

MEMORANDUM OF AGREEMENT

between

BURLINGTON NORTHERN RAILROAD COMPANY

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

Pursuant to Carrier's notice dated March 4, 1994 and in accordance with Article IX of the Award of Arbitration Board No. 458 dated May 19, 1986, it is agreed that Interdivisional freight service may be established between Mandan, North Dakota and Glendive, Montana. The following conditions will apply:

**Section 1.** A pool of engineers will be established and maintained, with home terminal at Mandan, sufficient to handle traffic in the manner prescribed herein. The pool will be regulated on the basis of assigning a sufficient number of engineers so as to provide an average within the range of 3600 and 4000 line miles per month. Information concerning the mileage made by engineers in this pool will be provided by the Carrier to the BLE Local Chairman at least once per week upon request.

NOTE: The mileage information referred to above will be provided in printed form or available through access to carrier records by computer, whichever is desired by the Local Chairman. (Notification to be in writing)

**Section 2.** Except as otherwise provided in this agreement, engineers will be called first-in, first-out provided the first-out engineer has had full rest under the Hours of Service Act. If possible and when no other trains would be delayed thereby, the first-out engineer's call may be held up for as long as thirty minutes for the engineer to obtain full rest and depart in proper standing. If the first-out engineer does not have full rest, the next following engineer who is fully rested will be used. In the event there are no engineers who are fully rested, an extra engineer may be called to operate for one (1) round trip under the provisions of this agreement.

(a) Subject to the exceptions contained in this agreement, engineers who are not called to report for duty or deadheading in the order of their proper standing will be allowed a basic day at

the rate of service performed for each occurrence and shall continue to retain the first-out position. Engineers entitled to this payment will be entitled to "restoration of turn" under the provisions of Paragraph (c) of this section. It is understood that the Carrier will remove an Engineer from a train for which called and place that engineer on a preceding train or deadhead the engineer to avoid terminal runarounds except in situations which would result in delay to time sensitive shipments or otherwise impede the operating efficiency necessary to compete for available transportation business. There shall be no payment made to Engineers who are called in proper order but depart the terminal in other than the order of call.

(b) When an engineer in this pool qualifies for payment under Schedule Rule 69 captioned "Called and Recalled", "Called, Performs Service and Not Wanted", respectively, the engineer will continue to stand first out, instead of last out and will be paid for each such occurrence one basic day at the rate of service last performed. When the engineer has performed some service and is released under that rule, s/he will be returned to the first-out position. The engineer will be compensated in accordance with the terms of Rule 69, with a minimum of one basic day at the rate of service from which released, and will not be called for service again until rested (except to deadhead to the home terminal before rested). It is recognized that other engineers may be called around the engineer obtaining rest without penalty.

**NOTES:**

(1) the provisions of this paragraph do not apply to individual extra engineers when the call and release occurs at their extra board terminal. Such extra engineer will be handled and paid in accordance with applicable schedule agreement rules.

(2) It is understood that when an engineer has been called and released in a manner that did not interrupt their rest under the Hours of Service Act, the engineer retains the same position and will not require an additional eight (8) hours rest before being subject to another call.

(c) Engineers in this pool whose rotation is affected by the provisions herein shall be restored to proper turn (i.e., original rotation at time of call) at the next terminal if possible. If this is an away-from-home terminal and the engineer is not rested in time to be restored, the engineer will be restored to turn at the home terminal. Each engineer arriving at either terminal will be marked up at the bottom of the list except when entitled to "restoration of turn" or when the engineer has bypassed some other engineer who is entitled to restoration of turn under the provisions of this section.

(d) It is intended that engineers in this pool will not be deadheaded on freight trains when other means of transportation such as air, van, bus, passenger trains or taxi are available. Adequate seating will be provided for all crew members when deadheading.

(e) When an engineer in this pool is deadheaded out of one terminal via a mode other than freight train, any question about being bypassed by a working engineer, or vice versa, shall be determined on the basis of their proper order when called at the initial terminal.

### Section 3.

(a) When two engineers in this pool are to be called for the same train (one to work and one to deadhead), and if one of the engineers is not rested and the other is rested, the rested engineer will work the train and the unrested engineer will deadhead. Otherwise, the first out engineer will work the train and the second out engineer will deadhead.

(b) In recognition of the reduced earnings resultant from the current rules governing deadheading as contained in Article VI of Arbitration Award No. 458, this provision recognizes and conveys the right to enter into an agreement between the HLE Local Chairman and the designated Carrier officer, on behalf of engineers working in the pool established by this agreement, to provide that when an engineer has deadheaded a specified number of times, said engineer may, upon request, be allowed to move ahead in the pool. An agreement covering this subject matter shall specify the number of deadheads which must be accumulated to become eligible for recovery and the number of positions an engineer may be moved up or agreed upon placement in the pool to effect recovery. No additional cost shall accrue to the Carrier as a result of this provision.

(c) In the event the Local Chairman and the local Carrier officer are unable to consummate a mutually acceptable agreement to implement specific provisions relative to paragraph (b) above, avoidance of multiple deadheads by the same crew in a given pay period will be in accordance with the provisions in this paragraph.

A crew which has already performed a terminal to terminal deadhead during the current payroll period will not be called for a subsequent deadhead during the same payroll period if there is another crew with the same home terminal available which has not performed a terminal to terminal deadhead during the current payroll period. The involved crews will be restored to their relative position upon arrival at their home terminal. It is understood that there will be no runarounds generated as a result of this handling and this agreement does not guarantee that any given crew will not be required to

perform more than one terminal to terminal deadhead during any single payroll period. It is also understood that the Organization may notify the Carrier in writing that the procedures established under this paragraph (c) are cancelled, in which case crews will be called and run in conformity with the first in-first out rotation without regard to the number of deadhead trips performed.

#### Section 4.

(a) Unclaimed temporary vacancies occurring on turns at the home terminal of this pool will be filled by the engineer's extra list headquartered at Mandan. When it becomes necessary to use an emergency engineer because the engineer's extra list is exhausted, they will be called in the following manner:

(1) Use the senior demoted engineer standing for call for same turn/train on which the engineer vacancy exists

(2) If none, use the senior rested and available demoted engineer assigned to another turn in the same pool.

(3) If none, use the senior qualified, rested and available demoted engineer assigned in other non-intra/interseniorty district road service at the headquarters point.

(4) If none, use the senior qualified, rested and available demoted engineer who is assigned in yard service at the headquarters point.

(5) If none, the next engineer in this pool may be shoved ahead to fill the vacancy with the understanding that such engineer will take only the vacant turn out, leaving his/her vacancy at the terminal to be filled in accordance with this provision as extra engineers (including demoted) become available.

(b) If an engineer in this pool lays off account sickness or other personal emergency at the away-from-home terminal, vacancy will be filled in the following manner:

(1) Use the engineer standing next out at the away from home terminal in this pool. Whenever an engineer is shoved up in accordance with this paragraph an extra list engineer from the extra board at Mandan is to be called and deadheaded to the opposite terminal to fill the vacancy created by the engineers) shoved up.

(2) If the extra board is exhausted use the senior demoted engineer at Mandan.

(3) If none, use the senior rested demoted engineer available at the vacancy point who is assigned on another turn in the same pool.

NOTE: When engineers are moved up within the pool to fill vacancies as set forth in (a), (5) and (b), (1) of this section 4., it is understood that said engineers) will not carry more than one (1) turn with them, i.e., no "paper deadheading". It is further understood that engineers moved up will be restored to their proper position (as formerly held) upon arrival at the home terminal.

**Section 5.** (a) Except in case of emergency (emergency meaning conditions such as acts of God, wrecks, washouts, floods and fires which interfere with the operation of trains on this route), engineers assigned to work in this service will not be used for service outside the scope of this agreement. Engineers used in other service in emergency as defined above will receive not less than the earnings of their regular assignment (turn). Engineers used in other service in other than emergency as defined herein will be paid for such service, or the money equivalent of two (2) one way trips Mandan-Glendive (line miles), whichever is greater. It is understood that engineers used for other non emergency service are not to be held for subsequent "other" service while waiting for their regular pool turn to return, but if used for a succeeding trip or tour of duty the engineer will be paid not less than the money equivalent of two (2) one way trips referred to above.

**EXAMPLE:** Engineer assigned in this pool is called for a yard engine due to no other extra or demoted engineers available (non-emergency). For that yard service shift the engineer will be paid no less than the 416 line miles at the applicable rate for through freight service, without fireman, 1,000,000 lbs weight on drivers and corresponding overmile rates. In the event the same engineer is used for another trip or tour of duty while waiting for the return of said engineer's pool turn, the engineer will be paid an additional 416 line miles at the applicable rate as indicated above.

(b) All necessary relief work as a result of Hours of Service Law will be manned by extra engineers from the final terminal of the train provided the crews do not operate through Dickinson, or by interdivisional engineers from the initial terminal of the train, subject to the Carrier's continued right as provided in National Agreements or Awards to use yard crews to perform such work.

(c) Nothing contained in this agreement is intended to prohibit engineers in this pool from being used on trains that traverse only part of the specified territory provided such engineers are then transported forward to the destination terminal or paid as though they had been. Likewise, nothing in this agreement is intended to prohibit these engineers from combining trains or exchanging trains in this interdivisional service with other trains that are destined for the same terminal. When a crew has been called for service and subsequently is required to deadhead (or otherwise performs a combination of deadheading and service during a tour of duty), the crew will receive not less than the actual line miles of the assignment (Mandan-Glendive) for the tour of duty.

(d) Engineers called in this interdivisional service will not be tied up between designated terminals of their runs or turned back to the initial terminal, except when their movement is prevented, i.e., derailment of their train, or when the route to the destination is obstructed or impassable due to wrecks or washouts. Engineers who are returned to their initial terminal for these reasons will be paid continuous miles for the trip, terminal until return, (but not less than the one-way mileage from Mandan to Glendive, or vice versa, via the called route) or hours if greater, and the engineer will be restored to the first out position (available after rested). Subject only to the foregoing exceptions, engineers in this pool will not be tied up enroute or turned back to their initial terminal.

**Section 6.** 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 this service, the carrier shall authorize and provide suitable transportation for the engineer(s).

**NOTE:** Suitable transportation includes carrier-owned or provided passenger-carrying motor vehicles or taxi, but excludes other forms of public transportation.

**Section 7.**

(a) Engineers working in this service shall be paid at the rate applicable for mileage encompassed in a basic day. All mileage in excess of the miles encompassed in a basic day shall be paid for at a rate calculated by dividing the basic daily rate of pay in effect on June 30, 1986 by the number of miles encompassed in a basic day on that date. Weight on drivers will apply to mileage rates calculated in accordance with this provision.

(b) The mileage of this interdivisional service between the named terminals is 208 which includes terminal mileage.

**Section 8**

(a) Engineers assigned to this pool or who are on the extra list at Mandan or Glendive when this service is inaugurated

will not be required to qualify themselves over the territory with which they are not qualified on their own time. Once qualified, any subsequent requalification will be the responsibility of the individual to the extent that such qualification would now be the individual's responsibility on the day prior to implementation of this service. The Carrier will determine the maximum number of qualification trips necessary; however, with the understanding that engineers will be allowed a minimum of three (3) round trips unless the individual engineer deems him/herself qualified before having completed three complete trips. Whenever pilots are required under the existing agreements, it is understood they will be qualified engineers, certified pursuant to FRA regulations.

**(b)**

The provisions of this section will be in effect for the first forty-five (45) days following the date this service is inaugurated (carrier may allow engineers to begin qualification trips before implementation). Thereafter, any engineer exercising seniority to this pool will be responsible for qualifying on their own time.

**Section 9.**

Engineers who are performing service in this pool will be allowed a meal allowance of X5.00 if tied up for more than four (4) hours at the away from home terminal and another \$5.00 after being held and additional eight (8) hours. Engineers in the service will also be entitled to a third away-from-terminal meal allowance provided for in the Letter of Understanding dated February 15, 1978 (BN 2/15/78-F). If the meal allowance of \$5.00, now provided for in the National Agreement pertaining to expenses away from home is subsequently increased, the amount provided for in this paragraph will be increased to the same extent. .

**Section 10.**

Engineers working or deadheading by freight train in this service who are not permitted to stop to obtain a meal will be allowed \$5.00 per trip or tour of duty. However, if an engineer requests to be permitted to leave the train in order to eat enroute and is granted permission to do so, the engineer will not be entitled to the X5.00 allowance as specified herein. If the meal allowance of X5.00, now provided for in the National Agreement pertaining to expenses away from home is subsequently increased, the amount provided for in this paragraph will be increased to the same extent.

**Section 11.**

**(a)** Disciplinary hearings or investigations involving crew members in this interdivisional service will be held at their home terminal, except when the majority of the principals and witnesses who are to attend live at other locations. If the investigation is held at other than the home terminal, crew members will be paid for actual reasonable travel time and the time consumed by the hearing on a minute basis at the pro rata rate of pay which they received for the last service performed.

**(b)**

Should a crew member lose a full round trip as a result of attending an investigation which does not establish a violation, which results in his record suspension, suspension, or discharge, he will be compensated under this Section only for the equivalent of the earnings of the appropriate crew member in whose place he would have worked.

**(c)**

If it is established by the evidence heard that an employee charged is found guilty and he is assessed record suspension, suspension, or dismissed, no compensation under paragraphs (a) and (b) of this Section will be allowed.

**NOTE:** A letter of censure will not disqualify an engineer from receiving the above referred to compensation.

**(d)**

Should a crew member be tied up at the location where the investigation is held, the provisions of Article II (Expenses Away from Home) of the June 25, 1964 Agreement, as amended, will apply. Transportation to and from investigations held at other than home terminal will be provided by the Carrier.

**(e)**

Travel to attend investigations will not be subject to payment under any rule applicable to deadheading

#### **Section 12.**

Except as specifically provided herein, nothing contained herein shall be construed as modifying, amending or superseding any of the provisions of agreements or schedule rules, or the Merger Protection Agreement as implemented between the Carrier and the Brotherhood of Locomotive Engineers.

#### **Section 13.**

An individual employee who is regularly assigned in this pool service, but who resides at other than the home terminal, may reverse the lodging point and elect to use company paid lodging at the home terminal in lieu of such lodging at the away from home terminal. This privilege is limited so as not to exceed, in any semi-monthly pay period, the number of daily lodging charges that the company incurred for the other members of the crew who used the away from home terminal lodging.

#### **Section 14.**

**(a)**

Engineers will be furnished lockers and adequate washroom facilities at their away from home terminal in the immediate vicinity of the on/off-duty point (or transportation to and from the facility will be provided, if not in the immediate vicinity). Minimum size of the lockers will be 21"X18"X72".



**(b)**

The following items will be maintained in proper condition on the controlling locomotive of engines used in this interdivisional service:

- (a) Cab Heaters
- (b) Cab weatherstripping
- (c) Cab Windshield wiper
- (d) Drinking water and operable cooler
- (e) Toilet Facilities
- (f) Working radio
- (g) Operative speed recorder

Engineers will report defects and/or absence of items listed above to the proper authority by the most available means and on proper form supplied for such purpose. Notation by engineers of defects will contain sufficient detail to enable prompt identification and correction of such defects. Engineers will not be required to depart the initial terminal with a controlling locomotive which does not contain the items listed above, and no engineer will be reprimanded or disciplined for refusal to do so.

Engineers who are required to deadhead over the expanded district under the provisions of this agreement, will be provided reasonable comfort while so deadheading. When an engineer is required to deadhead on a freight train, comfortable seating for both the working crew of the train and the engineer being deadheaded will be provided.

**NOTE:** "Reasonable comfort" is understood to include items a,b,d, and e of Section 14 (b) of this agreement.

**Section 15.**

**(a)**

The "protective period" for an engineer who is eligible for compensation protection as provided in Section 7 of Article IX of Arbitration Award No. 458 will be equal to the time said employee has been employed by this Carrier in any of the operating crafts represented by the BLE or UTU on this carrier.

**Section 16.**

The Carrier may establish a HELPER district and pool subject to the terms and conditions as set forth in ATTACHMENT 'A' of this agreement.

**Section 17.**

This agreement shall be effective on the date signed and shall remain in effect until modified or changed in accordance with the provisions of the Railway Labor Act, as amended.

Signed at Ft. Worth, Texas this 30<sup>th</sup> day of June, 1994.

FOR:  
BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS

FOR:  
BURLINGTON NORTHERN RAILROAD  
COMPANY

BN/BLE AGREEMENT OPS 94/07

ATTACHMENT 'A'

HELPER SERVICE

The Parties recognize that the exigencies of the business require helper/pusher service in the territory between Glendive, MT. and Dickinson, ND to expedite the movement of trains operating in the interdivisional service. It is the intent of this attachment, then, to provide for the establishment of a helper/pusher service district between Glendive, MT and Dickinson, ND and to further provide uniform conditions for the operation of this service.

**Section 1.**

(a) A pool will be established headquartered at Glendive, Montana to which engineers will be assigned to operate helper/pusher assignments operating in the territory between Glendive, MT and Dickinson, ND. Engineers assigned in this service will be paid miles or hours, whichever is greater, with a minimum of 100 miles at the appropriate rates applicable to engineers operating in local freight service, without a fireman and based on the weight on drivers of the largest locomotive handled for any trip or tour of duty.

(b) Engineers assigned in this service will be provided a minimum payroll period compensation guarantee as set forth in the BLE/BN agreement dated (Guaranteed Extra Board Agreement).

(c) Engineers in this service will be called and run on a first in-first out basis at Glendive.

(d) Engineers in this service will not be used to perform hours of service relief, station or industrial switching, work train, wrecking, snow plow, etc., or other road or yard service as part of their independent Pusher/Helper assignments, but may be required to assist the road freight crews employed on the trains being helped within the Pusher/Helper district in the performance of any pick-ups, setouts, station or industrial switching, air

tests, or other duties associated with operation of the road train engineers. Engineers used to assist Road Freight Crews, as provided above, shall receive payment of any allowances such as terminal delay, switching, etc. applicable to that Road Freight Crew when used to perform such service(s).

(e) Helper Crews may be required to pick up bad-order equipment (including bad orders which have been repaired on line) in road territory and transport same to either Dickinson or Glendive or locations between these named points without additional compensation.

(f) Helper crews may handle high-wide, dimensional and/or oversize cars or a special shipment that is restricted for normal movement under system or division Special Instructions without penalty to the Carrier, provided not more than two (2) cars are handled at any time.

(g) BLE/NP Rule 62-Automatic Release will not apply at Dickinson.

(h) Engineers assigned in this service will be tied up for rest at Glendive. In the event engineers are relieved at a location other than Glendive they will be deadheaded to Glendive for final tie up (release) and will be paid therefore in accordance with applicable deadhead rules.

(i) Engineers working in this service will receive payment as provided in the BN/BLE agreement dated 4/24/81, OPS 33-81 for any shift or tour of duty during which any member of the helper crew is used to assist a road freight crew in accordance with paragraphs (d,e,f) above.

## Section 2.

In recognition that this helper district and pool are established for the purpose of expediting the movement of trains operating in the interdivisional service established by the agreement executed this date, it is intended that the parties shall meet to discuss any significant material changes in the operation of such service.

If this accurately sets forth our understanding, please indicate your concurrence by signing in the space provided below.

FOR BURLINGTON NORTHERN  
RAILROAD CO.

FOR THE BROTHERHOOD OF  
LOCOMOTIVE ENGINEERS

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Asst. Vice Pres. Labor Relations

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General Chairman

Side Letter No. 1

Date June 30, 1994  
File: Mandan-Glendive ID

Mr. D.L. McPherson  
General Chairman-BLE  
Union Depot Place, Suite 3  
214 E. 4th St.  
St. Paul, MN 55101

Dear Mr. McPherson:

This refers to the agreement signed this date for the establishment of Interdivisional freight service between Mandan and Glendive. Employees adversely affected as a result of implementation of this agreement will be entitled to the protective benefits as contained in Article IX-Section 7 of the May 19, 1986 Award of Arbitration Board No. 458, as amended by this agreement.

It is recognized that employees protected under the provisions of the Burlington Northern Merger Protective Agreements including Section 6 thereof, or other protective agreements, who are adversely affected as a result of implementation of this agreement, shall have the option to elect for the protective conditions provided therein instead of those provided in this agreement.

Once having made the election for the protective benefits under this or another agreement, an employee shall not later be allowed to change that selection. However, it is recognized that an employee eligible for protection under this agreement, may, at the expiration of the 'protective period' contained herein, be eligible for protection under a previous agreement for the duration of the 'protective period' provided for in such other agreement. It is understood there shall be no pyramiding or commingling of benefits under multiple protective agreements.

Employees who on the date of this agreement are residing in Dickinson, and who lease or rent such residence shall have the option of accepting a one time lump sum in the amount of \$3,500 in lieu of the moving and relocation benefits otherwise provided for in this agreement.

If this accurately sets forth our understanding, please signify your concurrence by signing in the space provided below.

Sincerely,  
Daniel J. Kozak  
Vice President Labor Relations

Accepted:  
  
General Chairman

## Side Letter No. 2

Date June 30, 1994  
File: Mandan-Glendive ID

Mr. D.L. McPherson  
General Chairman-BLE  
Union Depot Place, Suite 3  
214 E. 4th St.  
St. Paul, MN 55101

Dear Mr. McPherson:

This refers to the agreement signed this date for establishment of Interdivisional freight service between Mandan and Glendive. Since Dickinson and Hettinger, North Dakota will no longer be Sources of Supply for Engineers on the Montana Dakota Seniority, this is to amend Implementing Agreement No. 1, Article VI-ZONES, Attachment B to provide for the elimination of the Dickinson and Hettinger Zones, and the revision of the Mandan Zone. The following zone description is agreed upon:

### **Mandan Zone**

Embraces all yard service at Mandan, and all road service headquartered out of Mandan, Hettinger and Dickinson, for which Mandan will be the source of supply, on territory between: Mandan and Glendive including branch lines stemming therefrom.

This agreement supersedes conflicting agreements to the extent of the conflict. This agreement will be effective simultaneously with the implementation of the Mandan-Glendive Interdivisional service agreements and will remain in effect until changed in accordance with the Railway Labor Act, as amended.

Sincerely,

ACCEPTED

Daniel J. Kozak  
AVP Labor Relations

General Chairman-BLE

Side Letter No. 3

Date June 30, 1994  
File: Mandan-Glendive ID

Mr. D.L. McPherson  
General Chairman-BLE  
Union Depot Place, Suite 3  
214 E. 4th St.  
St. Paul, MN 55101

Dear Mr. McPherson:

This refers to the agreement signed this date for establishment of Interdivisional freight service between Mandan and Glendive. In recognition of the fact that Engineers assigned to this service may continue to reside at Dickinson while working in service, excluding extra board, headquartered at Mandan, it is agreed:

For a period not to exceed nine (9) months from the date on which the service established by this agreement is implemented Engineers who were headquartered at Dickinson as of March 4, 1994, who have not changed their residence from Dickinson, and who are regularly assigned in service headquartered at Mandan or Glendive will be given, as nearly as practicable, a three (3) hour "on-duty" call for duty for service at Mandan or Glendive. Once having received the call as provided herein, an Engineer will be considered to be on duty and under pay at the time for which ordered to report unless the engineer is notified before leaving the place where call was received that the call has been broken or changed to a later time.

It was further understood that for the same nine (9) month period, engineers who were headquartered at Dickinson as of March 4, 1994, who own a residence at Dickinson and who are assigned to the extra list at either Mandan or Glendive would be allowed to avail themselves to company provided lodging at these points. Such extra board engineers are not entitled to the three (3) hour "on-duty" call. The parties agree to meet prior to the expiration of the nine (9) month period to determine if it is necessary to continue the provisions of this side letter.

If this accurately sets forth our understanding please indicate your concurrence by signing in the space provided below.

Sincerely,

ACCEPTED

Daniel J. Kozak  
AVP Labor Relations

General Chairman-BLE

Side Letter No. 4

Date June 30, 1994  
File: Mandan-Glendive ID

Mr. D.L. McPherson  
General Chairman-BLE  
Union Depot Place, Suite 3  
214 E. 4th St.  
St. Paul, MN 55101

Dear Mr. McPherson:

This refers to the agreement signed this date for establishment of Interdivisional freight service between Mandan and Glendive.

Regarding Section 2 (c) of the Agreement, we agreed that if restoration is not possible at the home terminal due to the engineer not having proper rest, no further effort to restore the engineer to the position previously occupied in the pool will be made regarding that particular circumstance which triggered restoration.

If this accurately sets forth our understanding please indicate your concurrence by signing in the space provided below.

Sincerely,

ACCEPTED

Daniel J. Kozak  
AVP Labor Relations

General Chairman-BLE

Side Letter No. 5

Date June 30, 1994  
File: Mandan-Glendive ID

Mr. D.L. McPherson  
General Chairman-BLE  
Union Depot Place, Suite 3  
214 E. 4th St.  
St. Paul, MN 55101

Dear Mr. McPherson:

This refers to the agreement signed this date for establishment of Interdivisional freight service between Mandan and Glendive.

During our discussions of this agreement, it was agreed that employees transferring from Dickinson to Bismarck/Mandan or Glendive will receive a driving allowance at the rate per mile indicated by the Internal Revenue Service for driving between their present residence and their new on duty point in Bismarck/Mandan or Glendive. This driving allowance will be available commencing with the implementation of this agreement and shall continue until such time as the employee disposes of his/her former residence, but not to exceed nine (9) months from the date service is inaugurated. The distance is agreed to be 100 miles (depot Dickinson-depot Mandan, depot Dickinson-depot Glendive). If there is a shortage of housing at Bismarck /Mandan, the allowance will continue until such time as comparable housing is available at Bismarck/Mandan.

As an alternative to driving, an employee will be entitled to utilize Company provided lodging facilities in Bismarck/Mandan for the same time period with it being understood that no driving allowance will be paid for dates when the employee utilizes Company provided lodging under this paragraph.

In the event of inclement weather (snow, ice or related conditions) employees as described above will be allowed to use Company provided lodging to avoid having to drive to Dickinson while such conditions prevail. It is understood this inclement lodging provision will remain available until the employee has disposed of his/her home in Dickinson.

If the foregoing correctly sets forth our understanding, please indicate your concurrence by signing in the space provided below.

Sincerely,

ACCEPTED

Daniel J. Kozak  
AVP Labor Relations

General Chairman-BLE



Side Letter No. 6

Date June 30, 1994  
File: Mandan-Glendive ID

Mr. D.L. McPherson  
General Chairman-BLE  
Union Depot Place, Suite 3  
214 E. 4th St.  
St. Paul, MN 55101

Dear Mr. McPherson:

This refers to the agreement signed this date for establishment of Interdivisional freight service between Mandan and Glendive.

Article VIII - Road Yard and Incidental Work of the May 19, 1986 National Agreement provides in Section 1(d) that road crews may perform switching within switching limits without payment at times no yard crew is on duty except, on Carriers upon which the provisions of Section 1 of Article V of the June 25, 1964 Agreement are applicable, time consumed in switching under that provision "shall continue to be counted as switching time."

We discussed the performance of station switching at Dickinson, ND by the interdivisional service crews operating therein under the terms of the Agreement made this date and recognize that crews consisting of a conductor may not perform station switching at Dickinson, ND under provisions contained in the May 20, 1993 Crew Consist Agreement between the BN and UTU.

It is understood and agreed that when engineers perform station switching at Dickinson, ND such engineers with seniority established prior to November 1, 1985 will be compensated for the actual time consumed with a minimum of one hour at road service rates as provided under the May 1, 1969 Agreement.

If the foregoing correctly sets forth our understanding, please indicate your concurrence by signing in the space provided below.

Sincerely,

ACCEPTED

Daniel J. Kozak  
AVP Labor Relations

General Chairman-BLE

Side Letter No. 7

Date June 30, 1994  
File: Mandan-Glendive ID

Mr. D.L. McPherson  
General Chairman-BLE  
Union Depot Place, Suite 3  
214 E. 4th St.  
St. Paul, MN 55101

Dear Mr. McPherson:

This refers to the agreement signed this date for establishment of Interdivisional freight service between Mandan and Glendive.

Crew members may be deadheaded via air provided the aircraft is operated by a regularly scheduled commercial airline, or its affiliate, holding a C.F.R. Title 14, Part 121 or 135 Certificate. It is understood that certain employees may have physical or psychological conditions which prevent flying. Such employees upon notifying the Carrier, in writing, that they are incapable of flying, will be permitted to decline a call for deadhead by air without being subject to discipline or reprimand for so doing.

Engineers exercising their right in accordance with this understanding will remain standing first-out. The engineer standing next out in the pool will be called for the deadhead trip. The engineer declining the deadhead by air will be paid as if deadheaded and the engineer who accepted the call will be paid as though working the train which leaves the terminal (destined for the same terminal) following the deadhead. An employee who is called at the away-from-home terminal to deadhead via aircraft will be permitted to return to the home terminal by train or another method of conveyance and shall be compensated for deadheading. Engineers who miss calls for deadheads, account another engineer declining a call for deadhead by air, will not be disciplined or reprimanded for such missed call and will not be subjected to loss of earnings or position in the pool as a result thereof.

If the foregoing correctly sets forth our understanding, please indicate your concurrence by signing in the space provided below.

Sincerely,

ACCEPTED

Daniel J. Kozak  
AVP Labor Relations

General Chairman-BLE

Side Letter No. 8

Date June 30, 1994  
File: Mandan-Glendive ID

Mr. D.L. McPherson  
General Chairman-BLE  
Union Depot Place, Suite 3  
214 E. 4th St.  
St. Paul, MN 55101

Dear Mr. McPherson:

This refers to the agreement signed this date for establishment of Interdivisional freight service between Mandan and Glendive.

During our discussions it was understood that the mileage range as referred to in Section 1 of the agreement (3600-4000) may be indexed to account for the lost earnings resultant from the increase in the basic day pursuant to Arbitration Award No. 458. The formula for indexing is:

3800 divided by the one way line mileage of the run which equals the average number of trips made by a turn in the pool. This number times the amount the current basic daily mileage exceeds 100 represents the amount to be added to 4000 to establish the top limit of the mileage regulation range.

EXAMPLE: 3800 divided by 208 (one-way line mileage of run) = 18.3 (trips) X 26 (miles/basic day)= 475 miles which is maximum that can be added to 3800 to develop top of mileage regulation range (4275). 4349 with 130 mile basic day.

It was further understood that upon request from the BLE Local Chairman the carrier will agree to adjust the regulation parameters according to the Local Chairman's request, however, not to exceed the top of the range as calculated using the formula above.

If the foregoing correctly sets forth our understanding, please indicate your concurrence by signing in the space provided below.

Sincerely,

ACCEPTED

Daniel J. Kozak  
AVP Labor Relations

General Chairman-BLE

Side Letter No. 9

Date June 30, 1994  
File: Mandan-Glendive ID

Mr. D.L. McPherson  
General Chairman-BLE  
Union Depot Place, Suite 3  
214 E. 4th St.  
St. Paul, MN 55101

Dear Mr. McPherson:

This refers to the agreement signed this date for establishment of Interdivisional freight service between Mandan and Glendive.

Relative to Section 1 of the agreement, it was understood that the local Carrier officer may agree to have the BLE Local Chairman regulate the number of turns in this pool with the understanding that such regulation will be in accordance with the provisions of this and other applicable agreements pertaining to mileage/pool regulation, and that the pool will be regulated in such a manner so as not to generate additional guarantee payments.

If the foregoing correctly sets forth our understanding, please indicate your concurrence by signing in the space provided below.

Sincerely,

ACCEPTED

Daniel JK. Kozak  
AVP Labor Relations

General Chairman-BLE

Side Letter No. 10

Date June 30, 1994  
File: Mandan-Glendive ID

Mr. D.L. McPherson  
General Chairman-BLE  
Union Depot Place, Suite 3  
214 E. 4th St.  
St. Paul, MN 55101

Dear Mr. McPherson:

This refers to the agreement signed this date for establishment of Interdivisional freight service between Mandan and Glendive.

During our discussions it was recognized that employees may be force assigned to Dickinson from other locations on the seniority district between the date of Carrier's notice dated March 4, 1994 and the actual implementation date of the subject interdivisional service. Therefore, it was understood that any employees force assigned to service at Dickinson during this period would be eligible for protective benefits (housing, relocation and compensation) to the same extent and subject to the same conditions as employees headquartered at Dickinson as of March 4, 1994. It is understood that this level of protection applies to the physical move from Dickinson to Bismarck/Mandan or Glendive and is not intended to suggest that these benefits would be applicable to a residence at a location other than Dickinson.

If the foregoing correctly sets forth our understanding, please indicate your concurrence by signing in the space provided below.

Sincerely,

ACCEPTED

Daniel J. Kozak  
AVP Labor Relations

General Chairman-BLE

Side Letter No. 11

Date June 30, 1994  
File: Mandan-Glendive ID

Mr. D.L. McPherson  
General Chairman-BLE  
Union Depot Place, Suite 3  
214 E. 4th St.  
St. Paul, MN 55101

Dear Mr. McPherson:

This refers to the agreement signed this date for establishment of Interdivisional freight service between Mandan and Glendive.

We discussed the existing relationship between the terminals at Hettinger, ND and Dickinson, ND., in that employees who reside at Dickinson often work assignments at Hettinger and vice versa. The establishment of Interdivisional service through the home terminal of Dickinson will undoubtedly affect the employees who, by choice or by force assignment, work assignments at these two locations.

Therefore, it was agreed that the extra list and unassigned freight pool headquartered at Hettinger, which protect service requirements between Hettinger and Forsyth, MT will be abolished concurrent with implementation of the interdivisional service referred to above. It was further agreed that the extra list and freight pool at Hettinger will be relocated and headquartered at Forsyth. The Local Chairman and designated Carrier officer at Forsyth shall determine if the work between Forsyth and Hettinger is to be protected by the extra list, the unassigned short pool presently headquartered at Forsyth, or a separate pool.

In recognition of the above it was agreed that employees residing or working in the vicinity of Hettinger, including those who reside at Dickinson shall be entitled to moving, real estate, and such other protective benefits as contained in the interdivisional service agreement signed this date.

If the foregoing correctly sets forth our understanding, please indicate your concurrence by signing in the space provided below.

Sincerely,

ACCEPTED

Daniel J. Kozak  
AVP Labor Relations

General Chairman-BLE

Side Letter No. 12

Date June 30, 1994  
File: Mandan-Glendive ID

Mr. D.L. McPherson  
General Chairman-BLE  
Union Depot Place, Suite 3  
214 E. 4th St.  
St. Paul, MN 55101

Dear Mr. McPherson:

This refers to the agreement signed this date for establishment of Interdivisional freight service between Mandan and Glendive.

During our discussions of this Section, it was agreed that if an employee lost time as a result of conducting union business and was entitled to protection as a result of the implementation of this interdiv4sional service, such time would be counted in the computation of their test period and protection rates under this agreement. It further was agreed that the Organization would provide the Carrier a record of the lost earnings of such employees.

If the foregoing correctly sets forth our understanding, please indicate your concurrence by signing in the space provided below.

Sincerely,

ACCEPTED

Daniel JK. Kozak  
AVP Labor Relations

General Chairman-BLE

## Side Letter No. 13

Date June 30, 1994  
File: Mandan-Glendive ID

Mr. D.L. McPherson  
General Chairman-BLE  
Union Depot Place, Suite 3  
214 E. 4th St.  
St. Paul, MN 55101

Dear Mr. McPherson:

This refers to the agreement signed this date for establishment of Interdivisional freight service between Mandan and Glendive.

During our discussions the subject of comparable housing allowances was considered. In order to resolve the matter, and to develop the necessary comparison, it was necessary to first determine the difference between the average cost of real estate at Dickinson and the average cost of real estate at Mandan/Bismarck. We agreed to issue instructions to a team of certified real estate appraisers to make comparisons between the cost of housing at Mandan/Bismarck and Dickinson. It was determined that the cost of housing at Mandan/Bismarck exceeds the cost of housing at Dickinson by the average of forty-six (46) percent. It is evident that an allowance to assist in offsetting the cost of obtaining comparable housing at Mandan/Bismarck would be an appropriate item to include as part of this agreement. The following will confirm our understanding on the subject:

1 To share and assist in offsetting the cost of obtaining housing in the Mandan/Bismarck area the Carrier will provide a monetary allowance to eligible employees. The housing allowance will be an amount equal to 23% of the appraised value of the employee's home, but shall not be an amount less than \$8,000 or exceed the amount of \$20,000.

2. The following are examples of application of this understanding.

**EXAMPLE 1:** If the employee's home is appraised at \$45,000, the employee would be entitled to a \$10,350 housing allowance (\$45,000 X 23% = \$10,350).

**EXAMPLE 2:** If the employee's home is appraised at \$70,000, the employee would be entitled to a \$16,100 housing allowance (\$70,000 X 23% = \$16,100).

**EXAMPLE 3:** If the employee's home is appraised at \$87,000, the employee would be entitled to the \$20,000 maximum payment



3. In order to receive a housing allowance, the employee must first apply with the Carrier for relocation benefits by filing form 12602E (Scheduled Employees Transfer Notice). The housing allowance will be paid immediately after the appraised value of the employee's home has been determined by the two (2) certified real estate appraisers selected by the employee from the list supplied by the relocation company. It is understood that the employee will be required to eventually relocate to the Mandan/Bismarck area in order to retain the housing allowance.

4. The housing allowance shall be paid in addition to the moving, real estate and all other protective benefits to which employees are entitled under the terms of this agreement.

5. Employees who reside in Dickinson and are currently employed on regular or extra assignments at Hettinger, North Dakota that may be abolished in the future, will be entitled to the provisions of this side letter, if otherwise qualified.

6. The parties recognize that there are unique circumstances associated with the real estate and housing which relate exclusively to the situation existing between Dickinson and Mandan/Bismarck. It is understood and agreed that neither party would refer to this agreement, in any forum, as being representative of acceptable terms and conditions for payment of comparable housing allowances in connection with any other existing or proposed interdivisional service. If the foregoing correctly sets forth our understanding, please indicate your concurrence by signing in the space provided below.

Sincerely,

ACCEPTED

Daniel JK. Kozak  
AVP Labor Relations

General Chairman-BLE

## Side Letter No. 14

Date June 30, 1994  
File: Mandan-Glendive ID

Mr. D.L. McPherson  
General Chairman-BLE  
Union Depot Place, Suite 3  
214 E. 4th St.  
St. Paul, MN 55101

Dear Mr. McPherson:

This refers to the agreement signed this date for establishment of Interdivisional freight service between Mandan and Glendive.

This is to confirm our various discussions concerning Attachment "A" of the Agreement mentioned above.

Certain employees currently residing at Dickinson may desire to relocate their residences to Glendive, Montana. We agreed that such employees would be entitled to the moving, real estate, and other protective benefits contained in this agreement under similar terms and conditions, with the exception of the comparable housing allowance covered under Side Letter No. 13.

We further agreed to issue instructions to a team of certified real estate appraisers who made comparisons between Dickinson and Glendive and determined the cost of housing at Glendive exceeds the cost of housing at Dickinson by the average of 30 percent. It is therefore evident that an allowance to assist in offsetting the cost of comparable housing at Glendive would be an item appropriate to include as part of this agreement. The following will confirm our understanding on the subject:

1. To share and assist in offsetting the cost of obtaining housing in the Glendive area the Carrier will provide a monetary allowance to eligible employees. The housing allowance will be an amount equal to 15% of the appraised value of the employee's home, but shall not exceed the amount of \$16,000.
2. The following are examples of application of this understanding.

**Example 1:** If the employee's home is appraised at \$45,000, the employee would be entitled to a \$6,750 housing allowance ( $\$45,000 \times 15\% = \$6,750$ ).

**Example 2:** If the employee's home is appraised at \$60,000, the employee would be entitled to a \$9,000 housing allowance ( $\$60,000 \times 15\% = \$9,000$ ).

**Example 3:** If the employee's home is appraised at \$108,000, the employee would be entitled to a \$16,000 housing allowance ( $\$108,000 \times 15\% = \$16,200$ , but the maximum allowance is \$16,000).

3. In order to receive a housing allowance, the employee must first apply with the Carrier for relocation benefits by filing form 12602E (Scheduled Employees Transfer Notice). The housing allowance will be paid immediately after the appraised value of the employee's home has been determined by the two (2) certified real estate appraisers selected by the employee from the list supplied by the relocation company. It is understood that the employee will be required to eventually relocate to the Glendive area in order to retain the housing allowance.

4. The housing allowance shall be paid in addition to the moving, real estate and all other protective benefits to which employees are entitled under the terms of this agreement.

5. Employees who reside in Dickinson and are currently employed on regular or extra assignments at Hettinger, North Dakota that may be abolished in the future, will be entitled to the provisions of this side letter, if otherwise qualified.

6. The parties recognize that there are unique circumstances associated with the real estate and housing which relate exclusively to the situation existing between Dickinson and Mandan/Bismarck. It is understood and agreed that neither party would refer to this agreement, in any forum, as being representative of acceptable terms and conditions for payment of comparable housing allowances in connection with any other existing or proposed interdivisional service.

If the foregoing correctly sets forth our understanding, please indicate your concurrence by signing in the space provided below.

Sincerely,

ACCEPTED

Daniel J. Kozak  
AVP Labor Relations

General Chairman-BLE

## United Transportation Union

Burlington Northern - Santa Fe Consolidated General Committee (Former NP Lines)

August 6, 1998

RE: CE 1344-146-97

### REPORT OF GRIEVANCE TO LOCAL 1344:

Dear Brothers and Sisters:

This case was a claim in behalf of Mandan, ND Conductor F.G. Laingang and Engineer K.W. Hausauer per Local Chairman Letter, File: CW -1344-50-97 dated June 27, 1997 claiming a basic day at the applicable rate account run around on board at Glendive.

The facts on which we based our appeal were: On April 10, 1997 Claimants were employed at Glendive, MT in unassigned pooled ID freight service with Mandan as distant terminal and automatic release point. Claimants were first out and rested at 5:45 p.m. At 5:30 p.m. Carrier called Engineer Sagmiller and Conductor Mickelson from the same pool, behind Claimants in rotation, for Train No. RC226. This crew did not depart Glendive until 6:40 p.m. Train RC 226 would not have been delayed if Carrier would have called Claimants at 5:45 p.m. Claimants were subsequently called on duty at 7:00 p.m.

Claim was progressed through the appeal process to conference with the highest Carrier Officer designated to handle claims and grievances. The issues in this case were considered during conferences held in Fort Worth, Texas, the week of May 16, 1998.

These type of claims will be settled in the following manner:

"In ID service, if a crew first out is not rested, and the following crew called departs in excess of 30 minutes, after the first out crews rest, claim for board run around will be allowed."

Example #1: First out crew rested 8:00 a.m. Following crew called on duty 7:45 a.m., departs 8:45 a.m. 45 minutes after first crews rest, claim allowed.

Example #2: Same call as example #1 as example #1, Following crew departs 8:20 a.m. 20 minutes after first crews rest, claim withdrawn.

In this case the time was over an hour, and as a result the claim was allowed. Conductor Leingang was allowed \$91.69, and Engineer Hausauer was allowed \$134.36, on a non-referable basis, on the first half of July, 1998.

Yours very truly,

Associate General Chairman

cc: T.R.Miller, LC  
N.Schlabz, S

Enclosure