NCCC'S FINAL PROPOSAL TO UTU IN SETTLEMENT OF THE CARRIERS AND UTU'S SECTION 6 NOTICE. THIS PROPOSAL WAS PRESENTED TO THE UTU ON JUNE 27, 2006

June 27, 2006

PROPOSED UTU SETTLEMENT OUTLINE

The NCCC makes the following proposal to UTU to resolve all of the parties' respective outstanding notices and issues in the current bargaining round.

All prior settlement proposals made to UTU by the NCCC in this bargaining round are withdrawn, or UTU invited to discuss crew size adjustments on voluntary basis.

I. Compensation

A. General Wage Increases and/or other forms of compensation

1. Wage freeze during term of Agreement (no GWI's, etc.) for all current employees;

Employees establishing UTU seniority after date of Agreement, full rate of pay set at 80% of full rate of position on June 30, 2005.

B. COLA

1. COLA under current UTU National Agreement eliminated on effective date of Agreement.

2. No Harris COLA for periods subsequent to moratorium in New Agreement.

II. Work Rule Changes to Improve Service and Enhance Productivity

A. Locomotive engineers may use remote control technology without claim by or penalty to UTU-represented employees in any class of service other than yard service.

B. Manpower Utilization and Productivity Improvements:

1. Raise Health and Welfare Plan coverage eligibility requirement from seven (7) to fifteen (15) calendar days during qualifying month.

2. Increase preceding calendar year rendered service requirement to qualify for annual vacation from 240 to 300 basic days in miles or hours paid for.

3. Implement "standing bid" ("application") system for all assignments

4. Revise existing rules concerning displacement as follows:

a. Reduce period for exercising displacement right to 12 hours (from time notified), except where shorter time period now in effect. If right not exercised within this period, railroad may assign employee to any extra board or vacant position on employee's seniority district;

b. Require employee to occupy current position for at least 180 days before exercising voluntary displacement to another position;

c. When exercising displacement right to a freight pool or extra board, employee must displace junior employee;

d. eliminate any rules that allow an employee to temporarily displace onto another position.

5. Employee must occupy current position for at least 180 days before being permitted to voluntarily bid on new assignment or permanent vacancy.

6. Employees assigned to a freight pool cannot bid or bump to a vacant or new turn in the same freight pool.

7. Eliminate any existing daily mark-up/preference rules in yard service.

III. Health and Welfare

A. Effective July 1, 2006, employees will contribute, on a monthly basis through a pre-tax payroll deduction:

1. 20% of the cost (NHR FO medical payment rate plus Life/AD&D rate) of the National Railway Carriers/UTU Health and Welfare Plan;

2. 20% of the monthly payment rate of the National Dental Plan;

3. 20% of the monthly payment rate of the National Vision Plan;

4. 20% of the monthly payment rate of the Yardmasters' Supplemental Sickness Benefit Plan (YM only).

B. Effective July 1 of each succeeding year, above-described employee contributions will be increased by one-half of the year-over year increase in the costs of each of the respective Plans.

C. Affected employees may elect to forego coverage for themselves (and their dependents where applicable) under the Dental, Vision, and/or SSB Plans described above, to the extent permitted by law.

D. Effective January 1, 2007, implement the following Plan design changes to reduce the cost to provide Plan benefits:

1. MMCP

   a. In-Network:

      i. Annual Deductible: $500/Individual; $1,500/Family;

      ii. Coinsurance 10%;

      iii. Annual Out-of-Pocket Max: $1,500/Individual; $3,000/Family.

   b. Out-of-Network:

      i. Annual Deductible: $1,000/Individual; $3,000/Family;

      ii. Coinsurance 30%;

      iii. Annual Out-of-Pocket Max: $2,500/Individual; $5,000/Family.

2. CHCB

   i. Annual Deductible: $750/Individual; $2,250/Family;

   ii. Coinsurance 20% (30% in MMCP areas);

   iii. Annual Out-of-Pocket Maximum: $2,000/Individual; $4,000/Family.

3. Prescription Drug Co-pays:

a. MMCP, CHCB and ERMA*

i. In-Network:

Retail or Mail Order:
- 10% Generic
- 20% Brand on-formulary
- 30% Brand off-formulary

$10 minimum co-pay

ii. Out-of-Network:

Retail:
- 30% Generic
- 40% Brand on-formulary
- 50% Brand off-formulary

* New design will apply to individuals that retire effective on or after January 1, 2007

E. Eliminate Basic Health Care Benefit.

F. Revise definition of "dependent" under the medical, dental, and vision plans to conform with generally accepted standards.

IV. Training:

A. Revise existing agreements concerning training as provided below:

1. Eliminate any provisions that establish or specify a minimum training period.

2. Provide that a carrier, if and to the extent it elects to use peer trainers or similar positions, shall have the exclusive right of selection with respect to such positions.

B. Extend probationary period to 275 days and provide that such period shall commence on the first day the employee is qualified for and performs service as a trainman/yardman.

C. If an employee is assigned to a position for which the railroad must furnish training (including familiarization or qualification trips), the employee must remain on that position for at least 180 days after completion of such training before he/she may be displaced from that position.

D. Training oversight committees shall be established on each railroad consisting of two (2) individuals selected by UTU and various railroad representatives to discuss training issues and concerns and make recommendations for improvements.

V. Miscellaneous:

A. Job Actions

In addition to prohibitions imposed by law or by existing agreements, UTU (officers, employees, agents etc.) shall provide at least ten (10) days advance written notice to affected railroad(s) of any strike, picket, boycott, slowdown, or other self-help activity, whether directed at the railroad(s) or other parties.

B. Moratorium:

Agreement settles all outstanding proposals on both sides and ensures labor peace through term of Agreement (12/31/09).

NCCC'S PROPOSAL TO BLET DATED DECEMBER 15, 2005.

BLET WOULD GET ALL ROAD WORK WHILE UTU WOULD BE LEFT WITH ONLY YARD WORK

12-13-05
2:30 PM

NCCC Proposal – Staffing/Classification and Technology Implementation

1. BLET gets last man standing in road service.

2. BLET will perform all work as directed by railroad on any assignment, which may include conductor/brakeman tasks
   - additional compensation to be negotiated
   - such additional work to include use of remote control; where RC used by engineer, he/she to receive 4.6" special allowance

3. BLET will support implementation of new technology and staffing changes proposed by railroads before PEB's, FRA and any other forum as requested by NCCC

4. Arrangement goes into effect no later than 2/1/06.

5. BLET gives up engineer position on any "hybrid" yard assignment
   - "hybrid" means any yard assignment on which locomotive operated both by control stand and remote control
   - protection for affected engineers who

are unable to hold engineer position to be negotiated

6. Arrangement cancelled if final resolution of NCCC-UTLO bargaining dispute does not include NCCC's staffing proposal.

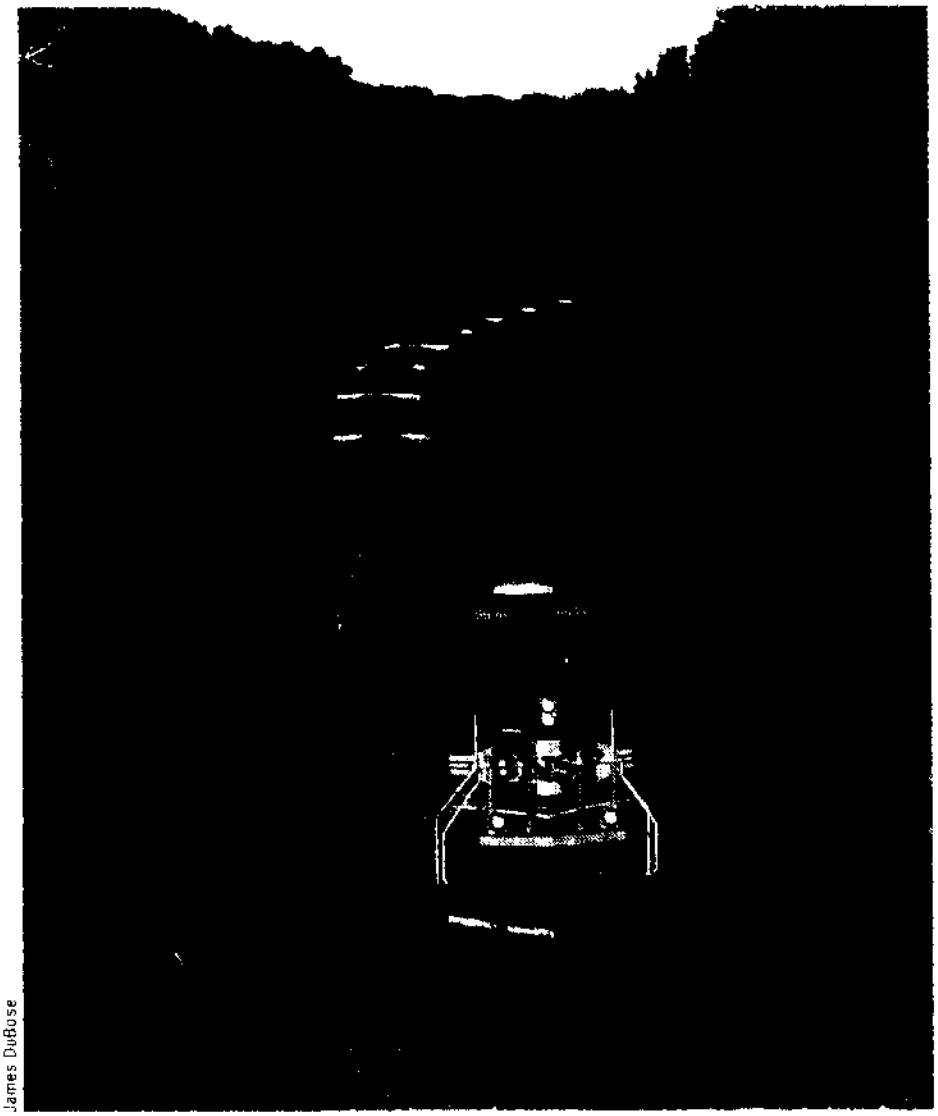
ARTICLE FROM THE MAY 2006 EDITION OF TRAINS MAGAZINE REGARDING THE BNSF'S POSITIVE TRAIN CONTROL TESTS

Rick Lederer, BNSF Assistant Vice President, Net Work Control System "was adamant that the system is in no way a step toward employee elimination." "That's not our goal; that's not even our vision."

BY ALEXANDER D. MITCHELL IV

BNSF tests positive train control in Illinois

Its secondary main line between Beardstown and Centralia offers a chance to glimpse future



James DuBose

With SD70MAC No. 9936 in the lead, a southbound coal train climbs Arenzville Hill near Arenzville, Ill., on BNSF Railway's line between Beardstown and Centralia.

Since 1998, the American railroad industry has been working toward development of a positive train control system.

Positive train control is usually defined as any system using technological advancements capable of preventing train collisions, overspeed derailments, and casualties. It's also thought of as a way to prevent injuries to track maintenance workers operating within their limits of authority.

The development of positive train control has been on the National Transportation Safety Board's "most wanted" list since its inception in 1990.

Several competing systems are under concurrent development, and on Jan. 25, TRAINS got to see a demonstration of one of them at the Association of American Railroads' conference center in Washington, D.C.

BNSF Railway and Wabtec (the former Westinghouse Air Brake Co.) provided a look at their offering, Electronic Train Management System, or ETMS.

The system represents a quantum change from the old systems of train orders, telegraphy, signals, and "dead-man pedals." Using a combination of computer-aided dispatching, global positioning satellite technology, and data radio links, the system monitors train locations and speeds, track authority and restrictions, speed limits, and signal and switch settings to give train crews information on upcoming obstacles. If necessary, the system will automatically apply brakes within the necessary safe stopping distance in case the crew is incapacitated or otherwise ignores the upcoming hazard.

"The goals of a system like ETMS have been pursued since the mid-1980s. The major obstacles have been computer technology, costs, and the infrastructure," said Rick Lederer, BNSF assistant vice president, network control systems. As an example, the system uses global positioning satellite technology, a system that was not fully deployed until 1993.

BNSF has been testing a "beta" version of Electronic Train Management System since January 2004 on 134 miles of its former Chicago, Burlington & Quincy Beardstown Division between Beardstown and Centralia, Ill. This single-track secondary main line hosts 12 to 15 trains a day, mostly unit coal trains. The line is a mix of signaled and "dark" territory with a helper district thrown in for additional challenge. Fifty locomotives have been equipped for the trial program; non-ETMS-equipped locomotives and trains can share the line as well.

The centerpiece of the Electronic Train Management System is the locomotive's on-board graphic display screen, which depicts in real time a scrolling track chart remarkably similar to the track charts used by railroads for a century or more. These show mileposts, sidings, signals, curves, gradients, and road crossings, all derived from a database.

At the top of the display is shown the speedometer, clock, locomotive number, and system status; below the track chart is a continuous display of current location milepost, stopping and warning distances, maximum authorized speed, authority limit, and upcoming information. Also on the scrolling track chart are overlays showing the braking distances and authority restrictions. Below the screen are eight programmable

touch-screen keys for changing menus, acknowledging changes in signals or authority, etc.

As the train rolls, the screen automatically shows its progress, as well as upcoming speed and signal restrictions, track-warrant limits, and stopping distances. A countdown clock prompts the crew to begin braking for an upcoming stop or speed reduction, if a brake application is not made by the required limits calculated by the system computers, an application automatically occurs, bringing the train to a safe and gradual stop.

In addition, conditions can be monitored at trackside with a portable terminal for temporary trackside dispatchers; track warrants and permissions can be updated in real time from the field. Further developments in the system will cover multiple-track operation and crew changes.

BNSF views the Electronic Train Management System as a safety supplement to existing train control technology, and as a "predictive and preventative" tool for crews to "eliminate human errors by increasing awareness for employees."

Although the technology appears to be a first step toward potential automation of train operation, Federer was adamant that the system is in no way a step toward employee elimination. "That's not our goal, that's not even our vision," he said. The system, for example, cannot control throttle settings or blow horns for grade crossings — or, more importantly, apply the brakes at the sight of a trespasser.

The system is one of several still in the development and testing stage.

Among the others are the Alaska Railroad and Union Switch & Signal's Collision Avoidance System, integrated with Alaska's computer-aided dispatch system and expected to enter revenue service in 2007.

General Electric's Incremental Train Control System, now being tested on a portion of Amtrak's Chicago-Detroit corridor, is another system. It covers 45 miles for 95-mph operation, and eventually is set to be activated on a total of 66 miles for 110-mph operation.

Additionally, there is the Advanced Civil Speed Enforcement System, implemented by Amtrak on the Northeast Corridor between Boston and New Haven and in high-speed territory south of New York City and also by New Jersey Transit.

Another is the Communications Based Train Management system, developed by Wabtec (and upon which ETMS is based) and under test since 1998 on CSX between Augusta, Ga., Spartanburg, S.C., and recently expanded to Erwin, Tenn., on the former Clinchfield.

In September 2005, Norfolk Southern announced plans to develop and implement a train control system on its line between Charleston and Columbia, S.C. The Optimized Train Control system will enforce speed and operating limits.

NJ Transit has begun installation of its Advanced Speed Enforcement System, and Union Pacific and Amtrak are working with AAR, the state of Illinois, and the Federal Railroad Administration on a test between Springfield and Mazonia, Ill. (near Gardner), on the Chicago-St. Louis route, with regular use set for 2007.

ARTICLE FROM UTU WEB SITE ALONG WITH LETTER TO THE BNSF FROM THE FRA WHEREIN THE FRA SLAPS BNSF ON THEIR POSITIVE TRAIN CONTROL SAFETY

"The Voice of Transportation Labor"
UNITED TRANSPORTATION UNION

FRA slaps BNSF on PTC safety

The Federal Railroad Administration (FRA) has slammed the credibility of BNSF Railway's positive train control pilot projects, citing inconsistencies in BNSF's safety plan.

The agency also complained that descriptive language explaining the railroad's compliance with FRA safety requirements was written in broad generalities that disguise numerous defects.

BNSF's Electronic Train Management System (ETMS) is one of the rudimentary positive train control technologies being tested under special FRA waivers from certain safety regulations.

The UTU supports development of PTC systems, but only if they meet adequate federal safety requirements.

"These various experimental PTC systems are still in their infancy," said UTU International President Paul Thompson. "The FRA clearly is not satisfied with BNSF's safety plan for its ETMS, which reflects the carrier's reckless disregard for public safety."

BLET National President Don Hahs said, "PTC must be much more than hype. It must be rigorously analyzed and tested, and we applaud the FRA for requiring strict compliance with applicable regulations."

Indeed, in a highly critical June 29 letter to the carrier (released July 10), the FRA said it no longer trusts the basic safety assumptions of BNSF's positive train control pilot projects. BNSF has been experimenting with ETMS on a little 115-mile subdivision in Illinois and is seeking permission from FRA to expand testing to line segments in Texas and Oklahoma, including routes used by Amtrak

"These pilot projects have been used by BNSF as baubles to entice investors, the media and lawmakers to believe BNSF was advancing rapidly toward introduction of positive train control technology intended to replace experienced crew members," said UTU Alternate National Legislative Director James Stem. "The FRA exposed BNSF's smoke and mirrors approach and validated that BNSF and other railroads are years away, at best, from perfecting PTC to where it might be implemented safely."

In February, BNSF sought -- and failed to gain -- FRA approval to operate the experimental ETMS technology with only a single crew person. The UTU, Brotherhood of Locomotive Engineers and Trainmen, Brotherhood of Maintenance of Way Employes Division and the Brotherhood of Railroad Signalmen opposed that BNSF request, telling the FRA that no trains should be permitted to operate with single-person crews until appropriate safety studies have been completed and regulations in place.

"The multiple safety functions of the second operating crew member are not replaced by ETMS," Stem said. "The second crew member provides an important second set of eyes and ears, as validated by the FRA's Collision Analysis Working Group, which is on record that 'for freight trains, the conductor and engineer work as a team. One member points out situations that may have escaped the other's attention.'"

BLET's director of regulatory affairs, Thomas Pontolillo, told the FRA that "the most effective positive train control is one that complements and supplements the work of today's two- or three-person train crew, and that PTC, as a means of further reducing crew size, will diminish -- rather than enhance -- safety."

BNSF is also having a major system-wide problem with the accuracy of train consists. These lists show the number of freight cars in a train, the length of each car, the contents of the car, the destination and the number of axles contained on the car. Such consists, required by federal regulations to be accurate, are used by operating crews and emergency responders to determine the exact location of hazmat. The FRA demanded BNSF solve the problem of its inaccurate consists.

BNSF had removed from trackside defect detectors the voice message, which gives operating crews a total axle count of each train. Instead of working to resolve this major safety issue, BNSF arrogantly removed the only source of information used by their crews to verify the accuracy of train consists.

With regard to ETMS, the FRA harshly criticized changes made by BNSF in its risk-assessment methodology. FRA Deputy Associate Administrator Grady Cothen, speaking for FRA's safety board, said, "Upon being briefed on the status of the risk assessment, I became alarmed that it appears to rely heavily on the notion that risks that might be generated by the system would effectively

never be realized because reliance by the locomotive engineer is forbidden."

"ETMS only encourages engineer reliance on a system that doesn't work as promised and does nothing to address the major problems of employee fatigue, lack of experience, and inadequate training," Stem said.

"Additionally, BNSF failed to include available technology systemwide to indicate to train crews the position of switches, which would prevent horrendous accidents such as one involving a deadly chlorine tank-car leak in Graniteville, S.C.," Stem said. "It is unconscionable that railroads, enjoying their highest profits in modern history, would continue to refuse to invest in switch monitors in dark territory."

To read the June 29 FRA letter to BNSF, click on this link: http://dmses.dot.gov/docimages/pdf97/404787_web.pdf (a high-speed connection is suggested; dial-up connections may not permit downloading because of the document's length.)

July 12, 2006

U.S. Department
of Transportation

**Federal Railroad
Administration**

1120 Vermont Ave., N.W.
Washington, D.C. 20590

JUN 29 2006

Mr. Rick Lederer
Assistant Vice President- Network Operations
BNSF Railway Company
2600 Lou Menk Drive
Fort Worth, TX 76161-0034

Re: FRA Comments to BNSF PSP Version 2.0

Dear Mr. Lederer:

The Federal Railroad Administration (FRA) received and is currently conducting its formal technical review of the ETMS Product Safety Plan (PSP) Version 2.0 dated May 12, 2006 and related supporting documentation. Although FRA's detailed technical review of the supporting documentation is still in progress, FRA has identified a number of specific items within the core PSP document that I believe require further clarification or explanation. To assist in the continued timely processing of BNSF's Petition for Approval regarding its PSP, I am providing you a list of these items as an enclosure to this letter prior to the completion of our review of the supporting documentation.

In conjunction with the listing, FRA would like to clarify that it is considering the currently submitted PSP and supporting documentation in light of the proposed ETMS I Configuration only. BNSF listed 14 items in Section 9 of its PSP, "Incremental & Predefined Changes" and FRA appreciates BNSF's intent to provide FRA with information about future expanded capabilities of ETMS. However, FRA does not believe that these items meet the criteria for predefined changes described in 49 CFR §236.907(b) because they have not been sufficiently addressed in the current PSP. In addition, for those items that may be considered incremental changes, BNSF will be required to submit an informational filing prior to initiating testing for any of those items because they have also not been sufficiently addressed in this PSP. *See* 49 CFR §236.907(c) and 49 CFR §236.913(j). Accordingly, FRA will not consider any of the items that BNSF characterized as predefined and incremental changes as part of it current review of the PSP. Assuming that FRA approves BNSF's current PSP, approval of the additional capabilities listed in Section 9, or any other changes that affect any safety-critical functions of the product, will require resubmission of an appropriately amended PSP with supporting documentation. *See* 49 CFR §236.913(i).

Upon being briefed on the status of the risk assessment, I became alarmed that it appears to rely heavily on the notion that risks that might be generated by the system would

effectively never be realized because reliance by the locomotive engineer is forbidden. The Failure Rate Data Table (Table 2) estimates an incidence of operating rules violations on the order of 10,000 times each year for a frequency metric of 1.24E-3 under circumstances where rules compliance is expected, effective means of oversight are required to be in place (*see* 49 CFR Part 217), and employees have every reason to be apprehensive with regard to their personal safety and the safety of others should they not comply. By contrast, reliance upon ETMS is estimated to occur on the order of 250 times on the system annually for a frequency metric of 3.11E-5. In FRA's view, heavy reliance on ETMS is probable – contributing to complacency with respect to immediate awareness of authorities and restrictions conveyed by other means – precisely because the information conveyed by the ETMS display will, in the normal course of business, be readily available and very reliable. Further, the sole means identified in the PSP (Section 31.5) for overseeing compliance – investigation of enforcements – is unlikely to reveal most instances of reliance. Where the system is reliable and the employee relies on it, the employee will handle the train appropriately. The condition under examination is the opposite (i.e., the employee relies but the system fails to warn and/or to enforce).

Given the drastically different conclusions reached by FRA and BNSF on this point, FRA requests that BNSF provide two levels of sensitivity analysis that can assist in determining whether a high level of confidence that ETMS, functioning as a "non-vital overlay," will be as safe as the existing method of operation. The first level of sensitivity analysis should assume that locomotive engineers' compliance with ETMS procedures (which, again, cannot be effectively monitored by the procedures laid out in the PSP) will be no better than compliance with other operating rules (i.e., 1.24E-3). The second level of sensitivity analysis should assign a reliance factor of 1.0, representing worst case conditions. FRA anticipates that actual system performance (assuming other analysis to be correct) would fall between the failure rates derived using these inputs. Please provide a revised Section 25 displaying the results of this sensitivity analysis.

I also note with significant concern the cataloged Operations and Maintenance Manual as required by 49 CFR § 236.919, has not been adequately defined. 49 CFR § 236.919(a) requires that the "railroad shall catalog and maintain all documents as specified in the PSP for the installation, maintenance, repair, modification, inspection, and testing of the product and have them in one Operations and Maintenance Manual" (Emphasis added). At present, it is not possible for FRA or those governed by them to ascertain which elements that are required by this section, comprise the manual. Further, the 49 CFR § 236.919(c) hardware, software, and firmware revisions must be documented in the Operations and Maintenance Manual according to the railroads configuration management control plan. Also missing from the manual is the requirement of subpart 49 CFR § 236.919(d) for the handling procedures for safety-critical components.

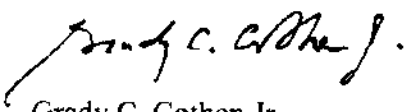
FRA is aware that BNSF contractors are currently installing and maintaining ETMS equipment. 49 CFR § 236.907 (a)(12) requires a "complete description of the specific training of railroad and contractor employees and supervisors necessary to ensure the safe and proper installation, implementation, operation, maintenance, repair, inspection,

testing, and modification of the product". Training of contractor employees is not addressed in Section 33 of the PSP, and I am very concerned that training specified for persons other than locomotive engineers is on its face apparently non-responsive to the regulation.

As FRA completes its reviews of the supporting technical documentation, I will incrementally provide you with additional comments if appropriate. I request that when responding to FRA's comments you indicate where in the PSP or supporting documentation BNSF has made changes to address the items identified by FRA. FRA has included a column in the enclosed document where BNSF can enter its reply to each specific item. This will assist FRA in expediting its review of the changes submitted.

Please contact Mr. Tom McFarlin at (202) 493-6203 or Thomas.Mcfarlin@dot.gov, Mr. Sean Crain at (202) 493-6257 or Sean.Crain@dot.gov, or Mr. Mark Hartong at (202) 493-1332 or Mark.Hartong@dot.gov should you have any questions.

Sincerely,



Grady C. Cothen Jr.
Deputy Associate Administrator
for Safety Standards and Program Development

Enclosure