. This implementing agreement is made pursuant to the Norfolk & Western Conditions (354 I.C.C. 605, 610-615) which, by this reference, are incorporated here.

C. Except as specifically provided, nothing in this implementing agreement shall be interpreted to expand or contract protective benefits provided in the Norfolk & Western Conditions imposed by the Interstate Commerce Commission and incorporated here by paragraph B of this section.

Section 2. This agreement will become effective upon 5 day's notice from the carrier after execution by the parties, and will later be changed by mutual agreement or in accord with the Norfolk & Western Conditions.

Signed and accepted at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 1998

# Brotherhood of Locomotive Engineers

GENERAL COMMITTEE OF ADJUSTMENT  
BURLINGTON NORTHERN RAILROAD COMPANY

T. R. MURPHY  
GENERAL CHAIRMAN

3433 S. CAMPBELL SUITE O  
SPRINGFIELD, MISSOURI  
65807

January 23, 1998

Mr. D. L. Greer  
BLE Local Chairman Div. 172-Longview  
3100 McCann Road, Apt. 1302  
Longview TX 75605

Mr. Mike Strange  
BLE Local Chairman Div. 672-Memphis West  
6232 Cherokee  
Olive Branch, MS 38654

Dear Sirs & Brothers:

Enclosed herewith please find a proposed Implementing Agreement concerning services, facilities, operations, seniority districts and collective bargaining agreements to effectuate the trackage rights approved by the Surface Transportation Board in Decision No. 44 of Finance Docket No. 32760. This proposed agreement covers the trackage rights territory between Memphis, Tennessee and Longview/Shreveport, Texas.

This proposed agreement titled "UP-SP Trackage Rights Implementing Agreement 1B2" contains several changes to the original agreement:

- \* Longview will be a crew base rather than Marshall (Article 1, Section 1A)
- \* Extra Board engineers will not be required to work outlying jobs more than 1 week in each 4 week period if other extra engineers are available (Article 1, Section 2)
- \* When pool crew used to provide Hours of Service relief under "25 mile" provision, time and miles are in addition to regular trip (Article 1, Section 3)
- \* Away-from-home crews used to dogcatch trains will be released upon arrival at away from home terminal and dead-headed to home terminal (Article 1, Section 3C)
- \* Two new seniority districts created, the East Texas and Memphis West districts (Article 2, Section 1B)



- \* All engineers presently working at Memphis West or Shreveport will retain prior rights to service on their districts (Article 2, Section 1A)
- \* Following a service trip, payments made to engineers transporting Little Rock to Pine Bluff, and to engineers transporting Shreveport to Longview, are separate and apart from the service trip (Article 3, Section 2B)
- \* HELD-AWAY-FROM-HOME-TERMINAL shall be on a continuous time basis after 16 hours and is now a permanent part of agreement (Article 3, Section 5)

The last item above represents a significant victory for the engineers we represent. I trust that you will both advise the members voting on this proposal that this and other provisions in Article 3 would be difficult, if not impossible, to retain should we go to arbitration on this matter. This proposal represents a lot of work by this Committee. And I believe it is a much better agreement than we could get from an Arbitrator.

In accordance with Article 43(b) - Standing Rules of the Constitution and Bylaws and Article XI of this Committee's Bylaws, please cast your ballot "FOR" or "AGAINST" the proposed agreement. I am requesting that you expedite the handling of this proposal and let me know as soon as possible your division's vote. If you desire, you may telephone the office with your vote, and mail your ballot later.

Thank you for your help and prompt attention to this matter.

Fraternally yours,



T. R. Murphy  
General Chairman

TRM/jv

enc.

MEMORANDUM OF AGREEMENT  
between  
BURLINGTON NORTHERN RAILROAD  
THE ATCHISON, TOPEKA & SANTA FE RAILWAY Co.  
and  
BROTHERHOOD OF LOCOMOTIVE ENGINEERS

This Agreement addresses some seniority issues involving BN engineers that appear to arise in the context of the new UP-SP trackage rights/purchase operations. More particularly, this Agreement addresses the situation of employees who bid to these new operations away from their engineers' seniority and service on an existing seniority district on BNSF. An example would be a Seattle Engineer electing to take one of the new positions (as Engineer or as Conductor) at San Antonio. The Agreement, however, does not apply to a situation where an existing BNSF seniority district is expanded to include the new trackage rights operation--as at Teague and Houston, or at Klamath Falls.

**IT IS AGREED:**

1. Engineers, whose names appear on existing BN engineers' seniority rosters, and who accept assignment on these new territories will continue to retain and accumulate seniority on their original seniority district.

2. However, such engineers will be permitted to return to their original seniority district only under the following conditions:

- a. The engineer is unable (except for disciplinary reasons) to hold any engineer's assignment (including the engineers' extra board) on the new territory; or
- b. If the engineer has been on the new territory for less than 90 days (and has not yet taken a BNSF Moving Benefits Package).
- c. If the engineer elects to remain on the new territory by receiving a Moving Benefit Package, or stays beyond the 90 day period, the engineer may not voluntarily return to his original seniority district except in accordance with paragraph (a) above.

3. Any engineers who return to their original seniority district under paragraph 2(a) will retain their ranking on the seniority roster (or order of selection list), and will be


permitted to return when they are notified that they are able to hold a regular assignment on the trackage rights territory. An employee who has received notification of recall to the new territory has 30 days from the date the notice was received to return to the new territory. If the employee declines to return within the 30 day period, the employee will forfeit all rights as an engineer on the trackage rights territory. In that event, the employee and the involved General Chairman will be notified, in writing, by the carrier that the employee has forfeited all rights as an engineer on the new territory.

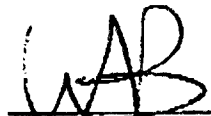
4. A promoted engineer who takes a position on the new territories will not be subject to recall, as an engineer, on his prior seniority district

Signed and accepted at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 1996


for  
BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS

for BURLINGTON NORTHERN RR.  
and THE ATCHISON, TOPEKA &  
SANTA FE Ry.


  
\_\_\_\_\_  
General Chairman

  
\_\_\_\_\_  
Director - Labor Relations

  
\_\_\_\_\_  
General Chairman

  
\_\_\_\_\_  
Director - Labor Relations

  
\_\_\_\_\_  
General Chairman

  
\_\_\_\_\_  
Vice President

# Brotherhood of Locomotive Engineers

GENERAL COMMITTEE OF ADJUSTMENT  
BURLINGTON NORTHERN RAILROAD COMPANY

3433 S. CAMPBELL, SUITE O  
SPRINGFIELD, MISSOURI  
65807

T.R. MURPHY  
GENERAL CHAIRMAN

November 20, 1996

To All Local Chairmen  
Brotherhood of Locomotive Engineers  
Burlington Northern Santa Fe Railroad

Dear Sirs & Brothers:

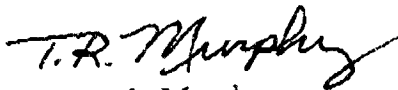
Please find enclosed two documents connected with implementing BNSF train operations over the UP and SP railroads through overhead trackage rights arrangements. The enclosed represents the revised proposals which I told each of you to expect. Also enclosed for your review is a letter I received from BLE President C. V. Monin concerning his instructions on the ratification procedure to be used.

As you will note, President Monin has ruled that the proposed implementing agreement does not require ratification. He did rule, however, that the proposed agreement relative to seniority retention and accumulation must be ratified under Section 43(b) - Standing rules of the BLE Constitution and Bylaws. In light of President Monin's ruling, please disregard the ballot previously sent to you in connection with the implementing agreement.

With respect to the proposal on seniority retention and accumulation, please cast your vote for or against the proposed agreement in accordance with SR 43(b) and Article XI, Section 1(c) of this Committee's Bylaws. Please use the ballot you received earlier to cast your vote. Ballots must be returned no later than December 6, 1996.

Please contact me at your convenience if you have any questions concerning this matter.

Fraternally yours,



T. R. Murphy  
General Chairman

TRM/jv

enc.

\_\_\_\_\_  
General Chairman

  
\_\_\_\_\_  
Director - Labor Relations

\_\_\_\_\_  
Vice President

  
\_\_\_\_\_  
Director - Labor Relations



# Brotherhood of Locomotive Engineers

1370 ONTARIO STREET  
CLEVELAND, OHIO 44113-1702  
TELEPHONE (216) 241-3630  
FAX (216) 241-8516

C. V. MONN  
International President

November 19, 1996

Mr. T. R. Murphy  
GC - BNSF (SLSF)  
3433 South Campbell  
Suite 0  
Springfield, Missouri 65807

Dear Sir and Brother:

This will acknowledge your letter of November 18, 1996, requesting an interpretation of the Constitution and Bylaws as it pertains to which procedure must be followed in order to ratify two agreements reached following the granting of trackage rights to BNSF by the Surface Transportation Board concomitant to its approval of the UP/SP merger.

The first agreement, which governs only the former SLSF territory, concerns the selection of forces, operations, pay elements, etc., on the territory between Marshall, Texas (Shreveport, Louisiana) and Memphis, Tennessee. The second agreement concerns the retention and accumulation of seniority for BN engineers who leave their original seniority district to accept assignment on one of the new trackage rights territories. This agreement, therefore, applies to the entire former BN territory.

It could be logically argued that one of three provisions of Brotherhood law would apply in this circumstance - Sections 33(a)(1)A-III, 43(a) and 43(b) - Standing Rules. It might be tempting to say that SR - 33(a)(1)A-III governs, since it pertains to merger contracts; and the above agreements have been reached in connection with a merger. However, SR-33(a)(1)A-III applies only to properties being merged, consolidated or absorbed; and, although BN is obviously affected, it is not a party to the merger.

Section 43(a) - Standing Rules also does not fit, because the agreements are not the result of a wage/rules settlement, either concerted or on-property. That leaves SR-43(b). The trackage rights implementing agreement and seniority retention and accumulation agreement can be readily classed as system changes of schedule rules as found under this section. Accordingly, ratification for the seniority retention agreement shall be accomplished by a vote of the active members present in each division meeting, unless the GCA has adopted a form of referendum ratification. Each local chairman shall then cast his/her vote in accordance with the expressed wish of the members present. Furthermore, since this agreement encompasses more than one GCA, the votes of the local chairmen in all involved GCA's shall be placed into a common hat; and the vote of the majority shall govern.

Mr. T. R. Murphy  
November 19, 1996  
Page 2

With respect to the trackage rights implementing agreement, however, it is understood that new seniority districts are being created; and these districts will be placed under the jurisdiction of Divisions 172 and 672. If it were the case that existing seniority districts were merely being extended, then the affected divisions would be afforded the opportunity to ratify the agreement under the provisions of SR-43(b). But since entirely new seniority districts are being established, and there are presently no members employed on these yet to be established districts, it must be concluded that no division is affected at this point, since no division presently has members employed on these hypothetical districts. Accordingly, a ratification vote is not only not necessary; it is not possible. Therefore, you may sign the trackage rights implementing agreement without further delay.

Trusting this information is beneficial, I am

Fraternally yours,

*A. V. Morrison*

President

cc: E. Dubroski, FVP  
R. W. Bennett, GST  
D. M. Hahs, VP  
D. L. McPherson, GC - BN/MRL  
A. G. Morrison, GC - BN(C&S/FWD)