

MEMORANDUM OF AGREEMENT

Between

DELAWARE and HUDSON RAILWAY COMPANY

and

EMPLOYEES REPRESENTED BY

THE BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

DIVISION OF IBT

**WHEREAS**, Norfolk Southern Railway Company (NS) has filed an application with the Surface Transportation Board (STB) in Finance Docket 35873 seeking approval of acquisition of control by NS of 282.55 miles of Delaware and Hudson Railway Company (D&H) rail lines located in Pennsylvania and New York (the D&H South Lines) including any and all other tracks related to or auxiliary to the acquired lines. In related filings, NS filed two Notices of Exemption in Finance Docket Nos. 34209 and 34562 (Sub - No. 1) to allow NS to retain and modify (in FD34209) 17.45 miles of existing NS trackage rights of D&H's line between MP 484.85 + in the vicinity of Schenectady, NY and CPF 467 in the vicinity of Mechanicville, NY including the right to use such track(s) within D&H's Mohawk Yard. NS will retain its existing trackage rights between MP 37.10 + of D&H's Canadian Main Line in Saratoga Springs and CPF 487.4 at Schenectady, NY;

**WHEREAS**, it is anticipated that the Surface Transportation Board ("STB") will impose the employee protective conditions set forth in New York Dock Railway - Control - Brooklyn Eastern District Terminal, 360 I.C.C. 60, aff'd, New York Dock Railway v. United States, 609 F.2d 83 (2d Cir. 1979), as modified by Wilmington Terminal Railroad - Purchase & Lease - CSXT Transportation, Inc., 6 I.C.C. 2d 799, 814-26 (1990), aff'd sub nom. Railway Labor Executives' Ass'n v. ICC, 930 F.2d 511 (6<sup>th</sup> Cir. 1991); and for the related trackage rights, it is anticipated that the STB will impose protective conditions as provided in Norfolk & Western Railway - Trackage Rights - Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway - Lease & Operate - California Western Railroad, 360 I.C.C. 653 (1980);

**WHEREAS**, it is anticipated there will be opportunity for some D&H employees to enter service on Norfolk Southern Railway immediately before or upon the date that NS begins to operate the D&H South Lines; and

**WHEREAS**, the parties signatory hereto desire to reach an implementing agreement in satisfaction of Article I, Section 4, of the New York Dock ("NYD") conditions or any other protective conditions that have been imposed by the STB in Finance Docket No. 35873, and related filings, to provide for the application of those statutory conditions' monetary benefits and other procedural protections to such D&H employees who remain in the service of D&H, as well as any other contractual employee protective obligations that might be deemed applicable in this transaction;

**THEREFORE**, it is agreed:

### **ARTICLE I – Applicable Agreements**

Except as otherwise specifically modified herein to effectuate the transaction identified above, all rules and Agreements presently in effect between D&H and the Brotherhood of Maintenance of Way Employees, Division of IBT shall remain in full force and effect.

### **ARTICLE II – Seniority**

#### **Section 1**

- (a) Employees of D&H may be offered employment with NS. Those accepting such employment shall establish seniority on NS subject to the terms and conditions of applicable Agreements between NS and BMWED.
- (b) D&H employees who accept employment on NS and establish a seniority date on the appropriate NS seniority roster(s) will simultaneously terminate any employment relationship and all seniority on the D&H.

#### **Section 2**

- (a) BMWED Seniority districts existing on D&H as of April 1, 2015 and identified as Territories #1, #2, #3, #4 and #6 shall be consolidated into a single D&H system seniority district and corresponding roster(s) (D&H System Seniority Roster. Existing employees who held seniority on the now extinct Seniority Territory # 5 (former SK Buffalo) shall be dovetailed into the System Seniority Roster in the same manner as employees with seniority on Seniority Territory #1 (no prior rights). Such newly created system seniority district and roster(s) shall be effective on the date NS commences operation of the acquired territory (D&H South Lines).
- (b) Employees holding seniority on the individual seniority district rosters identified in (a) above shall be dovetailed on the D&H System Seniority Roster based on their earliest date in any classification as reflected on the individual former seniority district roster(s).
- (c) If two or more employees have the same date on the former district roster, such employees shall be ranked on the System Seniority Roster based on their attained age, oldest being ranked first.
- (d) An employee who holds seniority on more than one of the D&H seniority territories as they existed on the day prior to commencement of operations by NSR must elect

which seniority district shall be his retained prior right district. The employee's earliest seniority date on the prior right district so retained shall be the date utilized for placement of that employee on the System Seniority Roster.

- (e) An employee placed on the System Seniority Roster using seniority from former Territories #2, #3 and #4 shall receive a "prior rights" notation on such rosters indicating the employee's former seniority Territory. Such an employee with "prior rights" will have preference for positions with fixed headquarters located within the boundaries of the employee's prior right territory. "Prior rights" for these purposes means that the position will be awarded first, to the senior-most employee with seniority in the classification with a holding a "prior rights" notation for that location, if no employee with prior rights makes application for the position, the position will be awarded to the senior employee in class on the System Seniority Roster. Displacements to positions will be handled in like manner.
- (f) Employees who establish seniority on or subsequent to the date on which NS begins operational start-up of the D&H South Lines in a craft represented by BMWED in the maintenance of way department shall be placed on the bottom of the applicable seniority roster(s) and such employees will not obtain prior rights under this agreement.
- (g) Rights to Maintenance of Way positions on the D&H system shall be based on the relative ranking on the D&H System Seniority Roster, subject to application of prior rights.

A furloughed employee who is recalled to a fixed headquartered position on other than the employee's prior right district and which is in excess of one hundred (100) miles from the employee's residence shall be paid such expenses as are payable to mobile production gang employees pursuant to BMWED-D&H CBA Rules 21 and 22.

- (h) A *dismissed* employee (as defined in Article I, Section 6 of the NYD conditions) who declines to accept recall to an available fixed headquartered position on the D&H system subject to paragraph (g) above will forfeit seniority and terminate his employment relationship with the D&H.

### **ARTICLE III - Adversely Affected Employees**

Employees adversely affected as a result of this transaction will be afforded the benefit of the conditions imposed by the STB. The afore-described anticipated employee protective conditions are, by reference, incorporated herein and made a part hereof. Copy of the NY Dock conditions is attached hereto and identified as Attachment 'A'. Copy of Request for Entitlement Form and Claim Form are appended as Attachments 'B' and 'C', respectively.

## ARTICLE IV – MISCELLANEOUS

(a) Rule 19 is amended to read as follows:

- 19.1 The Carrier may establish production gangs to handle projects requiring additional manpower over a fixed period of time. These may be tie gangs, surfacing gangs, rail gangs, ballast gangs, curve patching gangs or welding gangs. Additional gangs may be included in this Rule 19 subject to agreement between the General Chairman and the designated Carrier officer.
- 19.2 When the Carrier intends to establish a gang pursuant to Rule 19.1 it shall give at least fifteen (15) days' written notice thereof to the General Chairman and, in so doing, provide the following information:
  - (i) Type of gang.
  - (ii) Description of territory over which it is programmed to work, by mile post locations (plus or minus) and the estimated work time at each location and the seniority territories involved.
  - (iii) Length of time the gang will operate.
  - (iv) Number of positions in each classification assigned to the gang.
  - (v) Tour of duty and work week.
- 19.3 Within ten (10) days after receipt of the notice provided in Rule 19.2, the General Chairman or his delegate shall confer with the designated Carrier officer to discuss the proposed gang work and the allocation of positions in accordance with employees' seniority.
- 19.4 The Carrier will bulletin all positions in the Inter-Divisional Gang to the System as per Bulletin Rules of the Agreement, including the information in Rule 19.2. Such bulletin will identify how many positions of each classification are available. Positions in the Inter-Divisional Gang will be awarded to employees based upon their ranking on the applicable classification's System Seniority Roster.
- 19.5 Vacancies required to be filled on a gang will be bulletined and awarded in accordance with Rule 19.4 above
- 19.6 An employee filling an advertised position in a gang established under this Agreement must remain with the gang to which assigned during the period said gang is in active operation, except that an employee may make application for an equal or higher rated position on another unit established under this Agreement, or he may make application for an equal or higher rated regular position in accordance with the applicable rules of this Agreement. (Equal or higher rate is defined to mean straight time hourly rate of the position).
- 19.7 Rate of Pay: The rates of pay for a position regularly assigned to a gang

established under this Agreement will be the rate applicable to such positions under this Agreement.

- 19.8 (a) Employees assigned to a gang established under this Agreement may perform the primary duties of their advertised position and any other work generally recognized as work of their particular classification throughout the territory without regard to seniority territories.
- (b) When extra help is required to fill unannounced vacancies in the gang while enroute, first opportunity shall be provided to employees holding prior right seniority at the location where the work is being performed.
- 19.9 An employee awarded a position on such gang as a result of the automatic bidder requirements of Rule 3.8 who has a prior rights designation on the System Seniority Roster shall be required to work within his prior rights seniority territory only, but may subsequently remain with the gang by choice, subject to displacement rights of employees when the gang enters other seniority territories.

#### **ARTICLE V - More Than One Protective Entitlement**

There shall be no duplication or pyramiding of benefits under this and any other protective arrangement. Adversely affected Employees entitled to protective conditions or arrangements under some other job security or protective conditions or arrangements and under the New York Dock conditions related to this transaction must elect which protective arrangement shall apply in accordance with the provisions of the New York Dock conditions.

#### **ARTICLE VI - Claims for Displacement/Dismissal Allowances**

Claims for Displacement or Dismissal Allowance by or on behalf of adversely affected Employees pursuant to Article I, Sections 5 and 6, respectively, of the New York Dock conditions must be submitted to the designated officer of the Company on the prescribed Form (Attachment 'C') not later than forty-five (45) days from the last day of the month for which such claim is made. Claims not filed within the time limits set forth herein shall be barred from further handling; however, this shall not preclude the filing nor prejudice the validity of claims filed for subsequent months.

#### **ARTICLE VII**

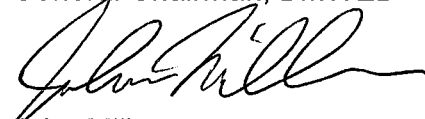
This Agreement constitutes the implementing agreement, fulfills all of the requirements of Article I, Section 4, of the applicable protective conditions, and is made without prejudice to the parties' positions with respect to future transactions.

This agreement is signed April 15, 2015.

FOR THE ORGANIZATION:



D.E. Bogart  
General Chairman, BMWED

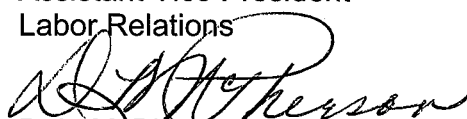


John Miller  
Vice General Chairman

FOR THE DELAWARE AND HUDSON  
RAILWAY COMPANY:



Myron Becker  
Assistant Vice President  
Labor Relations



Dale McPherson  
Director, Labor Relations

APPROVED:



Sean D. Gerie  
Vice President

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## APPENDIX III

Labor protective conditions to be imposed in railroad transactions pursuant to 49 U.S.C. 11343 et seq. [formerly sections 5(2) and 5(3) of the Interstate Commerce Act], except for trackage rights and lease proposals which are being considered elsewhere, are as follows:

1. Definitions.-(a) "Transaction" means any action taken pursuant to authorizations of this Commission on which these provisions have been imposed.

(b) "Displaced employee" means an employee of the railroad who, as a result of a transaction is placed in a worse position with respect to his compensation and rules governing his working conditions.

(c) "Dismissed employee" means an employee of the railroad who, as a result of a transaction is deprived of employment with the railroad because of the abolition of his position or the loss thereof as the result of the exercise of seniority rights by an employee whose position is abolished as a result of a transaction.

(d) "Protective period" means the period of time during which a displaced or dismissed employee is to be provided protection hereunder and extends from the date on which an employee is displaced or dismissed to the expiration of 6 years therefrom, provided, however, that the protective period for any particular employee shall not continue for a longer period following the date he was displaced or dismissed than the period during which such employee was in the employ of the railroad prior to the date of his displacement or his dismissal. For purposes of this appendix, an employee's length of service shall be determined in accordance with the provisions of section 7(b) of the Washington Job Protection Agreement of May 1936.

2. The rates of pay, rules, working conditions and all collective bargaining and other rights, privileges and benefits (including continuation of pension rights and benefits) of the railroad's employees under applicable laws and/or existing collective bargaining agreements or otherwise shall be preserved unless changed by future collective bargaining agreements or applicable statutes.

3. Nothing in this Appendix shall be construed as depriving any employee of any rights or benefits or eliminating any obligations which such employee may have under any existing job security or other protective conditions or arrangements; provided, that if an employee otherwise is eligible for protection under both this Appendix and some other job security or other protective conditions or arrangements, he shall elect between the benefits under this Appendix and similar benefits under such other arrangement and, for so long as he continues to receive such benefits under the provisions which he so elects, he shall not be entitled to the same type of benefit under the provisions which he does not so elect; provided further, that the benefits under this Appendix, or any other arrangement, shall be construed to include the conditions,

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responsibilities and obligations accompanying such benefits; and, provided further, that after expiration of the period for which such employee is entitled to protection under the arrangement which he so elects, he may then be entitled to protection under the other arrangement for the remainder, if any, of this protective period under that arrangement.

4. Notice and Agreement or Decision - (a) Each railroad contemplating a transaction which is subject to these conditions and may cause the dismissal or displacement of any employees, or rearrangement of forces, shall give at least ninety (90) days written notice of such intended transaction by posting a notice on bulletin boards convenient to the interested employees of the railroad and by sending registered mail notice to the representatives of such interested employees. Such notice shall contain a full and adequate statement of the proposed changes to be affected by such transaction, including an estimate of the number of employees of each class affected by the intended changes. Prior to consummation the parties shall negotiate in the following manner.

Within five (5) days from the date of receipt of notice, at the request of either the railroad or representatives of such interested employees, a place shall be selected to hold negotiations for the purpose of reaching agreement with respect to application of the terms and conditions of this appendix, and these negotiations shall commence immediately thereafter and continue for at least thirty (30) days. Each transaction which may result in a dismissal or displacement of employees or rearrangement of forces, shall provide for the selection of forces from all employees involved on a basis accepted as appropriate for application in the particular case and any assignment of employees made necessary by the transaction shall be made on the basis of an agreement or decision under this section 4. If at the end of thirty (30) days there is a failure to agree, either party to the dispute may submit it for adjustment in accordance with the following procedures:

(1) Within five (5) days from the request for arbitration the parties shall select a neutral referee and in the event they are unable to agree within said five (5) days upon the selection of said referee then the National Mediation Board shall immediately appoint a referee.

(2) No later than twenty (20) days after a referee has been designated a hearing on the dispute shall commence.

(3) The decision of the referee shall be final, binding and conclusive and shall be rendered within thirty (30) days from the commencement of the hearing of the dispute.



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(4) The salary and expenses of the referee shall be borne equally by the parties to the proceeding; all other expenses shall be paid by the party incurring them.

(b) No change in operations, services, facilities, or equipment shall occur until after an agreement is reached or the decision of a referee has been rendered.

5. Displacement allowances -(a) So long after a displaced employee's displacement as he is unable, in the normal exercise of his seniority rights under existing agreements, rules and practices, to obtain a position producing compensation equal to or exceeding the compensation he received in the position from which he was displaced, he shall, during his protective period, be paid a monthly displacement allowance equal to the difference between the monthly compensation received by him in the position in which he is retained and the average monthly compensation received by him in the position from which he was displaced.

Each displaced employee's displacement allowance shall be determined by dividing separately by 12 the total compensation received by the employee and the total time for which he was paid during the last 12 months in which he performed services immediately preceding the date of his displacement as a result of the transaction (thereby producing average monthly compensation and average monthly time paid for in the test period), and provided further, that such allowance shall also be adjusted to reflect subsequent general wage increases.

If a displaced employee's compensation in his retained position in any month is less in any month in which he performs work than the aforesaid average compensation (adjusted to reflect subsequent general wage increases) to which he would have been entitled, he shall be paid the difference, less compensation for time lost on account of his voluntary absences to the extent that he is not available for service equivalent to his average monthly time during the test period, but if in his retained position he works in any month in excess of the aforesaid average monthly time paid for during the test period he shall be additionally compensated for such excess time at the rate of pay of the retained position.

(b) If a displaced employee fails to exercise his seniority rights to secure another position available to him which does not require a change in his place of residence, to which he is entitled under the working agreement and which carries a rate of pay and compensation exceeding those of the position which he elects to retain, he shall thereafter be treated for the purposes of this section as occupying the position he elects to decline.

(c) The displacement allowance shall cease prior to the expiration of the protective period in the event of the displaced employee's resignation, death, retirement, or dismissal for justifiable cause.

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6. Dismissal allowances. - (a) A dismissed employee shall be paid a monthly dismissal allowance, from the date he is deprived of employment and continuing during his protective period, equivalent to one-twelfth of the compensation received by him in the last 12 months of his employment in which he earned compensation prior to the date he is first deprived of employment as a result of the transaction. Such allowance shall also be adjusted to reflect subsequent general wage increases.

(b) The dismissal allowance of any dismissed employee who returns to service with the railroad shall cease while he is so reemployed. During the time of such reemployment, he shall be entitled to protection in accordance with the provisions of section 5.

(c) The dismissal allowance of any dismissed employee who is otherwise employed shall be reduced to the extent that his combined monthly earnings in such other employment, any benefits received under any unemployment insurance law, and his dismissal allowance exceed the amount upon which his dismissal allowance is based. Such employee, or his representative, and the railroad shall agree upon a procedure by which the railroad shall be currently informed of the earnings of such employee in employment other than with the railroad, and the benefits received.

(d) The dismissal allowance shall cease prior to the expiration of the protective period in the event of the employee's resignation, death, retirement, dismissal for justifiable cause under existing agreements, failure to return to service after being notified in accordance with the working agreement, failure without good cause to accept a comparable position which does not require a change in his place of residence for which he is qualified and eligible after appropriate notification, if his return does not infringe upon the employment rights of other employees under a working agreement.

7. Separation allowance. - A dismissed employee entitled to protection under this appendix, may, at his option within 7 days of his dismissal, resign and (in lieu of all other benefits and protections provided in this appendix) accept a lump sum payment computed in accordance with section 9 of the Washington Job Protection Agreement of May 1936.

8. Fringe benefits. - No employee of the railroad who is affected by a transaction shall be deprived, during his protection period, of benefits attached to his previous employment, such as free transportation, hospitalization, pensions, reliefs, et cetera, under the same conditions and so long as such benefits continue to be accorded to other employees of the railroad, in active or on furlough as the case may be, to the extent that such benefits can be so maintained under present authority of law or corporate action or through future authorization which may be obtained.

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9. Moving expenses.-Any employee retained in the service of the railroad or who is later restored to service after being entitled to receive a dismissal allowance, and who is required to change the point of his employment as a result of the transaction, and who within his protective period is required to move his place of residence, shall be reimbursed for all expenses of moving his household and other personal effects for the traveling expenses of himself and members of his family, including living expenses for himself and his family and for his own actual wage loss, not exceed 3 working days, the exact extent of the responsibility of the railroad during the time necessary for such transfer and for reasonable time thereafter and the ways and means of transportation to be agreed upon in advance by the railroad and the affected employee or his representatives; provided, however, that changes in place of residence which are not a result of the transaction, shall not be considered to be within the purview of this section; provided further, that the railroad shall, to the same extent provided above, assume the expenses, et cetera, for any employee furloughed with three (3) years after changing his point of employment as a result of a transaction, who elects to move his place of residence back to his original point of employment. No claim for reimbursement shall be paid under the provision of this section unless such claim is presented to railroad with 90 days after the date on which the expenses were incurred.

10. Should the railroad rearrange or adjust its forces in anticipation of a transaction with the purpose or effect of depriving an employee of benefits to which he otherwise would have become entitled under this appendix, this appendix will apply to such employee.

11. Arbitration of disputes.- (a) In the event the railroad and its employees or their authorized representatives cannot settle any dispute or controversy with respect to the interpretation, application or enforcement of any provision of this appendix, except section 4 and 12 of this article I, within 20 days after the dispute arises, it may be referred by either party to an arbitration committee. Upon notice in writing served by one party on the other of intent by that party to refer a dispute or controversy to an arbitration committee, each party shall, within 10 days, select one member of the committee and the members thus chosen shall select a neutral member who shall serve as chairman. If any party fails to select its member of the arbitration committee within the prescribed time limit, the general chairman of the involved labor organization or the highest officer designated by the railroads, as the case may be, shall be deemed the selected member and the committee shall then function and its decision shall have the same force and effect as though all parties had selected their members. Should the members be unable to agree upon the appointment of the neutral member within 10 days, the parties shall then within an additional 10 days endeavor to agree to a method by which a neutral member shall be appointed, and, failing such agreement, either party may request the National Mediation Board to designate within 10 days the neutral member whose designation will be binding, upon the parties.

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(b) In the event a dispute involves more than one labor organization, each will be entitled to a representative on the arbitration committee, in which event the railroad will be entitled to appoint additional representatives so as to equal the number of labor organization representatives.

(c) The decision, by majority vote, of the arbitration committee shall be final, binding, and conclusive and shall be rendered within 45 days after the hearing of the dispute or controversy has been concluded and the record closed.

(d) The salaries and expenses of the neutral member shall be borne equally by the parties to the proceeding and all other expenses shall be paid by the party incurring them.

(e) In the event of any dispute as to whether or not a particular employee was affected by a transaction, it shall be his obligation to identify the transaction and specify the pertinent facts of that transaction relied upon. It shall then be the railroad's burden to prove that factors other than a transaction affected the employee.

12. Losses from home removal.— (a) The following conditions shall apply to the extent they are applicable in each instance to any employee who is retained in the service of the railroad (or who is later restored to service after being entitled to receive a dismissal allowance) who is required to change the point of his employment within his protective period as a result of the transaction and is therefore required to move his place of residence:

(i) If the employee owns his own home in the locality from which he is required to move, he shall at his option be reimbursed by the railroad for any loss suffered in the sale of his home for less than its fair value. In each case the fair value of the home in question shall be determined as of a date sufficiently prior to the date of the transaction so as to be unaffected thereby. The railroad shall in each instance be afforded an opportunity to purchase the home at such fair value before it is sold by the employee to any other person.

(ii) If the employee is under a contract to purchase his home, the railroad shall protect him against loss to the extent of the fair value of equity he may have in the home and in addition shall relieve him from any further obligation under his contract.

(iii) If the employee holds an unexpired lease of a dwelling occupied by him as his home, the railroad shall protect him from all loss and cost in securing the cancellation of said lease.

b) Changes in place of residence which are not the result of a transaction shall not be considered to be within the purview of this section.

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(c) No claim for loss shall be paid under the provisions of this section unless such claim is presented to the railroad within 1 year after the date the employee is required to move.

(d) Should a controversy arise in respect to the value of the home, the loss sustained in its sale, the loss under a contract for purchase, loss and cost in securing termination of a lease, or any other question in connection with these matters, it shall be decided through joint conference between the employee, or their representatives and the railroad. In the event they are unable to agree, the dispute or controversy may be referred by either party to a board of competent real estate appraisers, selected in the following manner. One to be selected by the representatives of the employees and one by the railroad, and these two, if unable to agree within 30 days upon a valuation, shall endeavor by agreement within 10 days thereafter to select a third appraiser, or to agree to a method by which a third appraiser shall be selected, and failing such agreement, either party may request the National Mediation Board to designate within 10 days a third appraiser whose designation will be binding upon the parties. A decision of a majority of the appraisers shall be required and said decision shall be final and conclusive. The salary and expenses of the third or neutral appraiser, including the expenses of the appraisal board, shall be borne equally by the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the compensation of the appraiser selected by such party.

## ARTICLE II

1. Any employee who is terminated or furloughed as a result of a transaction shall, if he so requests, be granted priority of employment or reemployment to fill a position comparable to that which he held when his employment was terminated or he was furloughed, even though in a different craft or class, on the railroad which he is, or by training or retraining physically and mentally can become, qualified, not, however, in contravention of collective bargaining agreements relating thereto.

2. In the event such training or retraining is requested by such employee, the railroad shall provide for such training or retraining at no cost to the employee.

3. If such a terminated or furloughed employee who had made a request under section 1 or 2 of the article II fails without good cause within 10 calendar days to accept an offer of a position comparable to that which he held when terminated or furloughed for which he is qualified, or for which he has satisfactorily completed such training, he shall, effective at the expiration of such 10-day period, forfeit all rights and benefits under this appendix.

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## ARTICLE III

Subject to this appendix, as if employees of railroad, shall be employees, if affected by a transaction, of separately incorporated terminal companies which are owned (in whole or in part) or used by railroad and employees of any other enterprise within the definition of common carrier by railroad in section 1(3) of part I of the Interstate Commerce Act, as amended, in which railroad has an interest, to which railroad provides facilities, or with which railroad contracts for use of facilities, or the facilities of which railroad otherwise uses; except that the provisions of this appendix shall be suspended with respect to each such employee until and unless he applies for employment with each owning carrier and each using carrier; provided that said carriers shall establish one convenient central location for each terminal or other enterprise for receipt of one such application which will be effective as to all said carriers and railroad shall notify such employees of this requirement and of the location for receipt of the application. Such employees shall not be entitled to any of the benefits of this appendix in the case of failure, without good cause, to accept comparable employment, which does not require a change in place of residence, under the same conditions as apply to other employees under this appendix, with any carrier for which application for employment has been made in accordance with this section.

## ARTICLE IV

Employees of the railroad who are not represented by a labor organization shall be afforded substantially the same levels of protection as are afforded to members of labor organizations under these terms and conditions.

In the event any dispute or controversy arises between the railroad and an employee not represented by a labor organization with respect to the interpretation, application or enforcement of any provision hereof which cannot be settled by the parties within 30 days after the dispute arises, either party may refer the dispute to arbitration.

## ARTICLE V

1. It is the intent of this appendix to provide employee protections which are not less than the benefits established under 49 USC 11347 before February 5, 1976, and under section 565 of title 45. In so doing, changes in wording and organization from arrangements earlier developed under those sections have been necessary to make such benefits applicable to transactions as defined in article 1 of this appendix. In making such changes, it is not the intent of this appendix to diminish such benefits. Thus, the terms of this appendix are to be resolved in favor of this intent to provide employee protections and benefits no less than those established under 49 USC 11347 before February 5, 1976 and under section 565 of title 45.

2. In the event any provision of this appendix is held to be invalid or otherwise unenforceable under applicable law, the remaining provisions of this appendix shall not be affected.

ATTACHMENT B -

**REQUEST FOR ENTITLEMENT FORM**

Line 1. LAST NAME \_\_\_\_\_ FIRST NAME \_\_\_\_\_ M.I. \_\_\_\_\_

Line 2. UNION: \_\_\_\_\_  
(EXAMPLE, BMWED, BLET, BRS, ETC.)

Line 3. Last position held immediately *preceding* the effective date of the D&H sale  
of South lines to NS: \_\_\_\_\_

Line 4. Location, headquarter point of last position held: \_\_\_\_\_

Line 5. Rate of position held: \$ \_\_\_\_\_ per \_\_\_\_\_  
(hour/daily/monthly)

Line 6. First position held *after* the effective date of the D&H sale of  
South lines to NS: \_\_\_\_\_

Line 7. Location, headquarter point of new position: \_\_\_\_\_

Line 8. Rate of position held: \$ \_\_\_\_\_ per \_\_\_\_\_  
hour/daily/monthly

Line 9. If displaced, date of displacement: \_\_\_\_\_, 20\_\_

Line 10. Name of person who displaced me: \_\_\_\_\_

Line 11. Date I exercised seniority to another position after displacement referred to  
on Line 9 above: \_\_\_\_\_, 20\_\_

Line 12. Date actually worked new position: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
(SIGNATURE OF SUBMITTING EMPLOYEE)

I CERTIFY THE INFORMATION I HAVE PROVIDED ABOVE TO BE CORRECT:

DATE SUBMITTED: \_\_\_\_\_, 20\_\_

**PROTECTIVE BENEFITS**

**DISPLACEMENT/DISMISSAL ALLOWANCE CLAIM FORM**

NAME: \_\_\_\_\_ PAYROLL NO. \_\_\_\_\_

Claim is hereby filed for an adjustment in compensation for the month of \_\_\_\_\_, 20\_\_ pursuant to the \_\_\_\_\_ protective conditions:

(EX. New York Dock; N&W; Feb. 7<sup>th</sup> etc)

**Fully Complete Both Sides of Form**

Name \_\_\_\_\_ Payroll No. \_\_\_\_\_

Home Address \_\_\_\_\_  
(street) (city) (state) (zip)

Home Phone (\_\_\_\_) \_\_\_\_\_ Work Phone (\_\_\_\_) \_\_\_\_\_

Position \_\_\_\_\_ Work Location \_\_\_\_\_ Supervisor \_\_\_\_\_

Seniority Date \_\_\_\_\_ Original Service Date \_\_\_\_\_

	Employee Complete Hours Pay	Do Not Write Here
1. Monthly Guarantee hours/(Test Period Allowance)	/ \$	\$
2. Number of work days in claimed period		
3. Straight time hours/earnings	/ \$	\$
4. Overtime hours/earnings	/ \$	\$
5. Gross hours paid for and earnings during claimed period (total from column 2 on back)	/ \$	\$
6. Total Earnings from outside sources		

7. Difference = Allowance Claimed (line 1 minus total lines 5 and 6)

I fully understand my obligation to obtain a position rated equal to or higher than my protected rate if available to me in accordance with my seniority and the applicable collective bargaining agreement. I hereby certify that the information furnished by me on both sides of this form and all attached documents is true and correct to the best of my knowledge and belief. I UNDERSTAND THAT WILLFUL TRANSMISSION OF FALSE INFORMATION MAY VIOLATE FEDERAL STATUTES CONCERNING MAIL FRAUD AND/OR STATE STATUTES CONCERNING OBTAINING MONEY UNDER FALSE PRETENSES.

Employee Signature \_\_\_\_\_ Date \_\_\_\_\_



COMPLETE FOR EACH DAY OF THE MONTH					DO NOT WRITE	
Date	Position/Assignment Number Worked 1	Hours paid/Earnings	Show Reason for Not Working (i.e. vacation, rest day, sick, etc...)	Position or Higher Rated Pos/Assign I Could Have Worked	RATE OF PAY (5)	VERIFY CODE (6)
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
29						
30						
31						
TOTAL			TOTAL DEDUCTIONS			

Less Total earnings from outside sources	\$
Amount of allowance claimed from Line 5 on the other side	\$

DO NOT WRITE BELOW HERE

VERIFICATION OF STATUS	APPROVED	
SIGNATURE	CORRECTED	
DATE	DENIED	