



NATIONAL MEDIATION BOARD
Washington, DC 20572

June 8, 2009

Milton H. Siegele, Jr.
Assistant Vice President
Labor Relations
BNSF Railway Company
2600 Lou Menk Drive
PO Box 961030
Fort Worth, TX 76161-0030

Re: Public Law Board No. 7321 – BNSF Railway Company and the United
Transportation Union

Dear Mr. Siegele:

The National Mediation Board (NMB) has received a request from you to establish a Public Law Board involving the BNSF railway Company and the United Transportation Union, under the provision of the Railway Labor Act, as amended and pursuant to Public Law 89-456. The Attachment "A" lists one (1) case.

This request has been docketed as Public Law Board No. 7321, and will hereafter be referred by that number.

The parties have selected Barry Simon to serve as the neutral member of this board. Mr. Simon's certificate of appointment has been issued.

Sincerely,

A handwritten signature in cursive script that reads "Roland Watkins".

Roland Watkins
Director, Office of Arbitration Services

Copies to:

M. B. Futhey, Jr., Intl. President
Jason Ringstad, Carrier Member
Randal Knutson, Employee Member
Jay Schollmeyer, Employee Member
Gary Virgin, Employee Member

PUBLIC LAW BOARD NO. 7321

UNITED TRANSPORTATION UNION)
)
 vs.)
)
 BNSF RAILWAY COMPANY)

Carrier File: 53-09-0012
Organization File: None
CASE NO. 1
AWARD NO. 1

STATEMENT OF CLAIM

Does the Carrier (BNSF) have the authority to impose the Laurel, MT Shuttle proposal that was initialed by the respective UTU General Chairmen and subsequently failed the Organization's ratification process, under the terms and conditions set forth in Article IX of the 1985 National Agreement?

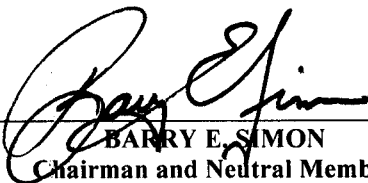
FINDINGS

Public Law Board No. 7321, upon the whole record and all the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that the Board has jurisdiction over the dispute herein; and that the parties to the dispute were given due notice of the hearing and did participate therein.

This award will not be referred to as a precedent by either party in any other case or under any circumstances in the future.

AWARD

The Carrier has the authority to impose the Laurel, MT Shuttle proposal initialed by the respective UTU General Chairmen.



BARRY E. SIMON
Chairman and Neutral Member

Dated this 15TH day of JUNE, 2009

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MEMORANDUM OF AGREEMENT

Between

BNSF RAILWAY

And

UNITED TRANSPORTATION UNION

In recognition of the mutual benefits of expediting the movement of traffic through the Laurel area, the following provisions are agreed to concerning the establishment and operation of through freight interseniority district shuttle service headquartered at Laurel.

Shuttle Service:

1. The limits of this service will be:
 - A. Laurel Subdivision – MP 37.5 (to include all trackage on the new line being built around MP 30.6 to Signal Peak Energy).
 - B. Forsyth Subdivision – MP 192 (Pompey's Pillar)
 - C. First Subdivision – MP 17.7 – West limit (west of Laurel, around Spurling)
 - D. Big Horn Subdivision – MP 784 (Hardin)
 - E. Casper Subdivision – MP 492 (Fromberg)
2. These crews may shuttle cars into and out of the Laurel terminal, and within the limits encompassed above, without penalty.

The parties recognize the existing east and west General Switching Limits at Laurel as MP 10.9 and MP 16.9.

3. Laurel, MT is currently an interchange point. Crews in this service will not be required to perform yard switching and may only perform one move in addition to delivering and/or receiving their train in interchange at this location. If the crew handles the same cars into and out of Laurel, that terminal will be considered an intermediate interchange locations for that train, and the crew is limited to one move in addition to a pick-up and/or set-out of interchange within those switching limits.

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The addition move referenced in this section is confined to one of those prescribed by Article VII, Section 1(a), of PEB 219.

4. The use of this shuttle pool to protect trains to/from the Signal Peak Energy Facility does not create the exclusive right for this pool to perform service on these trains or service within these limits.
 - a. If a Great Falls pool crew is used to handle trains to/from the Signal Peak Energy facility, the crew will be compensated for the side trip to/from the Signal Peak Energy facility on a mileage basis independent of the compensation of the trip and without offset to overtime, if any.
5. These assignments will operate in unassigned pool service headquartered at Laurel.
 - A. Crew's will work first-in, first-out. Crew's arriving for board placement on trains will be placed by their arrival time at Laurel yard. Crew's arriving for board placement who are not on trains will be placed by their arrival time at the tie-up point.
 - B. If the pool is exhausted, the service will first be protected by the Laurel extra board. All crews called from the extra board will operate under the same conditions and be paid the same as if working a regular shuttle assignment.
 - C. Away from home terminal pool crews at Laurel will not be called or used to augment shuttle service under this agreement.

Compensation

6. These crews will have no mileage limitation and will be paid a trip rate of \$322.20 for the conductor and \$309.10 for the brakemen; this includes a daily rate of \$218.18 for conductor and \$209.48 for brakemen plus 2 hours overtime, short crew allowance and Code NE in lieu of meal. Crews will be expected to carry a lunch and BNSF will not be obligated to provide a meal period; however, the Code NE will be payable whether the crews are instructed to take a meal or not. All other rules and agreements not specifically addressed in this agreement remain undisturbed and are still payable under the appropriate CA code. Crews in this service on duty more than 10 hours will be paid overtime accordingly. Examples: 1) crew on duty 8 hours will be paid a trip rate, which includes 2 hours overtime; 2) crew on duty 12 hours will be paid a trip rate, which includes 2 hours overtime, plus 2 hours overtime.
7. Shuttle Service covered by this agreement is considered an assignment that qualifies for Holiday Pay, but employees would be allowed to accrue and utilize Personal

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Leave Days. However, no employee covered by this Agreement shall receive more than eleven personal leave days and/or paid holidays in any calendar year.

Conductor Personal Leave Day and Holiday Pay - \$218.18 (8 Hour Daily Rate)
Brakeman Personal Leave Day and Holiday Pay - \$209.48 (8 Hour Daily Rate)

Overtime for working a Holiday will only be applicable to the first 8 hours of the day, calculated on the 8 Hour Daily Rate of \$218.18 for Conductors and \$209.48 for Brakemen. Overtime when working a Holiday will not be applicable to the other components in the Shuttle Service Trip Rate.

8. All assignments established under the provisions of this agreement will operate under the schedule rules and agreements in effect on the former GN property, to include the applicable Crew Consist Agreement(s), unless otherwise modified herein.

Employees who are eligible for accreditation and accumulation of productivity fund shares under the existing crew consists of their respective territories will continue to participate in such eligibility through the 04 District Account. Regardless of prior right allocation of their assignment, eligible employees will be credited one share in the 04 District Account for each tour of duty on assignments established herein. Likewise, for each tour of duty operated with Conductor-only or one (1) Conductor and one (1) Brakeman, the Carrier will credit the 04 District Account with an amount of \$48.25.

9. Trainmen in the shuttle pool will be provided the same guarantee as the conductor's extra board on a temporary basis, subject to the Crew Consist Agreement date May 20, 1993 (Article III), until December 31, 2009.

Extra Board

10. An extra board will be established, guaranteed and regulated at Laurel in accordance with Article III of the May 20, 1993 Crew Consist Agreement for the sole purpose of protecting vacancies in the shuttle pool.
11. Crew's will work first-in, first-out. Crew's arriving for board placement on trains will be placed by their arrival time at Laurel yard. Crew's arriving for board placement who are not on trains will be placed by their arrival time at the tie-up point.

Existing Pools

12. The exercise of the provisions contained in this agreement will not serve to cause a material change in the trip rates of the existing freight pools (Sheridan, Forsyth, Great

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Falls and Greybull) affected by this agreement. This agreement will not change the mileage of existing operations and these pools will not be shortened or extended as a result of this agreement. These pools will continue to have exclusive rights to operate trains on their respective subdivisions, except to the extent as modified in this agreement.

If a shuttle assignment operates a train out of Laurel to a location within the above limits or beyond (penalty), the respective pool crew standing to protect service to destination of train will be used to operate the train to the home terminal. Trains shuttled out of Laurel will be operated first by 1) the respective pool crew standing for service at the away-from-home terminal or in the absence of a rested pool crew at the away-from-home-terminal, by 2) deadheading a pool crew from the home terminal to the train and operating back to the home terminal.

In the second scenario above, the pool crew called at the home terminal will be compensated two trip rates, and will be considered for the purposes of existing agreements as if having had deadheaded and worked in the pool from the home terminal to away-from-home terminal and return. If there are no rested pool crews at the away-from-home terminal or home terminal under scenarios 1 and 2, above, this service shall be augmented under existing agreements at the home terminal, and the crew compensated as provided herein.

General

13. Trainmen who are awarded one of the assignments established herein or who make proper displacement to one of these assignments, under the provisions of this Article, will be required to protect service at Laurel for the remainder of the equity year (June 30). Furthermore, trainmen awarded one these assignments will not be subject to displacement by senior trainmen from outside of Laurel through the end of the current equity year, unless the displacing trainman is unable to hold any position as a trainman on his/her seniority district. This provision does not impose restrictions on the exercise of seniority among the trainmen working at Laurel. Should such an employee no longer be able to hold a shuttle or extra board assignment at Laurel within their respective allocated assignments, they will be released from the one year obligation and therein eligible to exercise their seniority elsewhere under existing agreements.

- a. Successful applicants for the initial bulletining and assigning of the first six shuttle assignments and the first three positions on the extra board will be afforded a relocation allowance of five thousand dollars (\$5,000.00).

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- b. This contemplates a total payout of \$45,000 for all relocation allowances paid under this section.
 - c. The equity year referenced in this Section will begin July 1 and continue through June 30 of the following year. A trainman who has been properly displaced from their assignment at Laurel, or bids out, will not be released from the assignment until their replacement is qualified on the shuttle assignments.
 - i. BNSF will determine the minimum amount of qualification trips required under this Section. Employees who are required to make such qualification trips will be compensated a basic day for each day in qualifying service.
 - d. The Former GN "no access" rule will not apply to assignments bulletined under the terms of this agreement.
14. The parties will work together on the process used to measure equity. This process is described in greater detail in Side Letter #1 to this agreement.
15. Shuttle assignments, regular and extra, will receive a 2-hour call and will not be tied up for rest at any location except Laurel.
16. When a shuttle crew is required to report for duty or is relieved from duty at a point other than the on and off duty point fixed for this service, the Carrier shall authorize and provide suitable transportation for the crew. Suitable transportation includes Carrier-owned or provided passenger vehicles or taxi.
17. Employees assigned to service established under the agreement will be provided with an individual locker and adequate washroom facilities at on and off duty point (transportation to and from facility will be provided, if not in the vicinity). Minimum size of the locker will be 21"x18"x72". Lockers will be assigned and not be shared or temporary. If a locker is not available when requested, the Carrier will furnish a locker within a reasonable amount of time, but not to exceed a period of two (2) weeks.
18. As this agreement is negotiated in advance of the start of this new business, the parties will meet and discuss an interim operation plan until traffic levels warrant the establishment of the pool and extra board.

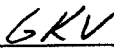
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19. Provisions contained in this agreement are agreed to on a strictly non-referable basis and will only be applicable to these outlined assignments. It was understood that this agreement would not establish a precedent applicable to future assignments.

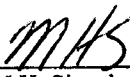
Signed at Fort Worth, Texas this ____ day of _____, 2009.

For the UTU:

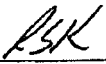
For the BNSF Railway:




S. Green
General Chairman UTU



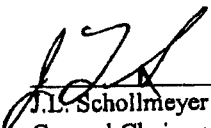
M.H. Siegele, Jr.
Assistant Vice President - Labor Relations



R.S. Knutson
General Chairman UTU



J. K. Ringstad
General Director - Labor Relations



J.L. Schollmeyer
General Chairman UTU

Side Letter #1 to UTU Shuttle at Laurel - Equity

Pursuant to the terms of this agreement, the territorial limits of shuttle service established herein includes portions of three (3) separate BNSF seniority districts; Seniority District 04 (former GN/NP), Seniority District 03 (former NP), and Seniority District 09 (former CB&Q). It was therefore agreed that equity allocation for both the regular shuttle assignments and positions on the extra board at Laurel, MT will be accomplished as follows:

1. The initial three assignments established under the terms of this agreement (regular and/or extra) will be equally allocated between the three districts as follows:

Assignment 1: District 04
Assignment 2: District 09
Assignment 3: District 03

Allocation assigned the first three assignments will remain static and is not subject to future change regardless of the subsequent yearly allocation adjustments. When a new position is added or a vacancy occurs on either the pool or the extra board, it will be bulletined within the seniority district to which the position is allocated. When the senior applicant is awarded the bid, they will have the option of accepting the new position or displacing a junior employee from an existing position with the same district allocation. The displaced employee will retain their territorial protection afforded under Article 13 if they choose to exhaust their seniority at Laurel, MT.

2. Territorial service of these shuttle assignments will be recorded and monitored on a 12-month basis from June 1 through May 31, each consecutive year.
3. BNSF will provide the respective General Committees a copy of the 12-month summary shortly after June 1 each year. The recorded credits will be utilized to determine the equity allocation for the subsequent one year period beginning July 1 through the following June 30.
4. BNSF will work with the General Chairmen to establish a list of route codes. Employees working in this service will be responsible for claiming the proper route code. The information will be used to compile the 12-month summary in Section 2 that is used to make equity adjustments.

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a. Credits will be afforded the respective district based upon the crew's utilization and equipment/train being handled. Credits may be afforded to multiple districts and multiple credits afforded to a single district during a tour of duty based upon the service performed, with consideration to which district's crew would have previously performed such service. Credit allocation will be determined as follows:

(i) One credit will be afforded the 04 District (former GN/NP) each time a train or equipment is handled, or service performed, solely within the following territory; between Mossmain and MP 37.5 on the Laurel Subdivision (including all trackage on the line between MP 30.6 and Signal Peak Energy) and/or between MP 17.7 on the MRL First Subdivision and 29th Street Crossing at Billings, MT (including the General Switching Limits at Laurel, MT).

(ii) One credit will be afforded the 03 District each time a train or equipment is handled, or service performed, within the territory between 29th Street Crossing at Billings, MT and MP 192 on the Forsyth Subdivision, subject to the Note below.

(iii) One credit will be afforded the 09 District each time a train or equipment is handled, or service performed, within the territory between 29th Street Crossing at Billings, MT and MP 782 on the Big Horn Subdivision, subject to the Note below, or between Laurel Yard and MP 492 on the Casper Subdivision.

Note: When shuttle crews are required to handle trains within the territory between 29th Street Crossing at Billings, MT, and Huntley, MT, without operating east of Huntley on either the Forsyth or Big Horn Subdivision, credit will be afforded either the 03 or 09 district depending on which district the train is destined or originated.

(iv) Multiple credits may be afforded any or all of the districts during a single tour of duty.

Example 1: Crew handles a train from Signal Peak Energy through Mossmain to 29th Street Crossing at Billings. District 04 would be afforded one credit for this service.

Example 2: Crew handles a train from Signal Peak Energy through Mossmain to East Billings and the train is destined to be operated via the

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Forsyth Subdivision. Districts 04 and 03 would each be allocated one credit for this trip.

Example 3: Crew handles a train from Laurel Yard to Huntley and the train is destined to be operated via the Big Horn Subdivision. District 09 would be allocated one credit for this trip.

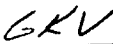
b. Established list of route codes:

(BNSF and UTU will work together to develop an adequate amount of route codes to be utilized in the equity process.)

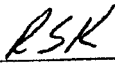
c. Should employees holding seniority on either the 09 or 03 Seniority Districts fail to bid on an assignment allocated to their district, that seniority district will forfeit their allocation to that assignment for the remainder of the respective equity year (July 1 – June 30). In the event allocation is forfeited, the assignment will be filled from the 04 Seniority District under existing rules for the remainder of the equity year.

d. Should any dispute arise concerning the equity provisions of this Side Letter, the matter will be presented to the respective General Chairmen.

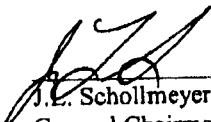
For the UTU:



S. Green
General Chairman UTU

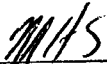


R.S. Knutson
General Chairman UTU




J.L. Schollmeyer
General Chairman UTU

For the BNSF Railway:



M.H. Siegele, Jr.
Assistant Vice President - Labor Relations



J. K. Ringstad
General Director - Labor Relations

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Side Letter #2 to UTU Shuttle at Laurel – CB&Q/NP order of selection

Side Letter #1 of this agreement provides the manner in which equity is distributed between the three separate seniority districts for assignments established under the terms of this agreement. Inasmuch as the territorial limits of these assignments encompasses two separate prior right districts within the 09 Seniority District, Casper Prior Right and Sheridan Prior Right, there exists a need to determine how 09 allocated assignments are to be awarded when employees from each prior right roster submit bids.

Therefore, should both an employee holding seniority on the Casper Prior Right Roster and an employee holding seniority on the Sheridan Prior Right Roster submit a bid for the same 09 allocated assignment, the employee with the senior conductor's date from their respective prior right rosters will be awarded the assignment. Should no employee holding prior rights in either of these districts submit a bid on these assignments, it will be awarded utilizing the 09 roster concurrent with an employee's relative ranking in either the Sheridan or Casper Prior Right District.

A similar order of selection will also apply when determining the successful applicant for a 04 district allocated assignment. Since this district includes employees with both former GN and former NP prior rights, and in the event one of each submits a bid for the 04 position, the employee with the senior conductor's date from their respective prior right roster will be awarded the assignment.

For the UTU:

GRV
S. Green
General Chairman UTU

RSK
R.S. Knutson
General Chairman UTU

J.L. Schollmeyer
J.L. Schollmeyer
General Chairman UTU

For the BNSF Railway:

MHS
M.H. Siegele, Jr.
Assistant Vice President - Labor Relations

JR
J. K. Ringstad
General Director - Labor Relations

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Side Letter #3 to UTU Shuttle at Laurel - Pool Regulation

1. Pool Turn regulation will be between 9 ½ and 13 starts per 15-day period. The computation will be performed on the 15 and the 30th of each month for the previous 15-day period. Any adjustments to the pool will be accomplished on the day the mileage is computed with concurrence from both the Crew office and designated UTU Representative.

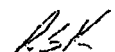
Note: In reference to the 30th, the last day of the month will be used in February

2. The Local Chairman and local management, with the concurrence of each party, may increase/decrease the number of pool turns on dates other than the regular checking dates.
3. Nothing in this agreement is intended prohibit the subsequent consideration of establishing 5-day assignments under the terms of this agreement. Should the Carrier determine that such regular assignments may prove beneficial to this operation, the parties will meet for the purpose of drafting a mutual means to preserve equity between the former properties.

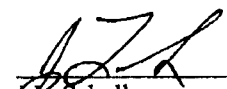
For the UTU:



S. Green
General Chairman UTU




R.S. Knutson
General Chairman UTU




A.L. Schollmeyer
General Chairman UTU

For the BNSF Railway:



M.H. Siegele, Jr.
Assistant Vice President - Labor Relations



J. K. Ringstad
General Director - Labor Relations



JASON RINGSTAD
General Director
Labor Relations

BNSF Railway Company
2600 Lou Menk Drive
P.O. Box 961030
Fort Worth, TX 76161-0030

Telephone 817-352-1064
Fax 817-352-7482
Email Address
jason.ringstad@bnsf.com

March 31, 2009

Mr. J. Schollmeyer
General Chairman UTU
The Academy, Suite 217
400 East Evergreen Blvd
Vancouver, WA 98660

Re: Laurel Shuttle

Dear Mr. Schollmeyer;

This will confirm our recent discussion of the Laurel Shuttle. Specifically, the use of the Great Falls pool, to supplement the Laurel Shuttle pool (and extra board), and protect service to Signal Peak Energy.

In the event the Laurel Shuttle pool and extra board are exhausted, an away-from-home-terminal (AFHT) Great Falls pool engineer may be called to protect service to/from Signal Peak Energy. For doing so, the conductor will be paid the Laurel Shuttle trip rate. Additionally, if the AFHT conductor is tied up at Laurel, he will go first out in the pool upon being rested. And, an AFHT pool conductor used in this manner will not be used to supplement the Laurel shuttle pool and extra board more than once while at the AFHT.

Please indicate below if you concur.

Sincerely,

I concur,

Jay Schollmeyer – UTU General Chairman