

COLLECTIVE AGREEMENT

between

DELAWARE & HUDSON RAILWAY COMPANY, INC,

and

**Their Employees in the Maintenance
of Way Department**

**represented by the
Brotherhood of Maintenance
of Way Employees**

Revised as of March 21, 2007 and replaces the Collective Agreement, dated December 21, 1999, as subsequently amended.

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RULE 1
PREAMBLE

- 1.1 These rules shall be the agreement between D&H Corporation and its employees on the Delaware and Hudson Railway in the classifications set forth in Rule 28 represented by the Brotherhood of Maintenance of Way Employees, engaged in work generally recognized as Maintenance of Way work, such as, inspection, construction, repair and maintenance of water facilities, bridges, culverts, buildings and other structures, tracks, fences and roadbed, and work which, as of the effective date of this Agreement, was being performed by these employees, and shall govern the rates of pay, rules and working conditions of such employees.
- 1.2 It is understood and agreed in the application of this provision that any work which was being performed prior to the date of acquisition on the property of the D&H Railroad, by other than employees covered by this Agreement, may continue to be performed by such other employees at the locations at which such work was performed by past practice or agreement on the effective date of this Agreement. It is also understood that work not covered by this Agreement which was being performed on the D&H Railroad, prior to the date of acquisition by employees covered by this Agreement will not be removed from the regular work assignments of the employees at the locations at which such work was performed by past practice or agreement on the effective date of this Agreement.
- 1.3 In the event the Carrier plans to contract out work within the scope of this Agreement, except in emergencies, the Carrier shall notify the General Chairman involved, in writing, as far in advance of the date of the contracting transaction as is practicable and in any event not less than fifteen (15) days prior thereto. "Emergencies" applies to fires, floods, heavy snow and like circumstances.
- 1.4 If the General Chairman, or his representative, requests a meeting to discuss matters relating to the said contracting transaction, the designated representative of the Carrier shall promptly meet with him for that purpose. Said Carrier and Organization representatives shall make a good faith attempt to reach an understanding concerning said contracting, but, if no understanding is reached, the Carrier may nevertheless proceed with said contracting and the Organization may file and progress claims in connection therewith.
- 1.5 Nothing in this Rule shall effect the existing rights of either party in connection with contracting out. Its purpose is to require the Company to give an advance notice and, if requested, to meet with the General Chairman or his representative to discuss and, if possible, reach an understanding in connection therewith.

(Letters of Understanding are attached as Appendix "H")

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RULE 2
APPLICATION FOR EMPLOYMENT

PROBATIONARY PERIOD

- 2.1 Applications for employment will be rejected within ninety (90) calendar days after seniority date is established, or applicant shall be considered accepted. Applications rejected by the Carrier must be declined in writing to the applicant.

OMISSION OR FALSIFICATION OF INFORMATION

- 2.2 An employee who has been accepted for employment in accordance with Rule 2.1 will not be terminated or disciplined by the Carrier for furnishing incorrect information in connection with an application for employment or for withholding information therefrom unless the information involved was of such a nature that the employee would not have been hired if the Carrier had had timely knowledge of it.

RULE 3
VACANCIES AND NEW POSITIONS

ASSIGNMENT TO POSITION

- 3.1 In the assignment of employees to positions under this Agreement, qualifications being sufficient, seniority shall govern.
- 3.2 The word "seniority" as used in this Rule means, first, seniority in the class in which the assignment is to be made, and thereafter, in the lower classed, respectively, in the same group in the order in which they appear on the seniority roster.

QUALIFICATION FOR POSITIONS

- 3.3 In making application for an advertised position or vacancy, or in the exercise of seniority, an employee will be permitted, on written request, or may be required, to give a reasonable, practical demonstration of his qualifications to perform the duties of the position.
- 3.4 In the event the employee requests, or is required to give a reasonable and practical demonstration of his qualifications for the position, the company must give a uniform job related test based upon reasonable job related criteria in order to ascertain initial qualifications for a position.
- 3.5 The above mentioned test and/or criteria may be reviewed by the designated union representative, upon reasonable notice to the designated Carrier officer.

ADVERTISEMENT AND AWARD

- 3.6 All positions and vacancies will be advertised within thirty (30) days previous to or within twenty (20) days following the dates they occur. The advertisement shall show position title, rate of pay, headquarters, tour of duty, rest days and designated meal period.
- 3.7 Advertisements will be posted on Mondays and shall close at 5:00 P.M. ten calendar days following. Advertisement will be posted at the headquarters of the gangs in the sub-department of employees entitled to consideration in filling the positions, during which time an employee may file his application.
- 3.8 Bid for a new position or vacancy advertised under this Rule must be filed with the official whose name appears on the advertisement. Each furloughed employee shall be an automatic bidder for advertised positions for which he has seniority and is qualified, in his seniority territory.
- 3.9 Awards will be made and bulletin announcing the name of the successful applicant will be posted within seven (7) days after the close of the advertisement.

This Rule shall not be construed so as to require the placing of employees on their awarded positions when properly qualified employees are not available at the time to fill their places, but physical transfers must be made within ten (10) days, or such longer period as may be mutually agreed upon by the designated Carrier officer and the General Chairman or his authorized representative.

- 3.10 An advertisement may be cancelled within seven (7) days from the date advertisement is posted.
- 3.11 An employee who desires to withdraw his bid or application for an advertised position or vacancy must file his request, in writing, with the official whose name appears on the advertisement within seven (7) days from the date the advertisement is posted.
- 3.12 Copy of advertisements, awards and abolishments will be furnished the General Chairman and designated representatives.

FILLING TEMPORARY VACANCIES

- 3.13 A position or vacancy may be filled temporarily pending assignment. When new positions or vacancies occur the senior qualified available employees will be given preference, whether working in a lower rated position or in the same grade or class pending advertisement and award. When furloughed employees are to be used to fill positions under this rule, the senior qualified furloughed employees shall be offered the opportunity to return to service. Such employees who return and are not awarded a position or assigned to another vacancy shall return to furloughed status.
- 3.14 An employee so assigned may be displaced by a senior qualified employee working in a lower rated position or in the same grade or class, provided displacement is made prior to the starting time of the assigned tour of duty, by notice to the foreman, or other officer in charge. The latter employee will not be subject to displacement from such temporary assignment by a senior employee unless the senior employee is unable to exercise seniority to another position not requiring a change of residence.
- 3.15 Employees temporarily assigned in accordance with the foregoing will be governed by the starting time, headquarters, tour of duty and rate of pay of the position so filled.

The provisions of this Rule 3.15 apply only when positions are filled by the Company in accordance with Rule 3.13, or when an employee in the exercise of seniority displaces a junior employee in accordance with Rule 3.14.

The provisions of this Rule 3.15 do not apply to employees assigned by the Company to fill vacancies or new positions pending assignment after they have expressed a desire not to be so assigned.

- 3.16 An employee assigned to temporary service may, when released, return to the position from which taken, without loss of seniority; in the event the position from

which he was taken has been permanently filled by a senior employee in the exercise of his seniority or abolished during his absence, he may exercise his seniority in accordance with the provisions of rules 4.4 through 4.7.

- 3.17 The word "senior" as used in Rule 3.13 means, first, senior in the class in which the assignment is to be made and, thereafter, in the lower classes, respectively, in the same group in the order in which the classes appear on the seniority roster. The word "senior" as used in Rule 3.14 means either senior in the class in which the assignment has been made or senior in the highest class in the same group in which the employee assigned holds seniority.
- 3.18 Vacancies which are not advertised may be filled in like manner.

FAILURE TO QUALIFY

- 3.19 An employee failing to qualify for a position in forty-five (45) working days will not acquire seniority dating on the position and will, within five (5) working days, return to his former position unless it has been abolished or filled by a senior employee, in which event he may exercise seniority.

APPLICATION FOR FORMER POSITION

- 3.20 When an employee bids for and is awarded a position, his former position will be declared vacant and advertised. Such employee cannot make application for the position vacated, unless his new position is abolished or he is displaced therefrom or his former position is vacated by the employee who filled the vacancy, he then can make application and his application will be accepted.

RULE 4
SENIORITY

SENIORITY DATE

4.1 Except as provided in Rule 3.19, seniority begins at the time the employee's pay starts. If two (2) or more employees start to work on the same calendar day, their seniority rank on the roster will be in alphabetical order. An employee assigned to a position of higher class than trackman will begin to earn seniority in such higher class and lower class on the same seniority roster in which he has not previously acquired seniority from the date first awarded an advertised position in such higher class. He will retain and accumulate seniority in the lower class from which assigned. An employee entering service in a class above that of trackman will acquire seniority in that class from the date assigned to an advertised position and will establish seniority as of the same date in all lower classes on the same seniority roster.

An employee displacing a junior employee who was promoted in his absence in accordance with Rule 5.1 shall acquire the same seniority date as the employee displaced and shall rank immediately above such employee.

4.2 If two (2) or more employees acquire seniority in a higher class on the same day, their relative rank in the higher class shall be the same as in the class from which promoted. If promoted from different classes, they will be ranked in accordance with their earliest seniority dates.

4.3 No new employee will obtain a roster standing until he has performed ninety (90) calendar days of service.

EXERCISE OF SENIORITY

4.4 Except as otherwise provided, an employee may exercise seniority to a position for which he is qualified:

- (a) when his position is abolished;
- (b) when the senior employee displacing him physically assumes the duties of the position;
- (c) when the starting time of his position is changed more than two (2) hours;
- (d) when the rest days of his position are changed;
- (e) when returning from a supervisory or official position;
- (f) when returning from leave of absence, sickness, jury duty, disability, special duty, vacation, or held out of service and his former position has been abolished or filled in the exercise of seniority;
- (g) when disqualified.

- 4.5 An employee entitled to exercise seniority must exercise his seniority within ten (10) days after the date affected. Except as provided in Rule 20, an employee who elects to exercise seniority may exercise seniority onto any position for which he is qualified by bid or displacement without loss of seniority. Failure to exercise seniority to any position not requiring a change in residence shall result in forfeiture of all seniority under this Agreement. If he presents evidence to his supervisor that extenuating circumstances prevented the exercise of seniority, the ten (10) days specified above shall be extended proportionately to the extent of his absence on account of such circumstances. An employee who is unable to so exercise seniority and who elects not to exercise other seniority, shall be furloughed.

Note: A "change of residence" as referred to herein shall only be considered "required" if the new reporting point of the employee would be more than fifty (50) normal highway miles via the most direct route from the employee's point of employment at the time affected, and the new reporting point is further from the employee's residence than his former point of employment

- 4.6 Furloughed employees desiring to protect their seniority will keep their correct address on file with the Carrier and the General Chairman.
- 4.7 An employee whose seniority under this agreement is established after the effective date of this agreement and who is furloughed for 365 consecutive days will be terminated if such employee has less than three (3) years of seniority. The "365 consecutive days" shall exclude any period during which a furloughed employee receives compensation pursuant to an I.C.C. employee protection order or an employee protection agreement or arrangement.

RETURN TO SERVICE

- 4.8 An employee not in service will be subject to return to work from furlough in seniority order in any class in which he holds seniority in his seniority territory. If he fails to return to service within ten (10) days from date notified by certified mail to his last recorded address for a position or vacancy of thirty (30) days or more duration, he will forfeit all seniority under this Agreement. Forfeiture of seniority under this paragraph will not apply when an employee furnishes satisfactory evidence to the officer signatory to notification that failure to respond within ten (10) days was due to conditions beyond his control. Copy of recall letter shall be furnished the designated union representative.

APPOINTMENT TO OFFICIAL OR SUPERVISORY POSITIONS - RETENTION OF SENIORITY

- 4.9 All employees promoted on or subsequent to the effective date of this Agreement to official, supervisory, or excepted positions from crafts or classes represented by BMWED shall be required to pay an appropriate monthly fee, not to exceed monthly union dues, in order to retain and continue to accumulate seniority. An employee

occupying an official, supervisory or accepted position whose payments are delinquent shall be given a written notice by the appropriate General Chairman of the amount owed and ninety (90) days from the date of such notice to cure the delinquency in order to avoid seniority forfeiture.

- 4.10 Employees promoted prior to the effective date of this agreement, to official, supervisory, or excepted positions from crafts or classes represented by BMWED shall retain their current seniority but shall be required to pay an appropriate monthly fee, not to exceed monthly union dues, in order to accumulate additional seniority.
- 4.11 Employees appointed to positions covered by Rule 4.9 or 4.10 who voluntarily demote themselves may bid on any advertised position thereafter, but may not displace any regular assigned employee.
- 4.12 The Carrier shall provide the Organization the name and address of all employees who appear on any roster covered by the scope of this agreement and who hold an official or supervisory position with the railroad, within thirty (30) days of appointment to a supervisory or official position.

SENIORITY TERRITORIES

- 4.13 The seniority territories are identified as follows:

Territory # 1.

Sunbury, Pennsylvania to Terrace Drive, East Binghamton, New York.

Territory #2.

Terrace Drive, East Binghamton to Schenectady interlocking, and South to Voorheesville, including yards at Binghamton, Oneonta and Schenectady.

Territory # 3.

Voorheesville to Albany, up to Mechanicville, West to Glenville, North to Whitehall, including yard at Whitehall. Also Saratoga Springs to North Creek, and Fort Edward to Glens Falls on Lake George Branch.

Territory # 4.

Whitehall to Rouses Point, including branch line from South Jct. to Fredenburg Falls.

(System Equipment Operators)

System

The seniority territories may only be changed by agreement between the designated Carrier officer and the General Chairman.

SENIORITY ROSTERS

- 4.14 A roster, revised as of January 1 and to be posted February 1, showing the employee's seniority date in the appropriate seniority district will be posted within such seniority district at headquarter points where employees are required to report for work. Copies of all rosters will be furnished the General Chairman and the involved local representatives. Copies of seniority rosters will also be available to employees who are working on Inter-Divisional gangs with no fixed headquarters.
- 4.15 Employees shall have sixty (60) days from the date the roster is posted to file a protest, in writing, with the designated officer of the Carrier, with copy furnished the General Chairman and local representative. Employees off duty on leave of absence, furlough, sickness, disability, jury duty or held out of service at the time the roster is posted, will have not less than sixty (60) days from the date they return to duty to enter protest.
- 4.16 No changes on seniority rosters will be made by the Carrier without conference and agreement with the involved union representative.
- 4.17 Roster protest meetings will be held between the Carrier and the BMWED no later than August.
- 4.18 Employees bidding on a new position to gain seniority, must remain on this position for a minimum of forty-five (45) working days in order to gain a seniority date in that class of work. Employees will be trained in accordance with the "Training For BMWWE Employees", approved August 9, 1991 by the Carrier and approved August 22, 1991 by the Organization (see page 159).

A new employee, hiring on as a trackman, would not be subject to the 45 day requirement set forth in this part.

RULE 5
RETURNING TO DUTY - EXERCISE OF SENIORITY

- 5.1 An employee returning to duty after leave of absence, vacation, sickness, jury duty, disability or suspension shall return to his former position and may, within five (5) days after his return to his former position, exercise displacement to any position advertised during his absence or may displace any junior employee promoted during his absence, subject to Rule 3.1.
- 5.2 If, during such absence, his former position is abolished or filled by another employee in the exercise of seniority he may exercise seniority as outlined in Rules 4.4 and 4.5 or may displace any junior employee promoted during his absence, subject to Rule 3.1.
- 5.3 An employee displaced from his position by the return of an employee from leave of absence, vacation, sickness, jury duty, disability or withheld from service shall exercise seniority as outlined in Rules 4.4 and 4.5.
- 5.4 An employee failing to exercise seniority within the five (5) days specified in Rule 5.1, will forfeit the right to exercise seniority.

RULE 6
REDUCING FORCES

- 6.1 Notice of force reduction or abolishment of positions shall be given not less than five (5) working days (four (4) working days for four (4) day gangs) in advance and bulletin shall be promptly posted identifying the positions to be abolished, except no advance notice to employees shall be required before temporarily abolishing positions or making temporary force reductions under emergency conditions, such as flood, snow storm, hurricane, tornado, earthquake, fire or labor dispute other than as covered by Rule 6.2, provided that such conditions result in suspension of the Carrier's operations in whole or in part. Such temporary force reductions will be confined solely to those work locations directly affected by any suspension of operations.

Notwithstanding the foregoing, any employee who is affected by an emergency force reduction and reports for work for his position without having been previously notified not to report, shall receive four (4) hours pay at the applicable rate for his position. A copy of the bulletin shall be furnished to the designated union representative.

- 6.2 No advance notice shall be required before positions are temporarily abolished or forces are temporarily reduced where a suspension of the Carrier's operation in whole or in part is due to a labor dispute between the Carrier and any of its employees.
- 6.3 This Rule will be applied so that the notice will be given on an assigned working day and within the assigned working hours of the position.

RULE 7
LEAVE OF ABSENCE

7.1 When requirements of the service will permit and if satisfactory reason is given therefore, employees, upon written request, shall be granted leave of absence for a limited time, without loss of seniority. If for thirty (30) days, request must be made to the designated Carrier officer, in writing, with a copy to the designated union representative. Leave of absence in excess of ninety (90) days shall not be granted unless agreed to between the designated Carrier officer and the General Chairman.

Employees failing to return when leave of absence expires will forfeit seniority unless proper extension has been obtained.

7.2 An employee on leave of absence, who engages in outside employment, will forfeit his seniority unless authorized by agreement between the designated Carrier officer and the General Chairman.

7.3 The employee may return to service prior to the full completion of the leave of absence upon giving two (2) days advance notice to the designated Carrier officer.

7.4 An employee shall be granted a leave of absence to serve as accredited representative of the Brotherhood of Maintenance of Way Employees Division. The employee will be credited for time on the leave of absence as continuous service for the length of their vacation entitlement.

7.5 An employee given a leave of absence will retain and accumulate seniority during the period of such leave of absence.

RULE 8
ACCEPTING POSITIONS UNDER OTHER AGREEMENTS

- 8.1 Except as provided in Rules 4.9 through 4.12, an active employee who accepts a position coming within the scope of any other agreement for more than fifteen (15) days, without having his seniority protected by an agreement between the designated Carrier officer and the General Chairman, will forfeit all seniority under this Agreement.

RULE 9
HOURS OF WORK

- 9.1 Except as otherwise provided, eight (8) consecutive hours (ten (10) hours for four (4) day gangs), exclusive of meal period, worked or held for duty, shall constitute a day.
- 9.2 Working time shall not be reduced to less than five (5) consecutive eight (8) hour days or four (4) consecutive ten (10) hour days per week.
- 9.3 When one of the holidays, specified in Rule 13, occurs on a day an employee would otherwise be assigned to work, time in such week will be reduced by one (1) day (eight (8) hours) for a four (4) day gang.
- When such a holiday is not worked four (4) ten (10) hour day employees may be worked up to thirty two (32) hours at the straight time rate during the three (3) working days of such week. When such a holiday is worked, the employees will be paid at time and one-half for the first eight (8) hours and after the tenth hour.
- 9.4 This Rule shall not be construed as restricting or prohibiting changes in the number of hourly rated employees employed based on the requirements of service.
- 9.5 When employees are assigned to a position with daily assigned hours of four (4) days ten (10) hours, their assigned rest days must be Friday, Saturday and Sunday.
- 9.6 In the event that the work week is changed to a five (5) day basis or vice versa for any such gang, the General Chairman shall be given at least five (5) days written notice thereof except that such changes may be made in less than five (5) days upon concurrence of the General Chairman.

Production Crews
Alternative Work Week and Rest Days

- 9.7 (a) Production crews* may be established consisting of five (5) eight (8) hour days followed by two (2) consecutive rest days. One of those rest days shall be either a Saturday or a Sunday, and both weekend days shall be designated as rest days where there is no need for weekend work.
- (b) Production crews* may be established consisting of four (4) ten (10) hour days, followed by three (3) consecutive rest days, in lieu of five (5) eight (8) hour days. The rest days of such compressed work week will include either Saturday or Sunday. However, where there is no Carrier need for weekend work, production crews will be given both weekend days as rest days.

* Note: Production crews include locally based supporting BMWED forces whose assignment is associated with that of a production crew to the extent that a different work week or rest days for such crews, on the one hand, and such supporting forces, on the other, would delay the work or otherwise interfere with its orderly progress.

Nothing in this Rule is intended to restrict any of the existing rights of the Carrier.

RULE 10
40 HOUR WORK WEEK

- 10.1 Except as otherwise provided in this Agreement, the Carrier will establish for all employees a work week of forty (40) hours, consisting of five (5) days of eight (8) hours each, with two (2) consecutive days off in each seven (7). The work week may be staggered in accordance with the Carriers operational requirements. So far as practicable the days off shall be Saturday and Sunday. The foregoing work week is subject to the following provisions of this Rule.
- 10.2 The expressions "positions" and "work", as used in this Rule, refer to services, duties or operations necessary to be performed the specified number of days per week, and not to the work week of individual employees.
- 10.3 On positions the duties of which can reasonably be met in five (5) days, the days off will be Saturday and Sunday.
- 10.4 Where the nature of the work is such that employees will be needed six (6) days each week, the rest days will be either Saturday and Sunday or Sunday and Monday.
- 10.5 On positions which are filled seven (7) days per week, any two (2) consecutive days may be the rest days, with the presumption in favor of Saturday and Sunday.
- 10.6 Except as otherwise provided in this Agreement, all possible regular relief assignments with five (5) days of work and two (2) consecutive rest days will be established to do the work necessary on rest days of assignments in six (6) or seven (7) day service, or combination thereof, or to perform relief work on certain days and such types of other work under this Agreement on other days as may be assigned.
- Assignments for regular relief positions may, on different days, include different starting times, duties, and work locations for seniority district, provided they take the starting time, duties and work locations of the employee or employees who they are relieving.
- 10.7 In positions or work extending over a period of five (5) days per week, where the Carrier contends an operational problem cannot be met under the provisions of Rule 10.3, some of the employees may, as agreed upon by the General Chairman and the designated Carrier officer, be assigned Sunday and Monday instead of Saturday and Sunday as days off. If the parties fail to agree thereon, and the Carrier nevertheless puts such assignments in effect, the dispute may be progressed as a grievance or claim.

- 10.8 The typical work week will be one with two (2) consecutive days off. When an operating problem exists which affects the consecutiveness of the rest days of positions or assignments covered by Rules 10.4 through 10.6, the following procedure shall be used:
- (a) All possible regular relief assignments shall be established pursuant to Rule 10.6.
 - (b) Possible use of rest days other than Saturday and Sunday by agreement between the designated Carrier officer and the designated Union representative, or in accordance with other provisions of this Agreement.
 - (c) Possible accumulation of rest time, and granting of longer consecutive rest periods, by agreement between the designated Carrier officer and General Chairman.
 - (d) If consecutive rest days cannot be established in accordance with the foregoing, then some of the relief men may be given non-consecutive rest days.
 - (e) If, after all the foregoing has been done, there still remains service which can only be performed by requiring employees to work in excess of five (5) days per week, the number of regular assignments necessary to avoid this may be made with two (2) non-consecutive days off.
 - (f) If the parties are in disagreement over the necessity of splitting the rest days on any such assignment, the Carrier may nevertheless put the assignments into effect subject to the right of the employees to process the dispute as a grievance or claim, and in such proceedings the burden will be on the Carrier to prove that the operational requirements would be impaired if it did not split the rest days in question, and that this could be avoided only by working certain employees in excess of five (5) days per week.
 - (g) The term "work week" for regularly assigned employees shall mean a week beginning on the first day on which the assignment is bulletined to work, and for unassigned employees shall mean a period of seven (7) consecutive days, starting with Monday.

RULE 11 OVERTIME

- 11.1 Time worked preceding or following and continuous with a regularly assigned work period shall be computed on the actual minute basis and paid for on time and one-half rates, with double time computed on the actual minute basis after sixteen (16) continuous hours and continue until the employee relieved from the emergency excluding employee regular assigned meal period.
- 11.2 The starting time of the work period of other than regularly assigned employees temporarily brought into service in emergencies, will be considered as of the time they commence work or are required to report.
- 11.3 Time worked in excess of forty (40) straight time hours in any work week shall be paid at time and one-half rates except where such work is performed by an employee due to moving from one assignment to another or where days off are being accumulated in accordance with the provisions of Rule 11.
- 11.4 Employees worked more than five (5) days (four (4) days for four (4) day gangs) in a work week shall be paid at time and one half rates for work on the remaining days of their work weeks, except where such work is performed by an employee moving from one (1) assignment to another or where days off are being accumulated in accordance with Rule 10.
- 11.5 There shall be no overtime on overtime; neither shall overtime hours paid for, other than hours not in excess of eight (8) paid for at overtime rates on holidays or for changing shifts, be utilized in computing the forty (40) hours per week, nor shall time paid for in the nature of arbitraries or special allowances such as attending court, deadheading, travel time, etc., be utilized for this purpose, except when such payments apply during assigned working hours in lieu of pay for such hours.
- 11.6 If during the time on the road an employee is relieved from duty and is permitted to go to bed for five (5) or more hours, such relief time will not be paid for, provided that in no case shall he be paid for a total of less than eight (8) hours each assigned day, when such irregular service prevents the employee from making his regular daily hours on assigned territory.
- 11.7 An employee will not be required to suspend work for the purpose of absorbing overtime.

Preference of Overtime Work

- 11.8 Employees will, if qualified and available, be given preference for overtime work, including calls, on work ordinarily and customarily performed by them during the course of their work week or day in the order of their seniority.

RULE 12
CHANGING STARTING AND ENDING TIME

- 12.1 Except as otherwise provided, time of employees will start and end at their advertised headquarters.
- 12.2 Daylight assignments shall start between 0500 and 0800, however, track production gangs may be required to start between 0400 and 2359.
- 12.3 Starting times outside the hours specified in Rule 12.2 may be established by agreement, in writing, between the designated Carrier officer and the General Chairman.
- 12.4 Starting times will not be changed without first giving employees affected thirty-six (36) hours posted notice and then not more often than every seven (7) days.

RULE 13
WORK ON ASSIGNED REST DAYS AND HOLIDAYS

13.1 (a) Employees who are required to work on their assigned rest days or on the following enumerated holidays, namely:

New Year's Day	Labor Day
Washington's Birthday	Thanksgiving Day
Good Friday	Day after Thanksgiving Day
Memorial Day	Christmas Eve Day
Fourth of July	Christmas Day
	New Year's Eve Day

(provided when any of the above holidays fall on Sunday, the day observed by the State, Nation or by proclamation shall be considered the holiday), shall be paid at the rate of time and one-half, except as hereinafter provided.

(b) The holiday pay qualifications for Christmas Eve — Christmas shall also be applicable to the Thanksgiving Day — day after Thanksgiving Day and the New Year's Eve — New Year's Day holidays.

13.2 Subject to the qualifying requirements contained in Rule 13.6 and to the conditions hereinafter provided, each hourly and daily-rated employee shall receive eight hours' pay at the pro rata hourly rate for each of the enumerated holidays as in 13.1 (a) above.

13.3 Holiday pay for regularly assigned employees shall be at the pro rata rate of the position to which assigned.

13.4 For other than regularly assigned employees, if the holiday falls on a day on which he would otherwise be assigned to work, he shall, if consistent with the requirements of the service, be given the day off and receive eight hours' pay at the pro rata rate of the position which he otherwise would have worked. If the holiday falls on a day other than a day on which he otherwise would have worked, he shall receive eight hours' pay at the pro rata hourly rate of the position on which compensation last accrued to him prior to the holiday.

13.5 Subject to the applicable qualifying requirements in Rule 13.6, other than regularly assigned employees shall be eligible for the paid holidays or pay in lieu thereof provided for in Rule 13.4, provided (1) compensation for service paid him by the Carrier is credited to 11 or more of the 30 calendar days immediately preceding the

holiday, and (2) he has had a seniority date for at least 60 calendar days or has 60 calendar days of continuous active service preceding the holiday beginning with the first day of compensated service provided employment was not terminated prior to the holiday by resignation, for cause, retirement, death, non-compliance with a union shop agreement, or disapproval of application for employment.

- 13.6 A regularly assigned employee shall qualify for the holiday pay provided in Rules 13.2 and 13.3 if compensation paid him by the Carrier is credited to the work days immediately preceding and following such holiday or if the employee is not assigned to work but is available for service on such days. If the holiday falls on the last day of a regularly assigned employee's work week the first work day following his rest days shall be considered the work day immediately following. If the holiday falls on the first work day of his work week, the last work day of the preceding work week shall be considered the work day immediately preceding the holiday.
- 13.7 Except as provided in the following paragraphs, all others for whom holiday pay is provided in Rules 13.2 and 13.5, inclusive, shall qualify for such holiday pay if on the day preceding and the day following the holiday they satisfy one or the other of the following conditions:
- (a) Compensation for service paid by the Carrier is credited; or
 - (b) Such employee is available for service.
- Note: "Available" as used in subsection (b) above is interpreted by the parties to mean that an employee is available unless he lays off of his own accord or does not respond to a call, pursuant to the rules of this agreement, for service.
- (c) For the purposes of Rules 13.2 and 13.5 inclusive, other than regularly assigned employees who are relieving regularly assigned employees on the same assignment on both the work day preceding and the work day following the holiday will have the workweek of the incumbent of the assigned position and will be subject to the same qualifying requirements respecting service and availability on the work days preceding and following the holiday as apply to the employee whom he is relieving.
 - (d) Compensation paid under sick-leave rules or practices will not be considered as compensation for purposes of this rule.
- 13.8 Under no circumstances will an employee be allowed, in addition to his holiday pay, more than one time and one-half payment for service performed by him on a holiday which is also a work day, a rest day, and/or a vacation day.

- 13.9 When any of the eleven recognized holidays enumerated in Rule 13.2 or any day which by agreement, or by law or proclamation of the State or Nation, has been substituted or is observed in place of any of such holidays, falls during an hourly or daily-rated employee's vacation period, he shall, in addition to his vacation compensation, receive the holiday pay provided for therein provided he meets the qualification requirements specified. The "work days" and "days" immediately preceding and following the vacation period shall be considered the "work days" and "days" preceding and following the holiday for such qualification purposes.
- 13.10 In those situations where Personal Leave Days are taken either immediately preceding or following a statutory holiday, it is understood that the work day (or day, in the case of an other than regularly assigned employee) immediately preceding or following the Personal Leave Day is considered as the qualifying day for holiday purposes.

RULE 14
PERSONAL LEAVE

14.1 A maximum of two days of personal leave will be provided on the following basis:

Employees who have met the qualifying vacation requirements during eight calendar years under vacation rules in effect on January 1, 1982 shall be entitled to one day of personal leave in subsequent calendar years;

Employees who have met the qualifying vacation requirements during seventeen calendar years under vacation rules in effect on January 1, 1982 shall be entitled to two days of personal leave in subsequent calendar years.

- 14.2 (a) Personal leave days provided in Rule 14.1 may be taken upon 48 hours' advance notice from the employee to the proper Carrier officer provided, however, such days may be taken only when consistent with the requirements of the Carrier's service. It is not intended that this condition prevent an eligible employee from receiving personal leave days except where the request for leave is so late in a calendar year that service requirements prevent the employee's utilization of any personal leave days before the end of the year.
- (b) Personal leave days will be paid for at the regular rate of the employee's position or the protected rate, whichever is higher.
- (c) The personal leave days provided in Rule 14.1 shall be forfeited if not taken during each calendar year. The Carrier shall have the option to fill or not fill the position of an employee who is absent on a personal leave day. If the vacant position is filled, the rules of the agreement applicable thereto will apply. The Carrier will have the right to distribute work on a position vacated among other employees covered by the agreement with the Organization signatory hereto.

NOTE: For those situations where Personal Leave Days are taken either immediately preceding or following a Statutory holiday, refer to Rule 13.10.

RULE 15
CALLS

- 15.1 Employees notified or called to perform service outside of and not continuous with the regularly assigned working hours shall report for duty with reasonable promptness and shall be paid thereafter, a minimum of two (2) hours and forty (40) minutes at the rate of time and one-half. If held on duty longer than two (2) hours and forty (40) minutes, they shall be paid at the applicable overtime rate on the actual minute basis. Time will be considered continuous if an employee is called and reports within thirty (30) minutes after his assigned working hours.
- 15.2 The time of employees so notified to report at a designated time to perform service outside of and not continuous with the regular assigned working hours shall begin at the time required to report and end when released at headquarters. The time of employees so called to perform such service immediately shall begin at the time called and end when they are released at their headquarters.

RULE 16
MEAL PERIOD

- 16.1 Except as provided in Rule 16.4, the meal period shall be thirty (30) minutes which shall be during the fifth or sixth hour as advertised. A shorter or longer meal period may be established by agreement between the designated Carrier officer and General Chairman.
- 16.2 If the meal period is not afforded within the time limit specified in Rule 16.1 and is worked, it will be paid for at the straight time rate and twenty (20) minutes allowed for lunch at the first opportunity without loss of pay.
- 16.3 Employees shall not be required to work more than six (6) hours after their first meal period without being furnished meals by the Carrier. Subsequent meal periods will be allowed at five (5) hour intervals. The second and subsequent meals shall be furnished by the Carrier. Time eating such meals will be considered as time worked.
- 16.4 For regular operations requiring eight (8) hour tricks, employees assigned thereto will be allowed a maximum of twenty (20) minutes in which to eat without deduction in pay.

RULE 17
TEMPORARY ASSIGNMENTS

- 17.1 An employee may be temporarily assigned to different classes of work within the range of his ability. In filling the position which pays a higher rate, he shall receive such rate for the time thus employed. If assigned to a lower rated position, he will be paid the rate of his regular position.
- 17.2 The Coverage of the Incidental Work Rule shall include all employees represented by the BMWED.

Where a BMWED employee or employees are performing a work assignment, the completion of which calls for the performance of "incidental work" (as hereinafter defined) of another classification within the BMWED, such employee or employees may be required, so far as capable, to perform such incidental work provided it does not comprise a preponderant part of the total amount of work involved in the assignment. Work shall be regarded as "incidental" when it involves the removal and replacing or the disconnecting and connecting of parts and appliances from or near the main work assignment in order to accomplish that assignment, and shall include simple tasks that require neither special training nor special tools.

In addition to the above, simple tasks may be assigned to any employee, represented by the BMWED, capable of performing them for a maximum of four hours per shift.

An employee who is required to perform work pursuant to this rule, on a higher rated position, for two (2) hours or more during his/her assigned shift, will be paid the higher rate of pay for that assigned shift.

It is not the intention of this Rule to eliminate positions.

See Appendix R for Q & A.

RULE 18
ATTENDING COURT

- 18.1 Employees attending court or investigations at the request of the proper officials of the railway or required to attend inquests in which the railway is concerned, will be paid at schedule rates for each day lost and reasonable expenses actually incurred while away from home. This will not apply where men are required for examination for promotion, disability, to meet legal requirements or in connection with irregularities for which they are found to be responsible. Any fee or mileage accruing will be assigned to the railway.
- 18.2 If an employee is required to attend court as a witness for the Carrier on a day that he is not assigned to work, he will be allowed four (4) hours pay at his straight time rate.

RULE 19
PRODUCTION GANG WORK

- 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 and such gang is to operate over more than 1 seniority territory, 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. A working list will be established under this Agreement to be used for assigning the positions bulletin for the Inter-Divisional Gangs only. The positions shall be awarded, to the senior applicants from this working list.

- 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 on the seniority territory on which 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 shall be required to work within his 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.

RULE 20
SYSTEM EQUIPMENT OPERATORS

- 20.1 The principle duties of the position of System Equipment Operator shall be to operate and make light running repairs to machine assigned.
- 20.2 System Equipment Operators will be listed on a separate system seniority roster.
- 20.3 New positions and vacancies in the System Equipment Operators will be advertised and assigned in accordance with the provisions of this Agreement.
- 20.4 Bulletins advertising positions of Equipment Operators will contain the following information: Title of Position, Type of Machine, Initial Start-Up Point, Rate of Pay, Tour of Duty and Territorial Limits the position is to work over.
- 20.5 Employees awarded a position as a System Equipment Operator shall establish seniority in that class from the date first awarded an advertised position in that class. They shall retain and continue to accumulate seniority they hold in other classes in the M of W Department.
- 20.6 Employees assigned to positions pursuant to this Rule 20 shall be entitled to expenses in accordance with Rule 21.
- 20.7 In accordance with Rule 20.1 above the following list of tools will be tools which are to be supplied by the System Equipment Operators for the purpose of light running repairs of assigned equipment:
 - (1) Hammer
 - (2) Screwdrivers: one set
 - (3) 12-inch Adjustable Wrench
 - (4) Combination Wrenches: one set
 - (5) One Side Cutting Pliers
 - (6) One Hacksaw
 - (7) One Set Allen Wrenches
 - (8) One Cold Chisel

RULE 21
AWAY FROM HOME EXPENSES

HEADQUARTERED EMPLOYEES

21.1 An employee taken off his assigned territory to work elsewhere will be furnished lodging and meals by the Company. If lodging and/or meals are not furnished by the Company, the employee will be compensated for actual meal and/or lodging expenses he may necessarily incur. This paragraph will not apply to an employee not being held away from assigned territory an unreasonable time beyond the evening meal hour.

**NON-HEADQUARTERED EMPLOYEES;
SYSTEM EQUIPMENT OPERATORS AND EMPLOYEES ON SYSTEM PRODUCTION
GANGS**

21.2 Employees assigned to positions on System Production Gangs or assigned to positions as System Equipment Operators will be allowed expenses as follows for each working day

- i) Less than 10 miles, will receive \$0.00
- ii) 10 miles but less than 20 miles, will receive \$4.00
- iii) 20 miles but less than 30 miles, will receive \$8.00
- iv) 30 miles but less than 50 miles, will receive \$12.25

21.3 Non-headquartered employees covered by this Rule required to travel more than 50 miles one way will be furnished lodging by the Carrier. Meals will be provided by the Carrier, or employees may be compensated for actual and reasonable meal expenses they necessarily incur, to a maximum of \$3.00 for Breakfast; \$5.00 for Lunch; \$8.00 for Supper effective May 1, 2002, and, \$4.00 for Breakfast; \$6.00 Lunch and \$10.00 for Supper effective January 1, 2003.

21.4 Travel from the temporary residence (hotel, motel, etc.) occupied pursuant to Rule 21.3 will be allowed as per Rule 21.2. The travel distance will not, when possible, exceed mileage from the nearest hotel, motel, etc., to the work location. However, in the event that reasonable lodging cannot be found in the immediate vicinity of the work location, it is agreed that additional payment of allowances for mileage as set forth in Rule 21.2 herein, will be allowed.

21.5 Traveling expenses will not be allowed for mileage when the Carrier provides transportation, nor will travel allowance be allowed when done during regularly assigned working hours.

- 21.6 An employee covered by Rule 21.3, i.e. an employee required to travel more than 50 miles one way, shall be allowed, on the first and last day of the assignment each week, an allowance when traveling outside of regular working hours to and from the work location on the basis of \$10.00 for each 50 miles or portion thereof. In addition, a traveling allowance for use of personal vehicle will be paid in accordance with Rule 22 at the actual allowance for mileage (23 cents per mile effective May 1, 2002, and, 25 cents per mile effective January 1, 2003).
- 21.7 Employees covered by Rule 21.3 may, in lieu of away from home expenses, mileage, and traveling allowance, apply for and receive \$25.00 for each working day.

GENERAL PROVISIONS

- 21.8 When lodging is provided, it shall mean not more than two employees per room.
- 21.9 Bona fide receipts will be required with expense accounts, which are to be submitted on a bi-weekly basis.
- 21.10 Rule 21 shall not affect the present Arbitration Board No. 298 Award.

RULE 22
AUTOMOBILE EXPENSES

- 22.1 When an employee is authorized in advance to use his personal automobile for transportation, in lieu of transportation furnished by the Company, he shall be reimbursed for such use on the basis of twenty-three (23) cents per mile effective May 1, 2002, and twenty-five (25) cents per mile effective January 1, 2003, by the most direct route. Except for employees claiming expenses pursuant to Rules 21.2 to 21.7 inclusive, this Rule 22 does not require an employee to use his personal automobile for transportation.

RULE 23
TRAVEL TIME

- 23.1 Employees will not be allowed time while traveling in the exercise of seniority or between his home and designated assembling point or for other personal reasons. Notwithstanding the foregoing, this Rule 23.1 does not alter the eligibility requirements for employees with respect to payments pursuant to Rules 21.2 and 21.6.
- 23.2 Except as provided in Rule 23.3, when waiting or traveling by direction of the Company, by passenger train, bus, automobile or any other method of transportation, an employee will be allowed straight time for all time spent in actual travel/waiting outside of regularly assigned hours.
- 23.3 All traveling time when required to operate, supervise or be responsible for equipment, shall be paid schedule rates and conditions.
- 23.4 When gang work or camp cars are moved, employees shall not lose any time involved in such moves, provided they were available for duty at the old location at the completion of work and are available for duty at the new location at the commencement of work.

RULE 24
CLAIMS AND GRIEVANCES

- 24.1 All claims or grievances must be presented in writing by or on behalf of the employee involved, to the officer of the Carrier authorized to receive same, within sixty (60) days from the date of the occurrence on which the claim or grievance is based. Should any such claim or grievance be disallowed, the Carrier shall, within sixty (60) days from the date same is filed, notify whoever filed the claim or grievance (the employee or his representative) in writing of the reasons for such disallowance. If not so notified, the claim or grievance shall be allowed as presented, but this shall not be considered as a precedent or waiver of the contentions of the Carrier as to other similar claims or grievances.
- 24.2 If a disallowed claim or grievance is to be appealed, such appeal must be in writing and must be taken within 60 days from receipt of notice of disallowance, and the representative of the Carrier shall be notified in writing within that time of the rejection of his decision. Failing to comply with this provision, the matter shall be considered closed, but this shall not be considered as a precedent or waiver of the contentions of the employees as to other similar claims or grievances. It is understood, however, that the parties may, by agreement, at any stage of the handling of a claim or grievance on the property, extend the 60-day period for either a decision or appeal, up to and including the highest officer of the Carrier designated for that purpose.
- 24.3 The requirements outlined in Rules 24.1 and 24.2 pertaining to appeal by the employee and decision by the Carrier, shall govern in appeals taken to each succeeding officer, except in cases of appeal from the decision of the highest officer designated by the Carrier to handle such disputes.
- 24.4 Appeals to designated Carrier officers will be handled as follows:
- Rule 24.1: Employee or duly authorized representative to designated Carrier Officer
- Rule 24.2: Employee or General Chairman to the highest designated Carrier Officer.
- 24.5 All claims or grievances involved in a decision by the highest designated officer shall be barred unless within nine (9) months from the date of said officer's decision proceedings are instituted by the employee or his duly authorized representative before the appropriate division of the National Railroad Adjustment Board or a system, group or regional Board of Adjustment that has been agreed to by the parties hereto as provided in Section 3 Second of the Railway Labor Act. It is understood, however, that the parties may by agreement, in any particular case extend the nine (9) months' period herein referred to.

- 24.6 A claim may be filed at any time for an alleged continuing violation of any agreement and all rights of the claimant or claimants involved thereby shall, under this Rule, be fully protected by the filing of one claim or grievance based thereon as long as such alleged violation, if found to be such, continues. However, no monetary claim shall be allowed retroactively for more than sixty (60) days prior to the filing thereof. With respect to claims and grievances involving an employee held out of service in discipline cases, the original notice of request for reinstatement with pay for time lost shall be sufficient.
- 24.7 This rule recognizes the right of representatives of the Organization to file and prosecute claims and grievances for and on behalf of the employees they represent.
- 24.8 This Rule is not intended to deny the right of the employees to use any other lawful action for the settlement of claims or grievances provided such action is instituted within nine (9) months of the date of the decision of the highest designated officer of the Carrier.
- 24.9 This rule shall not apply to request for leniency.
- 24.10 All conferences pursuant to this Rule 24 between Company Officials and Union Representatives to be held by appointment without loss of time to Union Representatives.
- 24.11 The Company will not discriminate against any employees who, as Union Representatives, from time to time represents other employees and will grant them leave of absence when delegated to represent other employees.
- 24.12 When postal services are used, the official postmark date will govern in determining compliance with the various time limits in this Rule.

RULE 25
INVESTIGATIONS AND DISCIPLINE

- 25.1 An employee in service ninety (90) calendar days or more will not be disciplined or dismissed or have discipline placed on his record, until a fair and impartial investigation has been held. Such investigation shall be set promptly to be held not later than fifteen (15) days from the date of the occurrence, except that personal conduct cases will be subject to the fifteen (15) day limit from the date information is obtained by an officer of the Company, and except as provided in Rule 25.2.
- 25.2 In cases involving serious infractions, an employee may be held out of service pending investigation. Such employee will be given written advice thereof. The investigation shall be held within ten (10) days after date withheld from service.
- 25.3 Formal investigations, except those involving a serious act or occurrence, may be dispensed with should the employee involved and the authorized representative and authorized officer of the Carrier, through informal handling, be able to resolve the matter to their mutual interests. Request for informal handling must be made at least 24 hours before a formal investigation is scheduled to begin. No formal transcript, statement or recording will be taken at the informal handling. When a case is handled informally and the matter of responsibility and discipline to be assessed if any, is resolved, no formal investigation will be required. A written notice of the discipline assessed and the reason therefore will be signed by the designated Carrier officer, the employee and union representative at the conclusion of the informal handling. Discipline matters resolved in accordance with this paragraph are final and binding and not subject to appeal.
- 25.4 When an investigation is to be held, each employee whose presence is desired will be notified in writing, at least 24 hours in advance, of the time, place and subject of the investigation, and a copy of the notice will be furnished the designated union officer.
- 25.5 An employee may be accompanied by a fellow employee or an accredited representative of the Union to assist him at the investigation.
- 25.6 The employee and his representative shall be entitled to be present during the examination of any witness whose testimony may have a bearing on his responsibility and offer rebuttal thereto. An employee shall make his own arrangements for the presence of witnesses appearing on his behalf, and no expense incident thereto shall be borne by the Carrier.
- 25.7 An employee and his accredited representative shall be given copy of the statement and copies of all evidence taken at the investigation.

- 25.8 A decision in writing shall be rendered within 21 calendar days following the date of completion of the investigation unless otherwise mutually agreed.
- 25.9 An employee found blameless and who has been held off duty, shall resume duty and be paid wages lost equal to the amount he would have earned had he not been held off duty. This Rule recognizes that, where an employee is restored to service with pay for time lost, it is proper that any earnings in other employment will be used to offset the loss of earnings.
- 25.10 If an employee considers the decision rendered is unjust, an appeal may be instituted in writing at Step 2 of the grievance procedure (Rule 24.2). In appealing cases involving discipline of dismissal, the General Chairman may expedite the provisions contained in Rule 24. In such circumstances, the General Chairman must, within 60 days from the date the decision was rendered, make an appeal in writing to the highest designated officer of the Carrier authorized to receive same.
- 25.11 Investigations and hearings will be held in the general work area where facilities are available, during assigned working hours when possible.
- 25.12 The time limits in Rules 25.1 and 25.2 are subject to the availability of the principal(s) involved and witness(es) to attend formal investigation and may, by written notice to the employee involved, a copy to his representative, be extended by a reasonable amount of time should the principal(s) involved or necessary witness(es) be off duty due to sickness, temporary disability, leave of absence or vacation.
- 25.13 The Carrier will supply the Organization all documents to be used in any investigations prior to the hearing, whenever practicable.
- 25.14 An employee charged with a violation may sign a uniform waiver form in lieu of a formal investigation/hearing.

RULE 26
ABSENT WITHOUT PERMISSION

- 26.1 An employee unable to report for work for any reason must notify his supervisor or designated Carrier officer as soon as possible.
- 26.2 Except for sickness or disability, or under circumstances beyond his control, an employee who is absent in excess of fourteen (14) consecutive days without receiving permission from his supervisor will forfeit all seniority under this Agreement. The employee and the General Chairman will be furnished a letter notifying them of such forfeiture of seniority. The employee or his representative may appeal such action under Rule 24.

RULE 27
DETERMINATION OF PHYSICAL FITNESS

- 27.1 When there is justifiable cause, or in cases where an employee has been continuously absent for a period of thirty (30) calendar days or more, it is understood that such employee will when requested provide a medical report of his fitness for active duty, at his expense. In those instances where the Carrier does not concur with the determination of the employee's physician and directs the employee to a second medical examination, such examination will be at the Carrier's expense.
- 27.2 When an employee has been removed from his position or not allowed to return, due to his physical condition and the employee or his representative desires the question of his physical fitness to be finally decided before he is permanently removed from his position, the case shall be handled in the following manner:

The General Chairman shall bring the case to the attention of the Highest Designated Carrier Officer. The Carrier and the General Chairman shall each select a doctor to represent them, each notifying the other of the name and address of the doctor selected. These two (2) doctors will confer and appoint a third doctor. Such Board of Doctors shall then fix a time and place for the employee to meet them.

After completion of the examination, they shall make a full report in triplicate, one copy each to be sent to the Highest Designated Carrier Officer, and the General Chairman.

The decision of the Board of Doctors, setting forth the employee's physical fitness and their conclusions as to whether he meets the requirements of the Carrier's physical examination policy, shall be final and binding on the parties, but this does not mean that a change in physical condition shall preclude a re-examination at a later time.

The doctors selected for such Board shall be experts in the disease or injury from which the employee is alleged to be suffering, and they shall be located at a convenient point so that it will only be necessary for the employee to travel a minimum distance and, if possible, not to be away from home for a longer period than one (1) day.

The fees and expenses of the third or neutral physician shall be borne equally by the Carrier and the employee. All other expenses shall be paid by the Carrier and the employee incurring them, including the fees of the physician selected by them. At the time the Board's report is made, a bill for the fee, and traveling expenses, if any, of the third or neutral physician should be made in duplicate, one (1) copy to be sent to the Carrier's Medical Director and one (1) copy to the employee.

**RULE 28
RATES OF PAY**

POSITION CLASSIFICATIONS, GROUPINGS, RATES

				Hourly Rates		
				1-1-02	1-1-03	1-1-04
28.1 B&B						
A.	Foreman			\$ 18.39	18.76	19.14
B.	Plumber Foreman			18.39	18.76	19.14
C.	Plumber			17.53	17.88	18.24
D.	Asst. Foreman			17.12	17.46	17.81
E.	B&B Mechanic (Carpenter/Painter/Bridgeman)			17.27	17.62	17.97
28.2 Track						
A.	(i)	Production Gang Foreman		18.39	18.76	19.14
	(ii)	Production Gang Assistant Foreman		17.12	17.46	17.81
B.	(i)	Foreman		18.39	18.76	19.14
	(ii)	Assistant Foreman		17.12	17.46	17.81
	(iii)	Trackman		16.38	16.71	17.04
	(iv)	Trackman/truck Driver		17.01	17.35	17.70
	(v)	Track Machine Operator		16.60	16.93	17.27
C.	(i)	Welder Foreman		18.39	18.76	19.14
	(ii)	Welder		17.53	17.88	18.24
	(iii)	Welder Helper		16.51	16.84	17.18
D.	(i)	Work Equipment Repair Foreman		18.39	18.76	19.14
	(ii)	Work Equipment Repairman		17.89	18.25	18.62
	(iii)	Asst. Work Equipment Repairman		N/A	N/A	18.49 12-31-04
E.	(i)	System Equipment Operator		17.53	17.88	18.24
	(ii)	Special S.E.O		18.09	18.45	18.82

28.2 General Wage Increases

1. Effective January 1, 2002, the basic hourly wage will be increased by 2%.
2. Effective January 1, 2003, the basic hourly wage will be increased by 2%.
3. Effective January 1, 2004, the basic hourly wage will be increased by 2%.

28.3 COST OF LIVING ADJUSTMENT

A cost of living allowance shall be re-instituted to commence at the termination of this contract provided, however, that the parties have not already reached a new agreement eliminating same. The formula to be used to calculate COLA payments and dates due will be the same as those specified between the NCCC and the BMWED.

Any COLA payments made on or after January 01, 2001 pursuant to the Memorandum of Agreement dated January 19, 1999 will be eliminated and any such amounts paid shall be deducted from any wage increases being paid pursuant to this Memorandum of Agreement.

28.4 MACHINES

Machines (S.E.O.) operated)

Adzer, tie
Automatic Tampers
Locomotive Cranes (Pile Driver & Hoist)
Autosled
Autosled (LORAM)
Ballast maintenance machine
Ballast compactor
Ballast regulator
Brush cutter - on track
Buses capable of carrying 15 or more passengers
Conveyer - crawler or truck mounted
Crane, Burro
Crane, crawler, Railaid, Speedswing, or mobile crane
Graders
Omsi tie renewal machine
Pile driver and hoist
Plasser PAL 204 Automatic Track Lining and Consolidating Machine
Rail anchor applicator (automatic)
Rail Changeout Unit Operators
Rail Heater for CWR
Shuttle Wagon/Unimog including attachments
Snowblower - self-propelled, non-detachable
Spike Driver - multiple head
Spiker-guager, Hydra spiker
Spreader-ditcher - except snow service
Tamper - heavy and medium duty, electromatic, electromatic junior, switch tamper or equal
Tie axe or saw
Tie bed scarifier
Tie inserter
Tie injector
Tie handling crane
Tie unloading machine (Lucky/Marmon)
Track broom - self-propelled

Track liner - self-propelled
Track wrench and Boltmaster
Track wrench - multiple head
Tractor or bulldozer - 8000 lbs. and over including attachments
Track-gopher
Truck and Trailer requiring Class 1 license

Note: GVW - according to supplier specifications

28.5 Track Machines (Group A)

Buses capable of carrying more than 6 but fewer than 15 passengers
Cribber - chain or wheel type
Geismar lifting and slewing machines
Geismar Tie renewer Model MRT
Hydratool, (combination rail expander, saw and multiple drill)
Lidgerwood
Rail anchor applicator (non-automatic)
Rail anchor adjuster
Rail saw and drill - Automatic
Roller, road
Rail End Hardening Machine
Spike puller - self-propelled
Tie renewer - Tamper Ltd. Section Gang Machine or equal
Tie spacer
Tractor or bulldozer - under 8000 lbs. with attachments
All trucks over 8000 lbs. GVW except those listed in Rule 28.3
Weed mowers and discers
Winch cart and hoist

Note: Operators of these Group A track machines will receive their normal rate of pay or \$12.40 per hour, which ever is greater.

Track Machines (Group B)

Air compressor
Centre Line Marker Operator - Rail Changeout Unit
Concrete mixer
Conveyor
Gauger, tie plate - Dunrite
Rail drill
Rail expander or puller
Rail flaw detector - Audiguage

Rail grinder and slotters
Rail jack - for inserting tie plates
Rail layer
Rail loader
Rail saw
Snowmobile - Ski-doo type
Snowblower - Gravely or lawnmower type
Spike driver
Spike puller
Spike puller - not self-propelled
Sprayer, creosote

Tie drill
Tools, power, hand held - Kango, Grady, or equal
Track jack - not self-propelled
Track Liner
Track motor car
Tractor, towing - without attachments

Weed burners and Sprayers
Winch

Vehicles and Trucks (not otherwise specified)

Note: Operators of these Group B machines will receive their normal rate of pay. For example, if an employee is regularly assigned as Trackman, he would receive the Trackman rate while operating these Group B track machines.

Note: CDL LICENSE

The Carrier agrees to pay the difference between the cost of the regular operators license and the cost of the CDL license for those positions that are required to have a CDL license.

RULE 29
RATE PROGRESSION (New Hires)

- 29.1 Employees entering service on and after the effective date of this agreement shall be paid as follows for all service performed within the first twenty-four (24) calendar months of service:
- (a) For the first twelve (12) calendar months of employment, new employees shall be paid 90% of the applicable rates of pay (including COLA).
 - (b) For the second twelve (12) calendar months of employment, such employees shall be paid 95% of the applicable rates of pay (including COLA).
- 29.2 Employees who have had an employment relationship with the Carrier and are rehired will be paid at established rates after completion of a total of twenty-four (24) months combined service.
- 29.3 Service in a craft not represented by the Organization signatory hereto shall not be considered in determining periods of employment under this rule.
- 29.4 Employees who have had a previous employment relationship with a Carrier in a craft represented by the Organization signatory hereto and are subsequently hired by another Carrier shall be covered by this rule, as amended. However, such employees will receive credit toward completion of the twenty-four (24) month period for any month in which compensated service was performed in such craft provided that such compensated service last occurred within one year from the date of subsequent employment.
- 29.5 Any calendar month in which an employee does not rendered compensated service due to furlough, voluntary absence, suspension, or dismissal shall, not count toward completion of the twenty-four month period.

- 29.6 Letter dated October 17, 1986, Appendix E, illustrates the manner in which the Rate Progression provisions are to be applied in respect of employees who work on various seasonal projects and are subject to furlough during the course of the year.
- 29.7 The provisions of Article XI - Entry Rates of the December 11, 1981 National Agreement — shall continue to apply to employees hired before November 13, 1986.
- 29.8 This section shall not apply to foremen, mechanics and production gang members operating heavy, self-propelled equipment that requires skill and experience. Generally speaking, those excluded would occupy the highest-rated positions, while those included would occupy lower rated positions. This section shall continue to apply, however, to a production gang employee who operates machines that require less skill and experience, such as non self-propelled, hand-held, or portable machines.

Any disputes arising as to whether a particular production gang assignment is subject to this clause, it may be referred to the Interpretation Committee established under Article XVIII of the document titled National Carriers' Conference Committee Interpretation of the Application of Presidential Emergency Board No. 219 with respect to employees represented by the Brotherhood of Maintenance of Way Employees as interpreted, clarified and modified by the Special Board pursuant to Public Law 102-29, dated July 29, 1991.

RULE 30
PAYING OFF

- 30.1 Employees will be paid off during regular working hours. Should the regular pay day fall on a holiday, they will be paid on the preceding work day.
- 30.2 Where there is a shortage equivalent to one day's pay or more in the pay of an employee, a voucher will be issued promptly upon request to cover the shortage.
- 30.3 Employees leaving the service of the Carrier will be furnished with a time voucher covering all time due, at the next scheduled pay day for the pay period involved.

RULE 31
JURY DUTY

- 31.1 When a regularly assigned employee is summoned for jury duty and is required to lose time from his assignment as a result thereof, he shall be paid for actual time lost with a maximum of a basic day's pay at the straight time rate of his position for each day lost less the amount allowed him for jury service for each such day, excepting allowances paid by the court for meals, lodging or transportation, subject to the following qualification requirements and limitations:
- (1) An employee must furnish the Carrier with a statement from the court of jury allowances paid and the days on which jury duty was performed.
 - (2) The number of days for which jury duty pay shall be paid is limited to a maximum of 60 days in any calendar year.
 - (3) No jury duty pay will be allowed for any day as to which the employee is entitled to vacation or holiday pay.
 - (4) When an employee is excused from railroad service account of jury duty the Carrier shall have the option of determining whether or not the employee's regular position shall be blanked, notwithstanding the provisions of any other rules.
 - (5) Except as provided in paragraph (6), an employee will not be required to work on his assignment on days on which jury duty:
 - (a) ends within four hours of the start of his assignment; or
 - (b) is scheduled to begin during the hours of his assignment or within four hours of the beginning or ending of his assignment.
 - (6) On any day that an employee is released from jury duty and four or more hours of his work assignment remain, he will immediately inform his supervisor and report for work if advised to do so.

RULE 32
BEREAVEMENT LEAVE

- 32.1 Bereavement leave, not in excess of three calendar days, following the date of death will be allowed in case of death of an employee's grandparent, spouse, son, daughter, mother, father, sister, brother, grandchild, mother-in-law, father-in-law, legally adopted children or spouse's children. In such cases a minimum basic day's pay at the rate of the last service rendered will be allowed for the number of working days lost during bereavement leave. Employees involved will make provisions for taking leave with their supervising officials in the usual manner. Any restrictions against blanking jobs or realigning forces will not be applicable when an employee is absent under this provision.

(See Appendix "I")

RULE 33
COMMITTEES

- 33.1 For the carrying out of this Agreement, the Carrier will, except as otherwise provided, deal only with duly authorized committees of their Maintenance of Way employees. At the beginning of each year the General Chairman will furnish the General Manager, or other officer in charge, with the names of the Committees authorized to deal with such matters in their respective territories.

RULE 34
VACATIONS

- 34.1 The National Vacation Agreement of December 17, 1941, as amended, and agreed upon interpretations, shall apply to the employees covered by this Agreement (See Appendix "A").
- 34.2 Employees working a four (4) day work week will have the actual time worked for each of the four (4) work days posted on the time cards and in addition will receive credit for one (1) vacation qualifying day for each of the first three (3) days worked and two (2) vacation qualifying days for the fourth day worked.

RULE 35
HEADQUARTERS AND BOARDING CARS

- 35.1 Each designated headquarters will be supplied with lockers, washing and toilet facilities, proper heating, electrical fixtures, table and benches and will be maintained in a clean and sanitary condition.
- 35.2 If lodging is furnished by the Carrier, the boarding cars or other lodging furnished shall be adequate for the purpose and maintained in a clean and healthful and sanitary condition and will be furnished with individual lockers, washing, shower, and toilet facilities and sufficient means of ventilation and air space.

Dining and sleeping cars will, when necessary, be screened at the beginning of each season. Kitchen and dining cars will be equipped with the necessary dishes, tableware and utensils. Sleeping quarters shall be equipped with a sufficient number of bunks to accommodate all those in the cars. Bunks shall be equipped with adequate mattresses, blankets, freshly laundered sheets, pillow and pillow slips. An adequate supply of water and fuel for domestic purposes shall be furnished. Safeguards will be established for the safety and health of the employees.

The above facilities, including camp cars when utilized, may be viewed by the designated union representative upon reasonable notice to the designated Carrier officer.

RULE 36
INCAPACITATED EMPLOYEES - PLACEMENT OF

- 36.1 Subject to mutual understanding, in writing, between the designated Carrier officer and the General Chairman in filling positions that can be taken by permanently disabled employees, preference will be given to such employees as are capable of performing the service.
- 36.2 A permanently disabled employee so placed may be compensated at the rate of the position to which assigned, and cannot bid for advertised positions or vacancies.

RULE 37
EMPLOYEE INFORMATION

- 37.1 The Carrier will provide the General Chairman with a list of employees who are hired or terminated, their home addresses and Social Security numbers if available, otherwise the employees' identification numbers. The data will be supplied within 30 days after the month in which the employee is hired or terminated. Where the 30-day requirement cannot be met, the matter will be worked out with the General Chairman.

RULE 38
SUPPLEMENTAL SICKNESS BENEFITS

- 38.1 The Carrier and the Brotherhood are among the parties who collectively participate in the Maintenance of Way Employees Supplemental Sickness Benefit Plan, which is by reference made a part of this Agreement.
- 38.2 The revisions to the Maintenance of Way Employees Supplemental Sickness Benefit Plan, as provided in the National Mediation Agreement dated May 31, 2001 are reproduced in Appendix "M, and are effective December 31, 2004.

RULE 39
HEALTH AND WELFARE BENEFITS

- 39.1 The Carrier and the Brotherhood are among the parties who collectively participate in the National Health and Welfare Plan (“the Plan”), which is by reference made a part of this Agreement.
- 39.2 The revisions to the Health and Welfare Plan (“the Plan”), as provided in the May 31, 2001 National Mediation Agreement, “Article V – Health and Welfare Plan”, are reproduced in Appendix "L".

RULE 40
EARLY RETIREMENT MAJOR MEDICAL BENEFITS

- 40.1 The Carrier and the Brotherhood are among the parties who collectively participate in the Early Retirement Major Medical Expense Benefit Plan denoted as Group Policy Contract No. GA-46000 with United Health Services, which is by reference made a part of this Agreement.
- 40.2 The revisions to the Early Retirement Major Medical Benefit Plan GA-46000, as provided in the December 19, 1991 Memorandum of Agreement are reproduced in Appendix "L".

RULE 41
DENTAL BENEFITS

41.1 The Carrier and the Brotherhood are among the parties who collectively participate in the Railroad Employees National Dental Plan with The Aetna Life Insurance Company, which is by reference made a part of this Agreement.

Note: Descriptive employee booklets issued by the various Insurance Companies containing the broad outline of health benefits and eligibility provisions under Rules 48 to 51 inclusive are furnished to each employee.

RULE 42
OFF TRACK VEHICLE ACCIDENTS

- 42.1 The provisions of the February 10, 1971 National Agreement, as amended, are applicable to employees covered by this Agreement and are incorporated herein Appendix "C".

RULE 43
PRINTING OF AGREEMENT

- 43.1 The Carrier will undertake the responsibility for printing of the Collective Agreement as may be required from time to time and will absorb the cost of such printing. This will include the cost of printing updated pages.

RULE 44
INTERPRETATIONS

- 44.1 Exceptions to any rule in this agreement or any question of interpretation which may arise will be adjusted by the General Chairman with the designated Carrier officer or, if necessary, with highest designated officer of the Carrier.

RULE 45
NON-DISCRIMINATION

- 45.1 The parties to this Agreement pledge to comply with Federal and State laws dealing with non-discrimination toward any employee. This obligation to not discriminate in employment includes, but is not limited to, placement, transfer, demotion, rates of pay or other forms of compensation, selection for training, lay-off, and termination.
- 45.2 Wherever the words are used herein in the masculine gender, they shall be construed as though they were also used in the feminine gender in all cases where they would so apply.

RULE 46
VOLUNTARY POLITICAL CONTRIBUTIONS

- 46.1 The provisions of the August 31, 1979 National Agreement, as amended, are applicable to employees covered by this Agreement and are incorporated herein Appendix "F".

RULE 47
NEW POSITIONS

- 47.1 If a new position is established for which a rate of pay has not been agreed upon, the Company will in the first instance establish a rate which is commensurate with the duties, responsibilities, characteristics and other requirements of said position. If the General Chairman does not agree that the rate of pay so established is commensurate with the duties, responsibilities, characteristics and other requirements of the position, he shall so notify the Company and thereupon the duly authorized representative of the Company shall meet with the General Chairman or his representative for the purpose of mutually agreeing upon a rate which will be satisfactory to both parties. In the event of failure to reach a mutual agreement on the subject, it will be submitted to arbitration in accordance with Rule 47.3.
- 47.2 If, as a result of change in work methods subsequent to the effective date of this agreement the contention is made by the General Chairman that there has been an expansion of duties and responsibilities of supervisory employees covered by the rules of the collective agreement resulting in a request for wage adjustment and a mutual agreement is not reached disposing of the issue thus raised, the matter will be submitted to arbitration in accordance with Rule 47.3.
- 47.3 The submissions to arbitration provided for in Rules 47.1 and 47.2 shall be under and in accordance with the provisions of the Railway Labor Act; shall be between the Company and the system committee of the Organization representing employees of the Company; and shall be governed by an arbitration agreement conforming to the requirements of the Railway Labor Act which shall contain the following provisions:
- (a) Shall state that the Board of Arbitration is to consist of three members;
 - (b) Shall state specifically that the question to be submitted to the Board for decision shall be limited to the single question as to whether the rate established by the Company should be continued or whether the rate suggested by the General Chairman should be adopted or whether an intermediate rate is justified; and that in its award the said Board shall confine itself strictly to decision as to the question so specifically submitted to it;
 - (c) Shall fix a period of ten (10) days from the date of the appointment of the arbitrator necessary to complete the Board within which the said Board shall commence its hearings;

- (d) Shall fix a period of thirty (30) days from the beginning of the hearings within which the said Board shall make and file its award, provided that the parties may agree at any time upon the extension of this period;
- (e) Shall provide that the award shall become effective on the date that it is rendered and the rate awarded shall continue in force until changed or modified pursuant to the provisions of the Railway Labor Act.

RULE 48
SPECIAL ASSIGNMENTS

- 48.1 Where Maintenance of Way employees are assigned exclusively to steel bridge work, rail and reclamation plants, or other work of a special nature for which seniority territories are established by Agreement between the General Chairman and the Officers of the Railway under provisions of Rule 4.3, the rates to be paid and any special conditions shall be mutually agreed upon between the General Chairman and Officers of the Railway.

RULE 49
PROTECTED EMPLOYEES

49.1 This provision is incorporated in the Job Stabilization Agreement - Appendix "G".

RULE 50
MOVING EXPENSES AND SEPARATION ALLOWANCES

50.1 This provision is incorporated in the Job Stabilization Agreement - Appendix "G"

RULE 51
APPLICATION TO MERGERS, CONSOLIDATIONS AND OTHER AGREEMENTS

51.1 This provision is incorporated in the Job Stabilization Agreement - Appendix "G".

RULE 52
JOB STABILIZATION DISPUTES COMMITTEE

52.1 This provision is incorporated in the Job Stabilization Agreement - Appendix "G"

RULE 53
SENIORITY MODIFICATION AGREEMENT

- 53.1 The Carrier and the Brotherhood are among the parties to the Seniority Modification Agreement signed at Washington, D.C., July 28, 1976 designed to improve the advancement opportunities of minority groups and females in the United States railroad industry.

RULE 54
MANNING NEW LINES

54.1 Preference in manning new lines or extensions shall be given to employees on promotion territories from which the new lines divert.

RULE 55
TECHNOLOGICAL CHANGE

- 55.1 If the Carrier proposes a merger or co-ordination or a major technological change, the Organization may in relation thereto, serve and progress proposals for changes in rates of pay or an individual position basis, based upon increased duties and/or responsibilities by reason of such contemplated merger, co-ordination or major technological change.
- 55.2 For purposes of Rule 55.1, a major "technological change" is one involving 25 or more employees.

RULE 56
WHOLE AGREEMENT PROVISION

56.1 This Collective Agreement supersedes in their entirety all prior collective agreements, memoranda of agreement, letters of understanding, Company letters or local agreements or understandings and constitutes the whole agreement between the parties.

RULE 57
DURATION

- 57.1 (a) Except as otherwise provided in the foregoing rules, this Agreement (including Appendices contained herein) shall remain in effect until changed or modified in accordance with the provisions of the Railway Labor Act, as amended.
- (b) No party to this Agreement shall serve prior to July 1, 2004 (not to become effective before January 1, 2005) any notice or proposal for the purpose of changing the subject matter of the provisions of this Agreement and all proposals in pending notices served by the Organization on the signatory Carrier or any of its predecessors' or all proposals in pending notices served by the signatory Carrier or any of its predecessors on the Organization that have not been addressed by this Agreement are hereby withdrawn.
- (c) No party to this Agreement shall serve or progress, prior to July 1, 2004 (not to become effective before January 1, 2005) any notice or proposal which might properly have been served prior to entering into this Agreement.
- (d) This Article will not bar the Carrier and representatives of the Brotherhood of Maintenance of Way Employees from agreeing upon any subject of mutual interest.
- (e) This Agreement shall remain in effect through December 31, 2004, and thereafter, until changed or modified in accordance with the provisions of the Railway Labor Act.

Signed at Clifton Park, New York, this 21st day of March 2007.

FOR THE DELAWARE & HUDSON
COMPANY, INC.;

FOR THE BROTHERHOOD OF RAILWAY
MAINTENANCE OF WAY EMPLOYEES
DIVISION

(Sgd) Cathryn S. Frankenberg
Cathryn S. Frankenberg

(Sgd) Stuart A. Hurlburt, Jr.
Stuart A. Hurlburt, Jr,

APPENDIX "A"	Vacations
APPENDIX "B"	Union Shop Agreement
APPENDIX "C"	Off Track Vehicle Accident Benefits
APPENDIX "D"	Union Dues Deduction Agreement
APPENDIX "E"	Example of Rate Progression Provisions
APPENDIX "F"	Voluntary Political Contributions
APPENDIX "G"	Job Stabilization Agreement
APPENDIX "H"	Letters of Understanding re Contracting Out
APPENDIX "I"	Q&A's RE: Bereavement Leave
APPENDIX "J"	Letter of Understanding re Assignment of Employees
APPENDIX "K"	Cost-of-Living Payments
APPENDIX "L"	Health & Welfare Plan and Early Retirement Major Medical Benefit Plan
APPENDIX "M"	Supplemental Sickness Benefits
APPENDIX "N"	Letters of Understanding
APPENDIX "O"	401K Saving Plan
APPENDIX "P"	Dependent Care Assistance Plan
APPENDIX "Q"	Sale of D&H
APPENDIX "R"	Q&A's for Memorandum of Agreement, dated January 19, 1999
APPENDIX "S"	D&H Supplemental Unemployment Benefit Plan

APPENDIX "A"

VACATIONS

Section 1

- (a) Effective with the calendar year 1973, an annual vacation of five (5) consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than one hundred twenty (120) days during the preceding calendar year.
- (b) Effective with the calendar year 1973, an annual vacation of ten (10) consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than one hundred ten (110) days during the preceding calendar year and who has two (2) or more years of continuous service and who, during such period of continuous service renders compensated service on not less than one hundred ten (110) days in each of two (2) of such years, not necessarily consecutive.
- (c) Effective with the calendar year 1982, an annual vacation of fifteen (15) consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than one hundred (100) days during the preceding calendar year and who has eight (8) or more years of continuous service and who, during such period of continuous service renders compensated service on not less than one hundred (100) days in each of eight (8) of such years, not necessarily consecutive.
- (d) Effective with the calendar year 1982, an annual vacation of twenty (20) consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than one hundred (100) days during the preceding calendar year and who has seventeen (17) or more years of continuous service and who, during such period of continuous service renders compensated service on not less than one hundred (100) days in each of seventeen (17) of such years, not necessarily consecutive.
- (e) Effective with the calendar year 1973, an annual vacation of twenty-five (25) consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than one hundred (100)

days during the preceding calendar year and who has twenty-five (25) or more years of continuous service renders compensated service on not less than one hundred (100) days in each of twenty-five (25) of such years, not necessarily consecutive.

Note: Effective January 1, 2002, employee's reaching sufficient service on their anniversary date in order to qualify for additional vacation, may take the additional weeks vacation in the calendar year in which the BMWED employee attained same.

- (f) Paragraphs (a), (b), (c), (d) and (e) hereof shall be construed to grant to weekly and monthly rated employees, whose rates contemplate more than five days of service each week, vacations of one, two, three, four and five work weeks.
- (g) Service rendered under agreements between a carrier and one or more of the Non-Operating Organizations parties to the General Agreement of August 21, 1954, or to the General Agreement of August 19, 1960, shall be counted in computing days of compensated service and years of continuous service for vacation qualifying purposes under this Agreement
- (h) Calendar days in each current qualifying year on which an employee renders no service because of his own sickness or because of his own injury shall be included in computing days of compensated service and years of continuous service for vacation qualifying purposes on the basis of a maximum of ten (10) such days for an employee with less than three (3) years of service; a maximum of twenty (20) such days for an employee with three (3) but less than fifteen (15) years of service; and a maximum of thirty (30) such days for an employee with fifteen (15) or more years of service with the employing carrier.
- (i) In instances where employees who have become members of the Armed Forces of the United States return to the service of the employing carrier in accordance with the Military Selective Service Act of 1967, as amended, the time spent by such employees in the Armed Forces subsequent to their employment by the employing carrier will be credited as qualifying service in determining the length of vacations for which they may qualify upon their return to the service of the employing carrier.
- (j) In instances where an employee who has become a member of the Armed Forces of the United States returns to the service of the employing carrier in accordance with the Military Selective Service Act of 1967, as amended, and in the calendar year preceding his return to railroad service had rendered no compensated service or had rendered compensated service on fewer days than are required to qualify for a vacation in the calendar year of his return to railroad service, but could qualify for a vacation in the year of his return to railroad service if he had combined for qualifying purposes days on which he was in railroad service in such preceding calendar year with days in such year on which he was in the Armed Forces, he will be granted, in the calendar year of his return to railroad service, a vacation of such length as he could so qualify for under paragraphs (a), (b), (c), (d) or (e) and (i) hereof

- (k) In instances where an employee who has become a member of the Armed Forces of the United States returns to the service of the employing carrier in accordance with the Military Selective Service Act of 1967, as amended, and in the calendar year of his return to railroad service renders compensated service on fewer days than are required to qualify for a vacation in the following calendar year, but could qualify for a vacation in such following calendar year if he had combined for qualifying purposes days on which he was in railroad service in the year of his return with days in such year on which he was in the Armed Forces, he will be granted, in such following calendar year, a vacation of such length as he could so qualify for under paragraphs (a), (b), (c), (d) or (e) and (i) hereof.
- (l) An employee who is laid off and has no seniority date and no rights to accumulate seniority, who renders compensated service on not less than one hundred twenty (120) days in a calendar year and who returns to service in the following year for the same carrier will be granted the vacation in the year of his return. In the event such an employee does not return to service in the following year for the same carrier he will be compensated in lieu of the vacation he has qualified for provided he files written request therefor to his employing officer, a copy of such request to be furnished to his local or general chairman.

Section 2

This section of National Vacation Agreement does not apply to Maintenance of Way Employees and, therefore, is not reproduced here.

Section 3

- (a) The terms of this agreement shall not be construed to deprive any employee of such additional vacation days as he may be entitled to receive under any existing rule, understanding or custom, which additional vacation days shall be accorded under and in accordance with the terms of such existing rule, understanding or custom.
- (b) An employee's vacation period will not be extended by reason of any of the eleven recognized holidays (New Year's Day, Washington's Birthday, Good Friday, Memorial Day, Fourth of July, Labor Day, Thanksgiving, Day after Thanksgiving Day, Christmas Eve Day, Christmas and New Year's Eve Day or any day which by agreement has been substituted or is observed in place of any of the eleven holidays enumerated above, or any holiday which by local agreement has been substituted therefor, falling within his vacation period.

Section 4

- (a) Vacations may be taken from January 1st to December 31st and due regard consistent with requirements of service shall be given to the desires and preferences of the employees in seniority order when fixing the dates for their vacations. The local committee of the organization and the representatives of the Company will cooperate in assigning vacation dates.
- (b) The Management may upon reasonable notice of thirty (30) days or more, if possible, but in no event less than fifteen (15) days, require all or any number of employees in any plant, operation, or facility, who are entitled to vacations to take vacations at the same time.

The local committee of the organization and the proper representative of the Company will cooperate in the assignment of remaining forces.

Section 5

Each employee who is entitled to vacation shall take same at the time assigned and, while it is intended that the vacation date designated will be adhered to so far as practicable, the management shall have the right to defer same provided the employee so affected is given as much advance notice as possible; not less than ten (10) days' notice shall be given except when emergency conditions prevent. If it becomes necessary to advance the designated date, at least thirty (30) days' notice will be given affected employee.

If the Company finds that it cannot release an employee for a vacation during the calendar year because of the requirements of the service, then such employee shall be paid in lieu of the vacation the allowance hereinafter provided. Such employee shall, be paid the time and one-half rate for work performed during his vacation period in addition to his regular vacation pay.

Section 6

The Company will provide vacation relief workers but the vacation system shall not be used as a device to make unnecessary jobs for other workers. Where a vacation relief worker is not needed in a given instance and if failure to provide a vacation relief worker does not burden those employees remaining on the job, or burden the employee after his return from vacation, the carrier shall not be required to provide such relief worker.

Section 7

Allowances for each day for which an employee is entitled to a vacation with pay will be calculated on the following basis:

- (a) An employee having a regular assignment will be paid while on vacation the daily compensation paid by the carrier for such assignment.
- (b) An employee paid a daily rate to cover all services rendered, including overtime, shall have no deduction made from his established daily rate on account of vacation allowances made pursuant to this agreement.
- (c) An employee paid a weekly or monthly rate shall have no deduction made from his compensation on account of vacation allowances made pursuant to this agreement.
- (d) An employee working on a piece-work or tonnage basis will be paid on the basis of the average earnings per day for the last two semi-monthly periods preceding the vacation, during which two periods such employee worked on as many as sixteen (16) different days.
- (e) An employee not covered by paragraphs (a), (b), (c), (d) or (e) of this Section will be paid on the basis of the average daily straight time compensation earned in the last pay period preceding the vacation during which he performed service.

Section 8

The vacation provided for in this Agreement shall be considered to have been earned when the employee has qualified under Section 1 hereof. If an employee's employment status is terminated for any reason whatsoever, including but not limited to retirement, resignation, discharge, non-compliance with a union-shop agreement, or failure to return after furlough, he shall at the time of such termination be granted full vacation pay up to the time he leaves the service, including pay for vacation earned in the preceding year or years and not yet granted, and the vacation for the succeeding year if the employee has qualified therefor under Section 1. If an employee thus entitled to vacation or vacation pay shall die, the vacation pay earned and not received shall be paid to such beneficiary as may have been designated, or in the absence of such designation, the surviving spouse or children or his estate, in that order of preference.

Section 9

Vacations shall not be accumulated or carried over from one vacation year to another.

Section 10

- (a) An employee designated to fill an assignment of another employee on vacation will be paid the rate of such assignment or the rate of his own assignment, whichever is the greater, provided that if the assignment is filled by a regularly assigned vacation relief employee, such employee shall receive the rate of the relief position. If an employee receiving graded rates, based upon length of service and experience, is designated to fill an assignment of another employee in the same occupational classification receiving such graded rates who is on vacation, the rate of the relieving employee will be paid.
- (b) Where work of vacationing employees is distributed among two or more employees, such employees will be paid their own respective rates. However, not more than the equivalent of twenty-five per cent of the work load of a given vacationing employee can be distributed among fellow employees without the hiring of a relief worker unless a larger distribution of the work load is agreed to by the proper local union committee or official.
- (c) No employee shall be paid less than his own normal compensation for the hours of his own assignment because of vacations to other employees.

Section 11

While the intention of this agreement is that the vacation period will be continuous, the vacation may, at the request of an employee, be given in installments if the management consents thereto.

Section 12

- (a) Except as otherwise provided in this Agreement, a carrier shall not be required to assume greater expense because of granting a vacation than would be incurred if an employee were not granted a vacation and was paid in lieu thereof under the provision hereof. However, if a relief worker necessarily is put to substantial extra expense over an above that which the regular employee on vacation would incur if he had remained on the job, the relief worker shall be compensated in accordance with existing regular relief rules.
- (b) As employees exercising their vacation privileges will be compensated under this agreement during their absence on vacation, retaining their other rights as if they had remained at work, such absences from duty will not constitute "vacancies" in their positions under any agreement. When the position of a vacationing employee is to be filled and regular relief employee is not utilized, effort will be made to observe the principle of seniority.

- (c) A person other than a regularly assigned relief employee temporarily hired solely for vacation relief purposes will not establish seniority rights unless so used more than 60 days in a calendar year. If a person so hired under the terms hereof acquires seniority rights, such rights will date from the day of original entry into service unless otherwise provided in existing agreements.

Section 13

The parties hereto having in mind conditions which exist or may arise on individual carriers in making provision for vacations with pay agree that the duly authorized representatives of the employees, who are parties to one agreement, and the proper officer of the carrier may make changes in the working rules or enter into additional written understandings to implement the purposes of this agreement, provided that such changes or understandings shall not be inconsistent with this agreement.

Section 14

Any dispute or controversy arising out of the interpretation or application of any of the provisions of this agreement shall be referred for decision to a committee, the carrier members of which shall be the Carriers' Conference Committees signatory hereto, or their successors; and the employee members of which shall be the Chief Executives of the Fourteen Organizations, or their representatives, or their successors. Interpretations or applications agreed upon by the carrier members and employee members of such committee shall be final and binding upon the parties to such dispute or controversy.

This section is not intended by the parties as a waiver of any of their rights provided in the Railway Labor Act as amended, in the event committee provided in this Section fails to dispose of any dispute or controversy.

Section 15

Except as otherwise provided herein this agreement shall be effective as of January 1, 1973, and shall be incorporated in existing agreements as a supplement thereto and shall be in full force and effect for a period of one (1) year from January 1, 1973, and continue in effect thereafter, subject to not less than seven (7) months' notice in writing (which notice may be served in 1973 or in any subsequent year) by any carrier or organization party hereto, of desire to change this agreement as of the end of the year in which the notice is served. Such notice shall specify the changes desired and the recipient of such notice shall then have a period of thirty (30) days from the date of the receipt of such notice within which to serve notice specifying changes which it or they desire to make. Thereupon such proposals of the respective parties shall thereafter be negotiated and progressed concurrently to a conclusion.

APPENDIX "B"

UNION SHOP AGREEMENT

Section 1

In accordance with and subject to the terms and conditions hereinafter set forth, all employees, except as hereinafter provided, shall, as a condition of their continued employment become members of the Brotherhood within sixty calendar days of the date they first perform compensated service as such employees and thereafter shall maintain membership in the Brotherhood; except that such membership shall not be required of any individual until he has performed compensated service on thirty days within a period of twelve consecutive calendar months. Nothing in this agreement shall alter, enlarge or otherwise change the coverage of the present or future rules and working conditions agreement.

Section 2

This agreement shall not apply to employees while occupying positions which are excepted from the bulletining and displacement rules of the individual agreements, but this provision shall not include employees who are subordinate to and report to other employees who are covered by this agreement. However, such excepted employees are free to be members of the organization at their option.

Section 3

- (a) Employees who retain seniority under the Collective Agreement and who are regularly assigned or transferred to full time employment not covered by such agreement, or who, for a period of thirty days or more, are (1) furloughed on account of force reduction, or (2) on leave of absence, or (3) absent on account of sickness or disability will not be required to maintain membership as provided in Section 1 of this agreement so long as they remain in such other employment, or furloughed or absent as herein provided, but they may do so at their option. Should such employees return to service under the Collective Agreement and continue therein thirty calendar days or more, irrespective of the number of days actually worked during that period, they shall, as a condition of their continued employment subject to such agreement, be required to become and remain members of the Brotherhood within thirty-five calendar days from date of their return to such service.
- (b) The seniority status and rights of employees furloughed to serve in the Armed Forces or granted leaves of absence to engage in studies under an educational aid program for the benefits of ex-service men shall not be terminated by reason of any of the provisions of this agreement but such employees shall, upon resumption of employment, be considered as new employees for the purpose of applying this agreement.

- (c) Employees who retain seniority under the Collective Agreement and who, for reasons other than those specified in subsection (a) and (b) of this section, are not in service covered by such agreement, or leave such service, will not be required to maintain membership as provided in Section 1 of this agreement so long as they are not in service covered by the collective agreement, but they may do so at their option. Should such employees return to service under collective agreement they shall, as a condition of their continued employment, be required, from the date of return to such service, to become and remain members in the Brotherhood.
- (d) Employees who retain seniority under the collective agreement, who are members of an organization signatory hereto representing that class and who in accordance with the rules and working conditions agreement of that class temporarily perform work in another class of service shall not be required to be members of another organization party hereto whose agreement covers the other class of service until the date the employees hold regularly assigned positions within the scope of the agreement covering such other class of service.

Section 4

Nothing in this agreement shall require an employee to become or to remain a member of the Brotherhood if such membership is not available to such employee upon the same terms and conditions as are generally applicable to any other member, or if the membership of such employee is denied or terminated for any reason other than the failure of the employee to tender the periodic dues, initiation fees, and assessments (not including fines and penalties) uniformly required as a condition of acquiring or retaining membership. For purposes of this agreement, dues, fees, and assessments, shall be deemed to be "uniformly required" if they are required of all employees in the same status at the same time in the same organizational unit.

Section 5

- (a) Each employee covered by the provisions of this agreement shall be considered by the Company to have met the requirements of the agreement unless and until the Company is advised to the contrary in writing by the Brotherhood. The Brotherhood will notify the Company in writing by Registered Mail, Return Receipt Requested, or by personal delivery evidenced by receipt, of any employee who it is alleged has failed to comply with the terms of this agreement and who the Brotherhood therefore claims is not entitled to continue in employment subject to the collective agreement. The form of notice to be used shall be agreed upon by the Company and the Brotherhood and the form shall make provision for specifying the reasons for the allegation of non-compliance. Upon receipt of such notice, the Company will, within ten calendar days of such receipt, so notify the employee concerned in writing by

Registered Mail, Return Receipt Requested, or by personal delivery evidenced by receipt. Copy of such notice to the employee shall be given the Brotherhood. An employee so notified who disputes the fact that he has failed to comply with the terms of this agreement, shall within a period of ten calendar days from the date of receipt of such notice, request the Company in writing by Registered Mail, Return Receipt Requested, or by personal delivery evidenced by receipt, to accord him a hearing. Upon receipt of such request the Company shall set a date for hearing which shall be held within ten calendar days of the date of receipt of request therefor. Notice of the date set for hearing shall be promptly given the employee in writing with copy to the Brotherhood, by Registered Mail, Return Receipt Requested, or by personal delivery evidenced by receipt. A representative of the Brotherhood shall attend and participate in the hearing. The receipt by the Company of a request for a hearing shall operate to stay action on the termination of employment until the hearing is held and the decision of the Company is rendered.

In the event the employee concerned does not request a hearing as provided herein, the Company shall proceed to terminate his seniority and employment under the Collective Agreement not later than thirty calendar days from receipt of the above described notice from the Brotherhood, unless the Company and the Brotherhood agree otherwise in writing.

- (b) The Company shall determine on the basis of the evidence produced at the hearing whether or not the employee has complied with the terms of this agreement and shall render a decision within twenty calendar days from the date that the hearing is closed, and the employee and the Brotherhood shall be promptly advised thereof in writing by Registered Mail, Return Receipt Requested.

If the decision is that the employee has not complied with the terms of this agreement, his seniority and employment under the Collective Agreement shall be terminated within twenty calendar days of the date of said decision except as hereinafter provided or unless the Company and the Brotherhood agree otherwise in writing. If the decision is not satisfactory to the employee or to the Brotherhood it may be appealed in writing, by Registered Mail, Return Receipt Requested, directly to the highest officer of the Company designated to handle appeals under this agreement. Such appeals must be received by such officer within ten calendar days of the date of the decision appealed from and shall operate to stay action on the termination of seniority and employment, until the decision on appeal is rendered. The Company shall promptly notify the other party in writing of any such appeal, by Registered Mail, Return Receipt Requested. The decision on such appeal shall be rendered within twenty calendar days of the date the notice of appeal is received, and the employee and the Brotherhood shall be promptly advised thereof in writing by Registered Mail, Return Receipt Requested.

If the decision on such appeal is that the employee has not complied with the terms of this agreement, his seniority and employment shall be terminated within twenty calendar days of the date of said decision unless selection of a neutral is requested as provided below, or unless the Company and the Brotherhood agree otherwise in writing. The decision on appeal shall be final and binding unless within ten calendar days from the date of the decision the Brotherhood or the employee involved requests the selection of a neutral person to decide the dispute as provided in Section 5 (c) below. Any request for selection of a neutral person as provided in Section 5 (c) below shall operate to stay action on the termination of seniority and employment until not more than ten calendar days from the date decision is rendered by the neutral person.

- (c) If within ten calendar days after the date of a decision on appeal by the highest officer of the Company designated to handle appeals under this agreement the Brotherhood or the employee involved requests such highest officer in writing by Registered Mail, Return Receipt Requested, that a neutral be appointed to decide the dispute, a neutral person to act as sole arbitrator to decide the dispute shall be selected by the highest officer of the Company designated to handle appeals under this agreement or his designated representative, the General Chairman of the Brotherhood or his designated representative, and the employee involved or his representative. If they are unable to agree upon the selection of a neutral person any one of them may request the Chairman of the National Mediation Board in writing to appoint such neutral. The Company, the Brotherhood and the employee involved shall have the right to appear and present evidence at a hearing before such neutral arbitrator. Any decision by such neutral arbitrator shall be made within thirty calendar days from the date of receipt of the request for this appointment and shall be final and binding upon the parties. The Company, the employee, and the Brotherhood shall be promptly advised thereof in writing by Registered Mail, Return Receipt Requested. If the position of the employee is sustained, the fees, salary and expenses of the neutral arbitrator shall be borne in equal shares by the Company and the Brotherhood; if the employee's position is not sustained, such fees, salary and expenses shall be borne in equal shares by the Company, the Brotherhood and the employee.
- (d) The time periods specified in this section may be extended in individual cases by written agreement between the Company and the Brotherhood.
- (e) Provisions of investigation and discipline rules contained in the Collective Agreement will not apply to cases arising under this agreement.
- (f) The General Chairman shall notify the Company in writing of the title and address of the representative authorized to serve and receive the notices described in this agreement. The Company shall notify the General Chairman in writing of the title and address of the representative who is authorized to receive and serve the notices described in this agreement.

- (g) In computing the time period specified in this agreement, the date on which a notice is received or decision rendered shall not be counted.

Section 6

Other provisions of this agreement to the contrary notwithstanding, the Company shall not be required to terminate the employment of an employee until such time as a qualified replacement is available. The Company may not, however, retain such employee in service under the provisions of this section for a period in excess of sixty calendar days from the date of the last decision rendered under the provisions of Section 5, or ninety calendar days from date of receipt of notice from the organization in cases where the employee does not request a hearing. The employee whose employment is extended under the provisions of this section shall not, during such extension, retain or acquire any seniority rights. The position will be advertised as vacant under the bulletining rules of the respective agreements but the employee may remain on the position he held at the time of the last decision, or at the date of receipt of notice where no hearing is requested pending the assignment of the successful applicant, unless displaced or unless the position is abolished. The above periods may be extended by agreement between the parties.

Section 7

An employee whose seniority and employment is terminated pursuant to the provisions of this Agreement or whose employment is extended under Section 6 shall have no time or money claims by reason thereof.

If the final determination under Section 5 of this agreement is that an employee's seniority and employment shall be terminated, no liability against the Company in favor of the Brotherhood or other employees based upon an alleged violation, misapplication or non-compliance with any part of this agreement shall arise or accrue during the period up to the expiration of the 60 or 90 day periods specified in Section 6, or while such determination may be stayed by a court, or while a discharged employee may be restored to service pursuant to judicial determination. During such periods, no provision of any other agreement between the parties hereto shall be used as the basis for a grievance or time or money claim by or on behalf of any employee against the Company predicated upon any action taken by the Company in applying or complying with this agreement or upon an alleged violation, misapplication or non-compliance with any provision of this agreement. If the final determination under Section 5 of this agreement is that an employee's employment and seniority shall not be terminated, his continuance in service shall give rise to no liability against the Company in favor of the Brotherhood or other employees based upon an alleged violation, misapplication or non-compliance with any part of this agreement.

Section 8

In the event that seniority and employment are terminated by the Company under the provisions of this agreement, and such termination of seniority and employment is subsequently determined to be improper, unlawful, or unenforceable, the Brotherhood shall indemnify and save harmless the Company against any and all liability arising as the result of such improper, unlawful, or unenforceable termination of seniority and employment; provided, however, that this section shall not apply to any case in which the Company is defending suits by employees whose seniority and employment are terminated by the Company under the provisions of this agreement.

Section 9

An employee whose employment is terminated as a result of non-compliance with the provisions of this agreement shall be regarded as having terminated his employee relationship for vacation purposes.

APPENDIX "C"

PAYMENTS TO EMPLOYEES INJURED UNDER CERTAIN CIRCUMSTANCES

Where employees sustain personal injuries or death under the conditions set forth in paragraph (a) below, the Carrier will provide and pay such employees, or their personal representative, the applicable amounts set forth in paragraph (b) below, subject to the provisions of other paragraphs in this Article.

(a) Covered Conditions

This Article is intended to cover accidents involving employees covered by this agreement while such employees are riding in, boarding, or alighting from off-track vehicles authorized by the carrier and are

- (1) deadheading under orders or
- (2) being transported at carrier expense.

(b) Payments to be Made

In the event that any one of the losses enumerated in subparagraphs (1), (2) and (3) below results from an injury sustained directly from an accident covered in paragraph (a) and independently of all other causes and such loss occurs or commences within the time limits set forth in subparagraphs (1), (2) and (3) below, the carrier will provide, subject to the terms and conditions herein contained, and less any amounts payable under Group Policy Contract GA-23000 of the United Health Care or any other medical or insurance policy or plan paid for in its entirety by the carrier, the following benefits:

(1) Accidental Death or Dismemberment

The carrier will provide for loss of life or dismemberment occurring within 120 days after date of an accident covered in paragraph (a):

Loss of Life	\$150,000
Loss of Both Hands	\$150,000
Loss of Both Feet	\$150,000
Loss of Sight of Both Eyes	\$150,000
Loss of One Hand and One Foot	\$150,000
Loss of One Hand and Sight of One Eye	\$150,000
Loss of One Foot and Sight of One Eye	\$150,000
Loss of One Hand or One Foot or Sight of One Eye	\$ 75,000

"Loss" shall mean, with regard to hands and feet, dismemberment by severance through or above wrist or ankle Joints; with regard to eyes, entire and irrecoverable loss of sight.

Note more than \$150,000 will be paid under this paragraph to any one employee or his personal representative as a result of any one accident.

(2) Medical and Hospital Care

The carrier will provide payment for the actual expense of medical and hospital care commencing within 120 days after an accident covered under paragraph (1) of injuries incurred as a result of such accident, subject to limitation of \$3,000 for any employee for any one accident, less any amounts payable under Group Policy Contract GA-23000 of the United Health Care or under any other medical or insurance policy or plan paid for in its entirety by the carrier.

(3) Time Loss

The carrier will provide an employee who is injured as a result of an accident covered under paragraph (1) hereof and who is unable to work as a result thereof commencing within 30 days after such accident 80% of the employee's basic full-time weekly compensation from the carrier for time actually lost, subject to a maximum payment of \$150.00 per week for time lost during a period of 156 continuous weeks following such accident provided, however, that such weekly payment shall be reduced by such amounts as the employee is entitled to receive as sickness benefits under provisions of the Railroad Unemployment Insurance Act.

(4) Aggregate Limit

The aggregate amount of payments to be made hereunder is limited to \$1,000,000 for any one accident and the carrier shall not be liable for any amount in excess of \$1,000,000 for one accident irrespective of the number of injuries or deaths which occur in or as a result of such accident. If the aggregate amount of payments otherwise payable hereunder exceeds the aggregate limit herein provided, the carrier shall not be required to pay as respects each separate employee a greater proportion of such payments than the aggregate limit set forth herein bears to the aggregate amount of all such payments.

(c) Payment in Case of Accidental Death

Payment of the applicable amount for accidental death shall be made to the employee's personal representative for the benefit of the persons designated in, and according to the apportionment required by the Federal Employers Liability Act (45 U.S.C. 51 et seq., as amended), or if no such person survives the employee, for the benefit of his estate.

(d) Exclusions

Benefits provided under paragraph (b) shall not be payable for or under any of the following conditions:

- (1) Intentionally self-inflicted injuries, suicide or any attempt threat, while sane or insane;
 - (2) Declared or undeclared war or any act thereof;
 - (3) Illness, disease, or any bacterial infection other than bacterial infection occurring in consequence of an accidental cut or wound;
 - (4) Accident occurring while the employee driver is under the influence of alcohol or drugs, or if an employee passenger who is under the influence of alcohol or drugs in any way contributes to the cause of the accident;
 - (5) While an employee is a driver or an occupant of any conveyance engaged in any race or speed test;
 - (6) While an employee is commuting to and/or from his residence or place of business.
- (e) Offset

It is intended, that this Article is to provide a guaranteed recovery by an employee or his personal representative under the circumstances described, and that receipt of payment thereunder shall not bar the employee or his personal representative from pursuing any remedy under the Federal Employers Liability Act or any other law; provided, however, that any amount received by such employee or his personal representative under this Article may be applied as an offset by the railroad against any recovery so obtained.

- (f) Subrogation

The carrier shall be subrogated to any right of recovery an employee or his personal representative may have against any party for loss to the extent that the carrier has made payments pursuant to this Article.

It is understood that no benefits or payments will be due or payable to employee or his

personal representative unless such employee, or his personal representative, as the case may be, stipulates as follows:

"In consideration of the payment of any of the benefits provided in Article IV of the National Agreement of February 11, 1972,

(employee or personal representative)

agrees to be governed by all of the conditions and provisions said and set forth by Article IV.'

APPENDIX "D"

UNION DUES DEDUCTION AGREEMENT

Section 1

- (a) Subject to the terms and conditions of this agreement. Carrier shall deduct without cost to the Organization or affected employees sums for periodic dues, initiation fees and assessments (not including fines and penalties), which are uniformly required as a condition of acquiring or retaining membership in the Brotherhood and which are payable to the Brotherhood by members of the Brotherhood from wages due and payable to said members, from wages earned by them as Maintenance of Way employees of the Carrier upon the written and unrevoked authorization of a member in the form agreed upon by the parties hereto, copy of which is attached and made a part hereof, designated as Form "A". The signed authorization may, in accordance with its terms, be revoked in writing at any time after the expiration of one year from the date of its execution, or upon the termination of the rules and working conditions agreement between the parties hereto, whichever occurs sooner. Revocation of the authorization shall be in the form agreed upon by the parties hereto, copy of which is attached and made a part hereof, designated as Form "B".
- (b) The Brotherhood shall assume full responsibility for the procurement and execution of said forms by employees and for the delivery of said forms to the Carrier.

Section 2

Dues deduction assignments currently in effect need not be re-executed and may be continued in effect subject to their terms and conditions.

Section 3

- (a) The System Federation General Chairman of the Brotherhood will supply the Carrier with a list for each affected local lodge which will contain addition to the name, the Social Security number and the amount to be deducted from the wages of each employee. The list will conform to Form "C" attached hereto.
- (b) After the initial list has been organized, changes will be made in the following manner:
 - 1. A list containing additions, changes in amount of money to be deducted (which may not be changed more often than once every three months) or changes in lodge number shall be furnished to the Carrier by the Brotherhood at least 30 days in advance of the date the payroll deduction will be made. This list will conform to Form "D" attached hereto. If the list contains the names of employees not previously covered by the agreement, a copy of their Form "A" will be attached.

2. A list containing the names of employees who have revoked their deduction authorization, together with a copy of their Form "B", shall be furnished to the Carrier by the Brotherhood at least 30 days in advance of the date on which the next payroll deduction is to be made. This list will conform to Form "E" attached hereto.

Section 4

Deductions as provided herein will be made monthly from the wages earned in the payroll period in which the 24th day of each month falls.

Section 5

The following will have priority over deductions in favor of the Brotherhood as covered by this agreement:

- (a) Federal, State and Municipal taxes and other deductions required by law, including garnishment and attachments.
- (b) Premiums on life insurance, hospital-surgical insurance, group accident or health insurance or group annuities.
- (c) Amount due the Carrier for supplies or material furnished and monies paid out on behalf of the employee.

No deduction will be made from the wages of any employee who does not have due him for the pay period specified, an amount equal to the sum to be deducted in accordance with this agreement.

Section 6

The Carrier shall remit to the officer designated by the Brotherhood the amounts deducted from the wages of members who have authorized such monthly deductions not later than the twentieth day of the month following the month in which deductions are made. The remittance will be accompanied by deduction lists (in triplicate) for each local lodge. Such lists will include the employee's name, Social Security number and the amount of union dues deducted from the pay of each employee.

Section 7

Any questions arising as to the correctness of the amount deducted shall be handled between the employee involved and the Brotherhood, and any complaints in connection therewith shall be handled by the Brotherhood on behalf of the employee concerned.

Section 8

This agreement shall not be used in any manner, either directly or indirectly, as a basis for a grievance or time claim by, or in behalf of, an employee predicated upon any alleged violation or misapplication of, or non-compliance with, any part of this agreement.

Section 9

Except for remitting to the Brotherhood the monies deducted from the wages of employees, the Brotherhood shall indemnify, defend and save harmless the Carrier from any and all claims, demands, liability, losses or damage resulting from the entering into and the complying with the Provisions of this agreement.

ATTACHMENT "A"

WAGE DEDUCTION AUTHORIZATION

DELAWARE & HUDSON RAILWAY COMPANY, INC.

AND THE

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION

Employee's Last Name First Name Middle Initial
(Print)_____

Employee's Social Security No.

Employees Home Address Town State

Street and Number_____

I hereby assign to the Brotherhood of Maintenance of Way Employees Division that part of my wages necessary to pay initiation fees, periodic dues and assessments (not including fines and penalties) as certified to the Carrier by the System Federation General Chairman of the Brotherhood as provided in the Dues Check-Off Agreement; and I authorize the Carrier to deduct such sum from my wages and pay it over to the designated officer of the Brotherhood in accordance with the Dues Check-off Agreement.

DATE _____ SIGNATURE _____ LODGE NO. _____

ATTACHMENT "B"

WAGE DEDUCTION REVOCATION

DELAWARE & HUDSON RAILWAY COMPANY, INC.

AND THE

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION

Employee's Last Name First Name Middle Initial

(Print) _____

Employee's Social Security
No. _____

Employees Home Address Town

Street and Number

State _____

Effective in the next calendar month, I hereby revoke the Wage Assignment Authorization now in effect assigning to the Brotherhood of Maintenance of Way Employees Division that part of my wages necessary to pay my periodic dues and assessments (not including fines and penalties), and I hereby cancel the Authorization.

DATE _____ SIGNATURE _____ LODGE NO _____.

FORM C

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES DIVISION

INITIAL LIST

Date _____

(Title of carrier official concerned)

(Railway)

(Street)

(City)

Pursuant to the Check-Off Agreement between the Brotherhood and the Delaware & Hudson Railway Company, Inc., the following is a list of names of employees for whom monthly deductions shall be made effective January 1, 2007.

Wage deduction authorization forms for these employees are enclosed.

Employee's Social Security No.	Lodge No.	<u>Name</u>		Amount
		Last	Middle Initial	
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

General Chairman,
Secretary-Treasurer

FORM D

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION

ADDITIONS

Date_____

(Title of carrier official concerned)

(Railway)

(Street)

(City)

Pursuant to the Check-Off Agreement between the Brotherhood and the Delaware & Hudson Railway Company, Inc., effective with the payroll period of_____, 20 _____, the following additions or changes are to be made for the employees whose names are listed below.

Wage deduction authorization forms for the employees to be added to the initial list are enclosed.

Name				
Employee's Social Security No.	Lodge No. Last	First	Middle Initial	Amount
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

General Chairman,
Secretary-Treasurer

FORM E

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION

REVOCATIONS

Date _____

(Title of carder official concerned)

(Railway)

(Street)

(City)

Pursuant to the Check-Off Agreement between the Brotherhood and the Delaware & Hudson Railway Company, Inc., effective with the _____ payroll period of _____, 20____, the following deletions are to be made for the employees who previously authorized wage deductions.

Revocation forms for employees whose names are to be deleted from the approved list are enclosed.

Employee's Social Security No.	Lodge No.	Name			Amount
		Last	First	Middle Initial	
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

General Chairman,
Secretary-Treasurer

APPENDIX "E"

October 17, 1986

Mr. Geoffrey N. Zeh
President
Brotherhood of Maintenance
of Way Employees
12050 Woodward Avenue
Detroit, Michigan 48203

Dear Mr. Zeh:

This refers to Article III of the Agreement of this date.

During the negotiations you expressed a serious concern with respect to the length of time it would take an employee represented by the Brotherhood of Maintenance of Way Employees to complete the entire rate progression period because a significant number of such employees are furloughed during the course of the year as various seasonal projects are completed. In order to resolve this matter, we are in agreement that for the period of time an employee is covered by the rate progression provision, such employee would be credited with two months of employment for each month in which he performs compensated service provided (1) not more than twelve months of service will be credited in any twelve consecutive month period, (2) such employee renders compensated service for a minimum of 80 days before such employee can advance into the next rate progression category and (3) an employee cannot advance into the next rate progression category until at least 12 months after establishing seniority or after receiving a rate progression increase under this Article. The following example is intended to clarify this understanding:

Example: Employee A is hired on March 1, 1987. He works 6 months and then is furloughed at the end of August. Employee A is recalled in February 1988, works through April 1988 and is furloughed for the remainder of the year. Employee A is recalled in March, 1989 and continues to be employed for the duration of that year. How would this Article III apply?

Employee A is compensated at 75 % of the applicable rate of pay (including COLA) for work during the period March 1, 1987 to March 1, 1988. While he has received 12 months of credit at the end of August, 1987 and has worked more than 80 days he cannot proceed to the 80% level until a minimum of 12 months from date of employment.

Employee A is compensated at the 75% rate for the month of February 1988. He receives 80% for the months of March and April 1988. At this point, he has 4 months of credit at the 80% level and has a credit of approximately 45 days to his 80 day minimum for that level.

Employee A is compensated at the 80% rate for the months of March through June 1989 and at the 85% rate for months of July through December 1989. At the end of June 1989, Employee A has accumulated 12 months of credit, has met the minimum requirement of 80 days of compensated service, and that date is more than twelve months since he advanced into the previous rate progression level. If Employee A continues to work in each month thereafter he would be eligible to be compensated at the 90% rate as of July 1, 1990 because on that date he would have 12 months of credit; have met the minimum requirement of 80 days of compensated service; and it would be twelve months since he received a rate progression increase under this Article.

Please indicate your agreement by signing your name in the space provided below.

Very truly yours,

(Signed) C.I. Hopkins, Jr.

I agree:

(Signed) Geoffrey N. Zch

APPENDIX "F"

VOLUNTARY PAYROLL DEDUCTION OF POLITICAL CONTRIBUTIONS AGREEMENT

In accordance with the provisions of the Voluntary Payroll Deduction of Political Contributions Agreement signed August 31, 1979, between carriers represented by the National Railway Labor Conference and the employees of said carriers represented by the Brotherhood of Maintenance of Way Employees, the parties hereby amend the Dues Deduction Agreement of (date), as amended, to the extent necessary to provide for the deduction of employees' voluntary political contributions on the following terms and bases:

1. (a) Subject to the terms and conditions hereinafter set forth, the carrier will deduct from the wages of employees voluntary political contributions upon their written authorization in the form (individual authorization form) agreed upon by the parties hereto, copy of which is attached, designated "Attachment A" and made a part hereof.

(b) Voluntary political contributions will be made monthly from the compensation of employees who have executed a written authorization providing for such deductions. The first such deduction will be made in the month following the month in which the authorization is received. Such authorization will remain in effect for a minimum of twelve (12) months and thereafter until cancelled by thirty (30) days advance written notice from the employee to the Brotherhood and the carrier by Registered Mail. Changes in the amount to be deducted will be limited to one change in each 12-month period and any change will coincide with a date on which dues deduction amounts may be changed under the dues deduction agreement
2. The General Chairman or his designated representative shall furnish the carrier, with copy to appropriate units of the Brotherhood, an initial statement by lodges, in alphabetical order and certified by him, showing the amounts of deductions to be made from each employee, such statement to be furnished together with individual authorization forms to cover, and payroll deductions of such amounts will commence in the month immediately following. Subsequent monthly deductions will be based on the initial statement plus a monthly statement showing additions and/or deletions furnished in the same manner as the initial statement required hereinabove.
3. Monthly voluntary political contribution deductions will be made from wages at the same time that membership dues are deducted from the employee's paycheck.

4. Concurrent with making remittance to the Organization of monthly membership dues, the carrier will make separate remittance of voluntary political contributions to the Treasurer, Maintenance of Way Political League, together with a list prepared in accordance with the requirements of the Dues Deduction Agreement pertaining to the remittance of monthly membership dues, with a copy to the General Chairman.
5. The requirements of this agreement shall not be effective with respect to any individual employee until the employer has been furnished with a written authorization of assignment of wages of such monthly voluntary political contribution.

ATTACHMENT "A"

INDIVIDUAL AUTHORIZATION FORM

**Voluntary Payroll Deductions -
Maintenance of Way Political League**

To: _____

Space for label showing name, address,
System Board and local lodge number.

Department

Work Location

I hereby authorize and direct my employer,

_____, to deduct from my pay the sum of
\$ _____ for each month in which compensation is due
me, and to forward that amount to the Treasurer, Maintenance of Way Political League. This
authorization is voluntarily made on the specific understanding that the signing of this
authorization and the making of payments to the Maintenance of Way Political League are
not conditions of membership in the Union or of employment with the Carrier; that the
Maintenance of Way Political League will use the money it receives to make political
contributions and expenditures in connection with Federal, State and Local elections.

It is understood that this authorization will remain in effect for a minimum of 12 months;
and, thereafter, I may revoke this authorization at any time by giving the Carrier and the
Organization 30 days advance written notice of my desire to do so.

Signed at _____

this _____ day of _____, 20_____.

(personal signature)

Social Security Number

APPENDIX "G"

JOB STABILIZATION AGREEMENT

Case No. A-7128

This agreement made this 7th day of February, 1965, by and between the participating carriers listed in Exhibits A, B and C, attached hereto and hereby made a part hereof, and represented by the National Railway Labor Conference and the Eastern, Western and Southeastern Carriers' Conference Committees and the employees shown thereon and represented by the Railway Labor Organizations signatory hereto, through the Employees' National Conference Committee, Five Cooperating Railway Labor Organizations, witnesseth:

IT IS AGREED:

ARTICLE I - PROTECTED EMPLOYEES

Section 1

All employees, other than seasonal employees, who were in active service as of October 1, 1964, or who after October 1, 1964, and prior to the date of this Agreement have been restored to active service, and who had two years or more of employment relationship as of October 1, 1964, and had fifteen or more days of compensated service during 1964, will be retained in service subject to compensation as hereinafter provided unless or until retired, discharged for cause, or otherwise removed by natural attrition. Any such employees who are on furlough as of the date of this Agreement will be returned to active service before March 1, 1965, in accordance with the normal procedures provided for in existing agreements, and will thereafter be retained in compensated service as set out above, provided that no back pay will be due to such employees by reason of this Agreement. For the purpose of this Agreement, the term "active service" is defined to include all employees working, or holding an assignment, or in the process of transferring from one assignment to another (whether or not October 1, 1964 was a work day), all extra employees on extra lists pursuant to agreements or practice who are working or are available for calls for service and are expected to respond when called, and where extra boards are not maintained, furloughed employees who respond to extra work when called, and have averaged at least 7 days work for each month furloughed during the year 1964.

Section 2

Seasonal employees, who had compensated service during each of the years 1962, 1963 and 1964, will be offered employment in future years at least equivalent to what they performed in 1964, unless or until retired, discharged for cause, or otherwise removed by natural attrition.

Section 3

In the event of a decline in a carrier's business in excess of 5% in the average percentage of both gross operating revenue and net revenue ton miles in any 30-day period compared with the average of the same period for the years 1963 and 1964, a reduction in forces in the crafts represented for each of the organizations signatory hereto may be made at any time during the said 30-day period below the number of employees entitled to preservation of employment under this Agreement to the extent of one per cent for each one per cent the said decline exceeds 5%. The average percentage of decline shall be the total of the percent of decline in gross operating revenue and the percent of decline in net revenue ton miles divided by 2. Advance notice of any such force reduction shall be given as required by the current Schedule Agreements of the organizations signatory hereto. Upon restoration of a carrier's business following any such force reduction, employees entitled to preservation of employment must be recalled in accordance with the same formula within 15 calendar days.

Section 4

Notwithstanding other provisions of this Agreement, a carrier shall have the right to make force reductions under emergency conditions such as flood, snowstorm, hurricane, earthquake, fire or strike, provided that operations are suspended in whole or in part and provided further that because of such emergencies the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reductions no longer exists or cannot be performed. Sixteen hours advance notice will be given to the employees affected before such reductions are made. When forces have been reduced and thereafter operations are restored employees entitled to preservation of employment must be recalled upon the termination of the emergency. In the event the carrier is required to make force reductions because of the aforesaid emergency conditions, it is agreed that any decline in gross operating revenue and net revenue ton miles resulting therefrom shall not be included in any computation of a decline in the carrier's business pursuant to the provisions of Section 3 of this Article I.

Section 5

Subject to and without limiting the provisions of this agreement with respect to furloughs of employees, reductions in forces, employee absences from service or with respect to

cessation or suspension of an employee's status as a protected employee, the carrier agrees to maintain work forces of protected employees represented by each organization signatory hereto in such manner that force reductions of protected employees below the established base as defined herein shall not exceed six per cent (6%) per annum. The established base shall mean the total number of protected employees in each craft represented by the organizations signatory hereto who qualify as protected employees under Section 1 of this Article I.

ARTICLE II – USE AND ASSIGNMENT OF EMPLOYEES AND LOSS OF PROTECTION

Section 1

An employee shall cease to be a protected employee in case of his resignation, death, retirement, dismissal for cause in accordance with existing agreements, or failure to retain or obtain a position available to him in the exercise of his seniority rights in accordance with existing rules or agreements, or failure to accept employment as provided in this Article. A protected furloughed employee who fails to respond to extra work when called shall cease to be a protected employee. If an employee dismissed for cause is reinstated to service, he will be restored to the status of a protected employee as of the date of his reinstatement.

Section 2

An employee shall cease to be a protected employee in the event of his failure to accept employment in his craft offered to him by the carrier in any seniority district or on any seniority roster throughout the carrier's railroad system as provided in implementing agreements made pursuant to Article III in hereof, provided, however, that nothing in this Article shall be understood as modifying the provisions of Article V hereof.

Section 3

When a protected employee is entitled to compensation under this Agreement, he may be used in accordance with existing seniority rules for vacation relief, holiday vacancies, or sick relief, or for any other temporary assignments which do not require the crossing of craft lines. Traveling expenses will be paid in instances where they are allowed under existing rules. Where existing agreements do not provide for traveling expenses, in those instances, the representatives of the organization and the carrier will negotiate in an endeavor to reach an agreement for this purpose.

ARTICLE III – IMPLEMENTING AGREEMENTS

Section 1

The organizations recognize the right of the carriers to make technological, operational and organizational changes, and in consideration of the protective benefits provided by this

Agreement the Carrier shall have the right to transfer work and/or transfer employees throughout the system which do not require the crossing of craft lines. The organizations signatory hereto shall enter into such implementing agreements with the carrier as may be necessary to provide for the transfer and use of employees and the allocation or rearrangement of forces made necessary by the contemplated change. One of the purposes of such implementing agreements shall be to provide a force adequate to meet the carrier's requirements.

Section 2

Except as provided in Section 3 hereof, the carrier shall give at least 60 days' (90 days in cases that will require a change of an employee's residence) written notice to the organization involved of any intended change or changes referred to in Section 1 of this Article whenever such intended change or changes are of such a nature as to require an implementing agreement as provided in said Section 1. Such notice shall contain a full and adequate statement of the proposed change or changes, including an estimate of the number of employees that will be affected by the intended change or changes. Any change covered by such notice which is not made within a reasonable time following the service of the notice, when all of the relevant circumstances are considered, shall not be made by the carrier except after again complying with the requirements of this Section 2.

Section 3

The carrier shall give at least 30 days' notice where it proposes to transfer no more than 5 employees across seniority lines within the same craft and the transfer of such employees will not require a change in the place of residence of such employee or employees, such notice otherwise to comply with Section 2 hereof.

Section 4

In the event the representatives of the carrier and organizations fail to make an implementing agreement within 60 days after notice is given to the general chairman or general chairmen representing the employees to be affected by the contemplated change, or within 30 days after notice where a 30-day notice is required pursuant to Section 3 hereof, the matter may be referred by either party to the Disputes Committee as hereinafter provided. The issues submitted for determination shall not include any question as to the right of the carrier to make the change but shall be confined to the manner of implementing the contemplated change with respect to the transfer and use of employees, and the allocation or rearrangement of forces made necessary by the contemplated change.

Section 5

The provisions of implementing agreements negotiated as hereinabove provided for with respect to the transfer and use of employees and allocation or reassignment of forces shall enable the carrier to transfer such protected employees and rearrange forces, and such movements, allocations and rearrangements of forces shall not constitute an infringement of rights of unprotected employees who may be affected thereby.

ARTICLE IV - COMPENSATION DUE PROTECTED EMPLOYEES

Section 1

Subject to the provisions of Section 3 of this Article IV, protected employees entitled to preservation of employment who hold regularly assigned positions on October 1, 1964, shall not be placed in a worse position with respect to compensation than the normal rate of compensation for said regularly assigned position on October 1, 1964; provided, however, that in addition thereto such compensation shall be adjusted to include subsequent general wage increases.

Section 2

Subject to the provisions of Section 3 of this Article IV, all other employees entitled to preservation of employment shall not be placed in a worse position with respect to compensation than that earned during a base period comprised of the last twelve months in which they performed compensated service immediately preceding the date of this Agreement. For purposes of determining whether, or to what extent, such an employee has been placed in a worse position with respect to his compensation, his total compensation and total time paid for during the base period will be separately divided by twelve. If his compensation in his current employment is less in any month (commencing with the first month following the date of this agreement) than his average base period compensation (adjusted to include subsequent general wage increases), he shall be paid the difference less compensation for any time lost on account of voluntary absences to the extent that he is not available for service equivalent to his average time paid for during the base period, but he shall be compensated in addition thereto at the rate of the position filled for any time worked in excess of the time paid for during the base period; provided, however, that in determining compensation in his current employment the employee shall be treated as occupying the position producing the highest rate of pay and compensation to which his seniority entitles him under the working agreement and which does not require a change in residence.

Section 3

Any protected employee who in the normal exercise of his seniority bids in a job or is bumped as a result of such an employee exercising his seniority in the normal way by reason of a voluntary action, will not be entitled to have his compensation preserved as provided in Sections 1 and 2 hereof, but will be compensated at the rate of pay and conditions of the job he bids in; provided, however, if he is required to make a move or bid in a position under the terms of an implementing agreement made pursuant to Article III hereof, he will continue to be paid in accordance with Sections 1 and 2 of this Article IV.

Section 4

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

Section 5

A protected employee shall not be entitled to the benefits of this Article during any period in which he fails to work due to disability, discipline, leave of absence, military service, or other absence from the carrier's service, or during any period in which he occupies a position not subject to the working agreement; nor shall a protected employee be entitled to the benefits of this Article IV during any period when furloughed because of reduction in force resulting from seasonal requirements (including lay-offs during Miners' Holiday and the Christmas Season) or because of reductions in forces pursuant to Article I, Sections 3 or 4, provided, however, that employees furloughed due to seasonal requirements shall not be furloughed in any 12-month period for a greater period than they were furloughed during the 12 months preceding the date of this agreement.

Section 6

The carrier and the organizations signatory hereto will exchange such data and information as are necessary and appropriate to effectuate the purposes of this Agreement.

ARTICLE V – MOVING EXPENSES AND SEPARATION ALLOWANCES

In the case of any transfers or rearrangement of forces for which an implementing agreement has been made, any protected employee who has 15 or more years of

employment relationship with the carrier and who is requested by the carrier pursuant to said implementing agreement to transfer to a new point of employment requiring him to move his residence shall be given an election, which must be exercised within seven calendar days from the date of request, to make such transfer or to resign and accept a lump sum separation allowance in accordance with the following provisions:

If the employee elects to transfer to the new point of employment requiring a change of residence, such transfer and change of residence shall be subject to the benefits contained in Sections 10 and 11 of the Washington Agreement notwithstanding anything to the contrary contained in said provisions and in addition to such benefits shall receive a transfer allowance of four hundred dollars (\$400) and five working days instead of the "two working days" provided by Section 10(a) of said Agreement.

If the employee elects to resign in lieu of making the requested transfer aforesaid he shall do so as of the date the transfer would have been made and shall be given (in lieu of all other benefits and protections to which he may have been entitled under the Protective Agreement and Washington Agreement) a lump sum separation allowance which shall be computed in accordance with the schedule set forth in Section 9 of the Washington Agreement; provided, however, that force reductions permitted to be made under this Agreement shall be in addition to the number of employees who resign to accept the separation allowance herein provided.

Those protected employees who do not have 15 years or more of employment relationship with the carrier and who are required to change their place of residence shall be entitled to the benefits contained in Sections 10 and 11 of the Washington Agreement notwithstanding anything to the contrary contained in such provisions and in addition to such benefits shall receive a transfer allowance of four hundred dollars (\$400) and 5 working days instead of "two working days" provided in Section 10(a) of said Agreement.

ARTICLE VI - APPLICATION TO MERGERS, CONSOLIDATIONS AND OTHER AGREEMENTS

Section 1

Any merger agreement now in effect applicable to merger of two or more carriers, or any job protection or employment security agreement which by its terms is of general system-wide and continuing application, or which is not of general system-wide application but which by its terms would apply in the future, may be preserved by the employee representatives so notifying the carrier within sixty days from the date of this agreement, and in that event this agreement shall not apply on that carrier to employees represented by such representatives.

Section 2

In the event of merger or consolidation of two or more carriers, parties to this Agreement on which this agreement is applicable, or parts thereof, into a single system subsequent to the date of this agreement, the merged, surviving or consolidated carrier will constitute a single system for the purpose of this agreement, and the provisions hereof shall apply accordingly, and the protections and benefits granted to employees under this agreement shall continue in effect.

Section 3

Without in any way modifying or diminishing the protection, benefits or other provisions of this agreement, it is understood that in the event of a coordination between two or more carriers as the term "coordination" is defined in the Washington Job Protection Agreement, said Washington Agreement will be applicable to such coordination, except that Section 13 of the Washington Job Protection Agreement is abrogated and the disputes provisions and procedures of this agreement are substituted therefore.

Section 4

Where prior to the date of this agreement the Washington Job Protection Agreement (or other agreements of similar type whether applying inter-carrier or intra-carrier) has been applied to a transaction, coordination allowances and displacement allowances (or their equivalents or counterparts, if other descriptive terms are applicable on a particular railroad) shall be unaffected by this agreement either as to amount or duration, and allowances payable under the said Washington Agreement or similar agreements shall not be considered compensation for purposes of determining the compensation due a protected employee under this agreement.

ARTICLE VII - DISPUTES COMMITTEE

Section 1

Any dispute involving the interpretation or application of any of the terms of this agreement and not settled on the carrier may be referred by either party to the dispute for decision to a committee consisting of two members of the Carriers' Conference Committees signatory to this agreement, two members of the Employees' National Conference Committee signatory to this agreement, and a referee to be selected as hereinafter provided. The referee selected shall preside at the meetings of the committee and act as chairman of the committee. A majority vote of the partisan members of the committee shall be necessary to decide a dispute, provided that if such partisan members are unable to reach a decision, the dispute shall be decided by the referee. Decisions so arrived at shall be final and binding upon the parties to the dispute.

Section 2

The parties to this agreement will select a panel of three potential referees for the purpose of disposing of any disputes pursuant to the provisions of this section. If the parties are unable to agree upon the selection of the panel of potential referees within 30 days of the date of the signing of this agreement, the National Mediation Board shall be requested to name such referee or referees as are necessary to fill the panel within 5 days after the receipt of such request. Each panel member selected shall serve as a member of such panel for a period of one year, if available. Successors to the members of the panel shall be appointed in the same manner as the original appointees.

Section 3

Disputes shall be submitted to the committee by notice in writing to the Chairman of the National Railway Labor Conference and to the Chairman of the Employees' National Conference Committee, signatories to this agreement, who shall within 10 days of receipt of such notice, designate the members of their respective committees who shall serve on the committee and arrange for a meeting of the committee to consider such disputes as soon as a panel referee is available to serve, and in no event more than 10 days thereafter. Decision shall be made at the close of the meeting if possible (such meeting not to continue for more than 5 days) but in any event within 5 days of the date such meeting is closed, provided that the partisan members of the committee may by mutual agreement extend the duration of the meeting and the period for decision. The notice provided for this Section 3 shall state specifically the questions to be submitted to the committee for decision; and the committee shall confine itself strictly to decisions as to the questions so specifically submitted to it.

Section 4

Should any representative of a party to a dispute on any occasion fail or refuse to meet or act as provided in Section 3, then the dispute shall be regarded as decided in favor of the party whose representatives are not guilty of such failure or refusal and settled accordingly but without establishing a precedent for any other cases; provided that a partisan member of the committee may, in the absence of his partisan colleague, vote on behalf of both.

Section 5

The parties to the dispute will assume the compensation, travel expense and other expense of their respective partisan committee members unless other arrangements are made, the office, stenographic and other expenses of the committee, including compensation and expenses of the referee, shall be shared equally by the parties to the dispute.

ARTICLE VIII - EFFECT OF THIS AGREEMENT

This Agreement is in settlement of the disputes growing out of notices served on the carriers listed in Exhibits A, B and C on or about May 31, 1963 relating to Stabilization of Employment, and out of proposals served by the individual railroads on organization representatives of the employees involved on or about June 17, 1963 relating to Technological, Organizational and Other Changes and Employee Protection. This Agreement shall be construed as a separate Agreement by and on behalf of each of said carriers and its employees represented by each of the organizations signatory hereto. The provisions of this Agreement shall remain in effect until July 1, 1967, and thereafter until changed or modified in accordance with the provisions of the Railway Labor Act, as amended.

No party to this agreement shall serve, prior to January 1, 1967 any notice or proposal on a national, regional or local basis for the purpose of changing the provisions of this Agreement, or which relates to the subject matter contained in the proposals of the parties referred to in this Article, and that portion of pending notices relating to such subject matters, whether local, regional or national in character, are withdrawn. Any notice or proposal of the character referred to in this paragraph served on or after January 1, 1967 shall not be placed into effect before July 1, 1967.

ARTICLE IX - COURT APPROVAL

This Agreement is subject to approval of the courts with respect to carriers in the hands of receivers or trustees.

SIGNED AT WASHINGTON, D.C., THIS 7TH DAY OF FEBRUARY, 1965.

For the participating carriers
listed in Exhibit A:

Chairman

P.B. FEE

GUY W. KNIGHT

Employees' National Conference
Committee, Five Cooperating
Railway Labor Organizations:

Chairman

Brotherhood of Railway and Steamship
Clerks, Freight Handlers, Express and
Station Employees

C.L. DENNIS
Grand President

For the participating carriers
listed in Exhibit B:

E.H. HALLMANN
Chairman

A.B. HANSON

T,M. VAN PATTEN

For the participating carriers
listed in Exhibit C:

W.S. MACGILL
Chairman

F.K. DAY, JR.
W.S. SCROLL

Brotherhood of Maintenance of Way
Employees

H.C. CROTTY
President

The Order of Railroad Telegraphers

G.E. LEIGHTY
President

Brotherhood of Railroad Signalmen

JESSE CLARK
President

Hotel & Restaurant Employees and
Bartenders International Union

RICHARD M. SMITH
International Vice-President

Approved:

J.E. WOLFE

Chairman, National Railway
Labor Conference

WITNESS:

FRANCIS A. O'NEILL
Member,
National Mediation Board

C. ROBERT ROADLEY
Mediator,
National Mediation Board

EXTRACTED FROM
WASHINGTON JOB PROTECTION AGREEMENT

Section 9

Any employee eligible to receive a coordination allowance under Section 7 hereof may, at his option at the time of coordination, resign and (in lieu of all other benefits and protections provided in this agreement) accept in lump sum a separation allowance determined in accordance with the following schedule:

Length of Service		Separation Allowance
1 year & less than	2 years	3 months pay
2 years	3	6
3	5	9
5	" 10	12
10	" 15	12
15 years and over		12

In the case of employees with less than one year's service, five days' pay, at the rate of the position last occupied, for each month in which they performed service will be paid as the lump sum.

- (a) Length of service shall be computed as provided in Section 7.
- (b) One month's pay shall be computed by multiplying by 30 the daily rate of pay received by the employee in the position last occupied prior to time of coordination.

Section 10

- (a) Any employee who is retained in the service of any carrier involved in a particular coordination (or who is later restored to service from the group of employees entitled to receive a coordination allowance) who is required to change the point of his employment as result of such coordination and is therefore required to move his place of residence, shall be reimbursed for all expenses of moving his household and other personal effects and for the traveling expenses of himself and members of his family, including living expenses for himself and his family and his own actual wage loss during the time necessary for such transfer, and for a reasonable time thereafter, (not to exceed two working days), used in securing a place of residence in his new location,

The exact extent of the responsibility of the carrier under this provision and the ways and means of transportation shall be agreed upon in advance between the carrier responsible and the organization of the employee affected. No claim for expenses under this Section shall be allowed unless they are incurred within three years from the date of coordination and the claim must be submitted within ninety (90) days after the expenses are incurred.

- (b) If any such employee is furloughed within three years after changing his point of employment as a result of coordination and elects to move his place of residence back to his original point of employment, the carrier shall assume the expense of moving his household and other personal effects under the conditions imposed in paragraph (a) of this section.
- (c) Except to the extent provided in paragraph (b) changes in place of residence subsequent to the initial changes caused by coordination and which grow out of the normal exercise of seniority in accordance with working agreements are not comprehended within the provisions of this section.

Section 11

- (a) The following provisions shall apply, to the extent they are applicable in each instance, to any employee who is retained in the service of any of the carriers involved in a particular coordination (or who is later restored to such service from the group of employees entitled to receive a coordination allowance) who is required to change the point of his employment as a result of such coordination and is therefore required to move his place of residence:
 - (1) 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 his employing carrier 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 coordination to be unaffected thereby. The employing carrier 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 party.
 - (2) If the employee is under a contract to purchase his home, the employing carrier shall protect him against loss to the extent of the fair value of any equity he may have in the home and in addition shall relieve him from any further obligations under his contract.
 - (3) If the employee holds an unexpired lease of a dwelling occupied by him at his home, the employing carrier shall protect him from all loss and cost in securing the cancellation of his said lease.

- (b) Changes in place of residence subsequent to the initial change caused by coordination and which grow out of the normal exercise of seniority in accordance with working agreements are not comprehended within the provisions of this Section.
- (c) No claim for loss shall be paid under the provisions of this section which is not presented within three years after the effective date of the coordination.
- (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 lease, or any other question in connection with these matters, it shall be decided through joint conference between the representatives of the employees and the carrier on whose line the controversy arises and in the event they are unable to agree, the dispute may be referred by either party to a board of three competent real estate appraisers selected in the following manner: One to be selected by the representatives of the employees and the carrier, respectively; these two shall endeavor by agreement within ten days after their appointment to select the third appraiser, or to select some person authorized to name the third appraiser, and in the event of failure to agree then the Chairman of the Interstate Commerce Commission shall be requested to appoint the third appraiser. 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 salary of the appraiser selected by such party.

Washington, D.C.
February 7, 1965

Mr. G. E. Leighty, Chairman
of the Five Cooperating
Railroad Labor Organizations

The following will confirm the understanding we had in connection with the agreement signed today.

If, subsequent to the effective date of the Protective Agreement, i.e. October 1, 1964, officials, supervisory or fully excepted personnel exercise seniority rights in a craft or class of employees protected under this Agreement, then, during the period such seniority is exercised, such officials, supervisory or fully excepted personnel shall be entitled to the same protection afforded by the said Agreement to employees in the craft or class in which such seniority is exercised, and no employee subject to said Agreement shall be deprived of employment or adversely affected with respect to compensation, rules, working conditions, fringe benefits, or rights and privileges pertaining thereto, by the return of the official, supervisory, or fully excepted employee to work under the schedule Agreement

If this is in accord with the understanding reached, please signify by signing in the lower left hand corner of this letter.

J.W. Qram, Chairman
Eastern Carriers' Conference
Committee

E.M. Hallmann, Chairman
Western Carriers' Conference
Committee

W.S. Macgill, Chairman
Southeastern Carriers' Conference
Committee

ACCEPTED

G.E. Leighty, Chairman
of the Five Cooperating
Railroad Labor Organizations

"APPENDIX H"

December 11, 1981

Mr. O.M. Berge
President
Brotherhood of Maintenance
of Way Employees
12050 Woodward Avenue
Detroit, Michigan 48203

Dear Mr. Berge:

During negotiations leading to the December 11, 1981 National Agreement, the parties reviewed in detail existing practices with respect to contracting out of work and the prospects for further enhancing the productivity of the carriers' forces.

The carriers expressed the position in these discussions that the existing rule in the May 17, 1968 National Agreement, properly applied, adequately safeguarded work opportunities for their employees while preserving the carriers' right to contract out work in situations where warranted. The organization, however, believed it necessary to restrict such carriers' rights because of its concerns that work within the scope of the applicable schedule agreement is contracted out unnecessarily.

Conversely, during our discussions of the carriers' proposals, you indicated a willingness to continue to explore ways and means of achieving a more efficient and economical utilization of the work force.

The parties believe that there are opportunities available to reduce the problems now arising over contracting of work. As a first step, it is agreed that a Labor-Management Committee will be established. The Committee shall consist of six members to be appointed within thirty days of the date of the December 11, 1981 National Agreement. Three members shall be appointed by the Brotherhood of Maintenance of Way Employees and three members by the National Carriers' Conference Committee. The members of the Committee will be permitted to call upon other parties to participate in meetings or otherwise assist at any time.

The initial meeting of the Committee shall occur within sixty days of the date of the December 11, 1981 National Agreement. At that meeting, the parties will establish a regular meeting schedule so as to ensure that meetings will be held on a periodic basis.

The Committee shall retain authority to continue discussions on these subjects for the purpose of developing mutually acceptable recommendations that would permit greater work opportunities for maintenance of way employees as well as improve the carriers' productivity by providing more flexibility in the utilization of such employees.

The carriers assure you that they will assert good-faith efforts to reduce the incidence of subcontracting and increase the use of their maintenance of way forces to the extent practicable, including the procurement of rental equipment and operation thereof by carrier employees.

The parties jointly reaffirm the intent of Article IV of the May 17, 1968 Agreement that advance notice requirements be strictly adhered to and encourage the parties locally to take advantage of the good faith discussions provided for to reconcile any differences. In the interests of improving communications between the parties on subcontracting, the advance notices shall identify the work to be contracted and the reasons therefor.

Notwithstanding any other provision of the December 11, 1981 National Agreement, the parties shall be free to serve notices concerning the matters herein at any time after January 1, 1984. However, such notices shall not become effective before July 1, 1984.

Please indicate your concurrence by affixing your signature in the space provided below.

Very truly yours.

(Signed)
Charles I. Hopkins, Jr.

I concur:

(Signed)
O..M. Berge

April 27, 1973

Mr. H.C. Crotty, President
Brotherhood of Maintenance of
Way Employees
12050 Woodward Avenue
Detroit, Michigan 48203

Dear Mr. Crotty:

This will confirm our understanding with you regarding paragraph (d) of Article V of our Agreement of April 27, 1973, and also regarding the establishment of a Standing Committee for considering the interpretation and application and facilitating the functioning of Article IV - Contracting Out - of the Maintenance of Way National Agreement of May 17, 1968.

We recognize that the immediately preceding BMW agreement did not include a provision comparable to paragraph (d) of Article V and therefore does not provide a precedent (such as there is with respect to the agreements of some other organizations), and it is understood that no precedent is being established by its inclusion in the agreement of April 27, 1973. We have agreed that during the term of the agreement we will jointly make good faith efforts to see whether it is possible to develop better labor relations in the railroad industry through all available means, short of self-help. In this connection, we agree that the limitation in Article V, paragraph (d), to "the specific procedures for peacefully resolving disputes which are provided for in the Railway Labor Act, as amended" excludes all forms of self-help and so excludes unilateral imposition of a carrier proposal after the procedures of the Act have been exhausted.

We have in mind particularly the hope that the Standing Committee procedure set up under Article III of our Agreement of April 27, 1973 will provide a means of amicably working out the problems that labor or management may have over a relatively short period without the necessity of revising our agreement, except as mutually agreeable.

The problem of the contracting out of maintenance of way work affords a good example of what we think may be possible. We understand that it is the position of the organization that work should be performed to a maximum degree by railroad employees and that contracting out should be held to the minimum consistent with operating and maintenance practicalities, and that the achievement of this goal should not be thwarted through unnecessary depletion of skilled forces, abolishment of facilities, lack of proper training programs, or any other avoidable developments which generate the impetus for contracting out that would otherwise be unnecessary. Although Article IV of the May 17, 1968 Agreement recites that nothing in

the Article "shall affect the rights of either party in connection with contracting out," at the same time the article is directed toward promoting agreement between the parties when specific problems arise on a railroad. We agree to the establishment of Standing Committee to address itself to these problems, in light of the position of the organization, so that the purpose of Article IV can be achieved. The Standing Committee will not supplant the disputes machinery provided by the Railway Labor Act but will have as its central purpose the avoidance and settlement of misunderstandings before they reach the dispute level. The Standing Committee may also, where appropriate, agree on basic principles that should underlie the interpretation and application of the contracting out provision and encourage the parties to follow such principles.

We will promptly bring to the attention of the chief labor relations officers of the railroads the deep concern of your organization with respect to contracting out problems and apprise them of our commitment, as well as yours, to use this Standing Committee as the mechanism through which we can achieve a mutually acceptable accommodation of this important matter.

If the foregoing is in conformity with your understanding of our discussions as to paragraph (d) of Article V of the current agreement and as to Article IV of the Agreement of May 17, 1968, please signify your approval hereunder.

Yours very truly,

(Signed)
William H. Dempsey

APPROVED:

Harold C. Crotty, President
Brotherhood of Maintenance of way Employees

APPENDIX "I"

Q&A'S RE. BEREAVEMENT LEAVE

- Q.1 How are the three calendar days to be determined?
- A.1 An employee will have the following options in deciding when to take bereavement leave:
- a) three consecutive calendar days, commencing with the day of death, when the death occurs prior to the time an employee is scheduled to report for duty;
 - b) three consecutive calendar days, ending the day of the funeral service; or
 - c) three consecutive calendar days, ending the day following the funeral service.
- Q.2 Does the three (3) calendar days allowance pertain to each separate instance, or do the three (3) calendar days refer to a total of all instances?
- A.2 Three days for each separate death; however, there is no pyramiding where a second death occurs within the three-day period covered by the first death.
- Example: Employee has a work week of Monday to Friday - off-days of Saturday and Sunday. His mother dies on Monday and his father dies on Tuesday. At a maximum, the employee would be eligible for bereavement leave on Tuesday, Wednesday, Thursday and Friday.
- Q.3 An employee working from an extra board is granted bereavement leave on Wednesday, Thursday and Friday. Had he not taken bereavement leave he would have been available on the extra board, but would not have performed service on one of the days on which leave was taken. Is he eligible for two days or three days of bereavement pay?
- A.3 A maximum of two days.
- Q.4 Will a day on which a basic day's pay is allowed account bereavement leave serve as a qualifying day for holiday pay purposes?
- A.4 No; however, the parties are in accord that bereavement leave non-availability should be considered the same as vacation non-availability and that the first work day preceding or following the employee's bereavement leave, as the case may be, should be considered as the qualifying day for holiday purposes.

- Q.5 Would an employee be entitled to bereavement leave in connection with the death of a half-brother or half-sister, stepbrother or stepsister, stepparents or stepchildren?
- A.5 Yes; as to half-brother or half-sister, no as to stepbrother or stepsister, stepparents or stepchildren. However, the rule is applicable to a family relationship covered by the rule through the legal adoption process.
- Q.6 Would bereavement leave be applicable during an employee's vacation period?
- A.6 No.
- Q.7 An employee qualifies for holiday pay on a holiday which occurs on a day the employee also qualifies for bereavement leave pay. Under these circumstances, is the employee entitled to be paid both the holiday and bereavement leave allowance?
- A.7 No. The employee would be entitled to only one basic day's pay.

APPENDIX "J"

August 23, 1990.

Mr. John Davison
General Chairman
Brotherhood of Maintenance
of Way Employees

Dear Mr. Davison:

This has reference to the proposal of the Carrier, made during the recently concluded negotiations, to establish system seniority.

The proposal was discussed at length during which you expressed vigorous concerns with respect to the establishment of a broadly based seniority territory.

At the same time, the Carrier expressed concern about the fact that the existing seniority boundaries restricted the assignment of employees adjacent to the boundary of one seniority territory to assist employees adjacent to the boundary of the adjoining territory during short term projects.

The Carrier agreed to withdraw the proposal on the understanding that short term assignments, for periods of up to five (5) working days, in the above circumstances would not be counter to any provisions of the Agreement.

The provisions of this letter do not affect the right of the Carrier to assign employees across seniority boundaries during emergencies.

Would you please indicate your concurrence in the space provided.

Yours truly,

For the D&H Corporation

(Sgd) P. E. Timpson
(for) Manager, Labor Relations,
CPRail

I CONCUR

(Sgd) John Davison
General Chairman

As revised by the December 18, 1991 Memorandum of Agreement

APPENDIX "K"

COST-OF-LIVING PAYMENTS

A cost of living allowance shall be re-instituted to commence at the termination of this contract (12-31-04) provided, however, that the parties have not already reached a new agreement eliminating same. The formula to be used to calculate payments and dates due will be the same as those specified between the NCCC and the BMW.

The formula used to calculate the payments, taken from the National Mediation Agreement, dated May 31, 2001, is reproduced below.

"Part B Cost-of-Living Allowance and Adjustments Thereto After January 1, 2005"

Section 1 – Cost-of-Living Allowance and Effective Dates of Adjustments

(a) A cost-of-living allowance shall be payable in the manner set forth in and subject to the provisions of this Part, on the basis of the "Consumer Price Index for Urban Wage Earners and Clerical Workers (Revised Series) (CPI-W)" (1967=100), U.S. Index, all items – unadjusted, as published by the Bureau of Labor Statistics, U.S. Department of Labor, and hereinafter referred to as the CPI. The first such cost-of-living allowance shall be payable effective July 1, 2005 based, subject to paragraph (d), on the CPI for March 2005 as compared with the CPI for September 2004. Such allowance, and further cost-of-living adjustments thereto which shall become effective as described below, shall be based on the change in the CPI during the respective measurement periods shown in the following table, subject to the exception provided in paragraph (d) (iii), according to the formula set forth in paragraph (e).

<u>Measurement Periods</u>		
<u>Base Month</u>	<u>Measurement Month</u>	<u>Effective Date of Adjustment</u>
September 2004	March 2005	July 1, 2005
March 2005	September 2005	January 1, 2006

Measurement periods and Effective Dates conforming to the above schedule shall be applicable to periods subsequent to those specified above during which this Article is in effect.

(b) While a cost-of-living allowance is in effect, such cost-of-living allowance shall apply to straight time, overtime, protected rates, vacations, holidays and personal leave days in the same manner as basic wage adjustments have been applied in the past, except that such allowance shall not apply to special allowances and arbitrations representing duplicate time payments.

(c) The amount of the cost-of-living allowance, if any, that shall be effective from one adjustment date to the next may be equal to, or greater or less than, the cost-of-living allowance in effect in the preceding adjustment period.

(d)(i) Cap In calculations under paragraph (e), the maximum increase in the CPI that shall be taken into account shall be as follows:

<u>Effective Date of Adjustment</u>	<u>Maximum CPI Increase That May Be Taken Into Account</u>
July 1, 2005	3% of September 2004 CPI
January 1, 2006	6% of September 2004 CPI, less the increase from September 2004 to March 2005

Effective Dates of Adjustments and Maximum CPI Increases conforming to the above schedule shall be applicable to periods subsequent to those specified above during which this Article is in effect.

(ii) Limitations. In calculations under paragraph (e), only fifty (50) percent of the increase in the CPI in any measurement period shall be considered.

(iii) If the increase in the CPI from the base month of September 2004 to the measurement month of March 2005 exceeds 3% of the September 2004 base index, the measurement period that shall be used for determining the cost-of-living adjustment to be effective the following January shall be the 12-month period from such base month of September; the increase in the index that shall be taken into account shall be limited to that portion of the increase that is in excess of 3% of such September base index; and the maximum increase in that portion of the index that may be taken into account shall be 6% of such September base index less the 3% mentioned in the preceding clause, to which shall be added any residual tenths of points which had been dropped under paragraph (e) below in calculation of the cost-of-living adjustment which shall have become effective July 1, 2005 during such measurement period.

(iv) Any increase in the CPI from the base month of September 2004 to the measurement month of September 2005 in excess of 6% of the September 2004 base index shall not be taken into account in the determination of subsequent cost-of-living adjustments.

(v) The procedure specified in subparagraphs (iii) and (iv) shall be applicable to all subsequent periods during which this Article is in effect.

(e) Formula The number of points change in the CPI during a measurement period, as limited by paragraph (d), shall be converted into cents on the basis of one cent equals 0.3 full points. (By "0.3 full points" it is intended that any remainder of 0.1 point or 0.2 point of change after the conversion shall not be counted.)

The cost-of-living allowance in effect on December 31, 2005 shall be adjusted (increased or decreased) effective January 1, 2006 by the whole number of cents produced by dividing by 0.3 the number of points (including tenths of point) change, as limited by paragraph (d), in the CPI during the applicable measurement period. Any residual tenths of a point resulting from such division shall be dropped. The result of such division shall be added to the amount of the cost-of-living allowance in effect on December 31, 2005 if the CPI shall have been higher at the end than at the beginning of the measurement period, and

subtracted therefrom only if the index shall have been lower at the end than at the beginning of the measurement period and then, only, to the extent that the allowance remains at zero or above. The same procedure shall be followed in applying subsequent adjustments.

(f) Continuance of the cost-of-living allowance and the adjustments thereto provided herein is dependent upon the availability of the official monthly BLS Consumer Price Index (CPI-W) calculated on the same basis as such Index, except that, if the Bureau of Labor Statistics, U.S. Department of Labor should, during the effective period of this Article, revise or change the methods or basic data used in calculating such Index in such a way as to affect the direct comparability of such revised or changed index with the CPI-W during a measurement period, then that Bureau shall be requested to furnish a conversion factor designed to adjust the newly revised index to the basis of the CPI-W during such measurement period.

Section 2 – Payment of Cost-of-Living Allowances

(a) The cost-of-living allowance payable to each employee effective July 1, 2005 shall be equal to the difference between (i) the cost-of-living allowance effective on that date pursuant to Section 1 of this Part, and (ii) the lesser of (x) the cents per hour produced by dividing one-half of the increase, if any, in the carrier's 2005 payment rate over such payment rate for 2004, by the average composite straight-time equivalent hours that are subject to wage increases for the latest year for which statistics are available, and (y) one-half of the cost-of-living allowance effective July 1, 2005.

(b) The cost-of-living allowance payable to each employee effective January 1, 2006 shall be equal to the difference between (i) the cost-of-living allowance effective on that date pursuant to Section 1 of this part, and (ii) the lesser of (x) the cents per hour produced by dividing one-half of the increase, if any, in the carrier's 2006 payment rate over such payment rate for 2005, by the average composite straight-time equivalent hours that are subject to wage increases for the latest year for which statistics are available, and (y) one-half of the cost-of-living allowance effective January 1, 2006.

(c) The cost-of-living allowance payable to each employee effective July 1, 2006 shall be equal to the difference between (i) the cost-of-living allowance effective on that date pursuant to Section 1 of this Part, and (ii) the lesser of (x) the cents per hour produced by dividing one-half increase, if any, in the carriers' 2006 payment rate over such payment rate for 2005, by the average composite straight-time equivalent hours that are subject to wage increases for the latest year for which statistics are available, and (y) one-half of the cost-of-living allowance effective July 1, 2006. For the purpose of the foregoing calculation, credit shall be given for the amount of any annual payment rate increases described in clause (ii) that have been taken into account in determining the amount received by each employee effective January 1, 2006.

(d) The procedures specified in paragraphs (b) and (c) shall be followed with respect to computation of the cost-of-living allowances payable in subsequent years during which this Article is in effect.

(e) The definition of the carrier's payment rate set forth in Section 6 of Article I shall apply with respect to any year covered by this Section.

(f) In making calculations under this Section, fractions of a cent shall be rounded to the nearest whole cent; fractions less than one-half cent shall be dropped and fractions of

one-half cent or more shall be increased to the nearest full cent.

Section 3 – Application of Cost-of-Living Allowances

The cost-of-living allowance provided for by Section 1 of this Part B will be payable as provided in Section 2 and will not become part of basic rates of pay. Such allowance and the adjustments thereto will be applied as follows:

- (a) **Hourly Rates** – Add the amount of the cost-of-living allowance to the hourly rate of pay produced by application of Article I.
- (b) **Daily Rates** – Determine the equivalent hourly rate by dividing the established daily rate by the number of hours comprehended by the daily rate. The amount of the cost-of-living allowance multiplied by the number of hours comprehended by the daily rate shall be added to the daily rate produced by application of Article I.
- (c) **Weekly Rates** – Determine the equivalent hourly rate by dividing the established weekly rate by the number of hours comprehended by the weekly rate. The amount of the cost-of-living allowance multiplied by the number of hours comprehended by the weekly rate shall be added to the weekly rate produced by application of Article I.
- (d) **Monthly Rates** – Determine the equivalent hourly rate by dividing the established monthly rate by the number of hours comprehended by the monthly rate. The amount of the cost-of-living allowance multiplied by the number of hours comprehended by the monthly rate shall be added to the monthly rate produced by application of Article I.
- (e) **Piece Work** – Adjustment of piece-work rates of pay shall be based on the amount of increase applicable to the basic hourly rate for the class of work performed. Where piece-work rates of pay are in effect on carriers having special rules as to the application of any increase, or decrease, in such rates, such rules shall apply. In the absence of any definite rule governing, the equivalent of the hourly amount of the cost-of-living allowance shall be added to the established unit piece-work price.
- (f) **Minimum Daily Increases** – The increase in rates of pay described in paragraphs (a) through (e), inclusive, shall be not less than eight times the applicable increase per hour for each full time day of eight hours, required to be paid for the rules agreement. In instances where under the existing rules agreement an employee is worked less than eight hours per day, the increase will be determined by the number of hours required to be paid for by the rules agreement.

Section 4 - Continuation of Part B

The arrangements set forth in Part B of this Article shall remain in effect according to the terms thereof until revised by the parties pursuant to the Railway Labor Act.”

APPENDIX "L"

HEALTH AND WELFARE PLAN AND EARLY RETIREMENT MAJOR MEDICAL BENEFIT PLAN

ARTICLE III - HEALTH AND WELFARE PLAN AND EARLY RETIREMENT MAJOR MEDICAL BENEFIT PLAN

Part A - Health and Welfare Plan

Section 1 - Continuation of Plan

The Railroad Employees National Health and Welfare Plan (the "Plan"), modified as provided in this Part, will be continued subject to the provisions of the Railway Labor Act, as amended. Contributions to the Plan will be offset by the expeditious use of such amounts as may at any time be in Special Account A or in one or more special accounts or funds maintained by any insurer, third party administrator or other entity in connection with the Plan and by the use of funds held in trust that are not otherwise needed to pay claims, premiums, or administrative expenses that are payable from funds held in trust; provided, however, that such amounts as may at any time be in that certain special account maintained at The Travelers Insurance Company, known as the "Special Account Held in Connection with the Amount for the Close-Out Period," relating to the obligations of the Plan to pay, among other things, benefits incurred but not paid at the time of termination of the Plan in the event such termination should occur, shall be used to pay or provide for Plan benefits as follows: one-third of the balance in such special account as of January 1, 1992, shall be used to pay or provide for benefits that become due and payable during 1992. One-half of the balance in such special account as of January 1, 1993, shall be used to pay or provide for benefits that become due and payable during 1993. All of the balance in such special account in excess of \$25 million as of January 1, 1994, shall be used to pay or provide for benefits that become due and payable during 1994. The \$25 million referred to in the preceding sentence shall be maintained by the Plan as a cash reserve to protect against adverse claims experience from year to year.

In the event that a carrier participating in the Plan defaults for any reason, including but not limited to bankruptcy, on its obligation to contribute to the Plan, and the carrier's participation in the Plan terminates, the carriers remaining in the Plan shall be liable for any Plan contribution that was required of the terminating carrier prior to the effective date of its termination, but not paid by it. The remaining carriers shall be obligated to make up in a timely fashion such unpaid contribution of the terminating carrier in pro rated amounts based upon their shares of Plan contributions for the month immediately prior to such default.

Section 2 - Change to Self-Insurance

Except for life insurance, accidental death and dismemberment insurance, and all benefits for residents of Canada, the Plan will be wholly self-insured and administered, under an administrative services only arrangement, by an insurance company or third party administrator.

Section 3 - Joint Plan Committee

The Joint Policyholder Committee shall be renamed the Joint Plan Committee. This change in name shall not in any way change the functions and responsibilities of the Committee.

A neutral shall be retained by and at the expense of the Plan for the duration of this Agreement to consider and vote on any matter brought before the Joint Plan Committee (formerly the Joint Policyholder Committee), arising out of the interpretation, application or administration (including investment policy) of the Plan, but only if the Committee is deadlocked with respect to the matter. A deadlock shall occur whenever the carrier members of the Committee, who shall have a total of one vote regardless of their number, and the organization members of the Committee, who shall also have a total of one vote regardless of their number, do not resolve a matter by a vote of two to nil and either side declares a deadlock.

If the members of the Joint Plan Committee cannot agree upon a neutral within 30 days of the date this Agreement becomes effective, either side may request the National Mediation Board to provide a list of seven persons from which the neutral shall be selected by the procedure of alternate striking. Joint Plan Committee members and the neutral shall, to the extent required by ERISA, be bonded at the expense of the Plan. The Joint Plan Committee shall have the power to create such subcommittees as it deems appropriate and to choose a neutral chairman for such subcommittees, if desired.

Section 4 - Managed Care

Managed care networks that meet standards developed by the Joint Plan Committee, or a subcommittee thereof, concerning quality of care, access to health care providers, and cost-effectiveness, shall be established wherever feasible as soon as practicable. Until a managed care network is established in a given geographical area, individuals in that area who are covered by the Plan will have the comprehensive health care benefit coverage described in Section 5 of this Part A. Each employee in a given geographical area who is a Plan participant at the time a managed care network is established in that area will be enrolled in the network (along with his or her covered dependents) unless the employee

provides timely written notice to his or her employer of an election to have (along with his or her covered dependents) the comprehensive health care benefit coverage rather than to be enrolled in the network. Any such employee who provides such timely written notice shall have an annual opportunity to revoke his or her election by providing a written notice of revocation to his or her employer at least sixty days prior to January 1 of the calendar year for which such revocation shall first become effective. Similarly, each employee in a given geographical area who is a Plan participant at the time a managed care network is established in that area and is thereafter enrolled in the network (along with his or her covered dependents) shall have an annual opportunity to elect to have (along with his or her covered dependents) the comprehensive health care benefit coverage rather than continue to be enrolled in the network. This election may be made by such an employee by providing written notice thereof to his or her employer at least sixty days prior to January 1 of the calendar year for which the election shall first become effective. Each employee hired after a managed care network is established in his or her geographic area (and his or her covered dependents) will be enrolled in the network and may not thereafter elect to be covered by the comprehensive benefits until the January 1 which falls on or after the first anniversary of his or her initial date of eligibility for Plan coverage. Employees who return to eligibility for Plan coverage within 24 months of loss of eligibility for Plan coverage and whose employment relationship has not terminated at any time prior to such return will be enrolled in the program of Plan benefits in which they were enrolled when their eligibility for Plan coverage was lost, and shall thereafter have the same rights of election as other employees whose eligibility for Plan coverage was not lost.

Covered individuals enrolled in a managed care network will have a point of service option allowing them to choose an out-of-network provider to perform any covered health care service that they need. The benefits provided by the Plan when a service is performed by an in-network provider and the benefits provided by the Plan when the service is performed by an out-of-network provider will be as described in the table below:

PLAN FEATURE	IN-NETWORK	OUT-OF-NETWORK@
Primary Care Physician Required	Yes	No
Annual Deductible Individual	None	\$100.00
Family	None	\$300.00
		Deductible applies To all covered Expenses
Plan/Employee Coinsurance	100%	75%/25%
Annual Out of-Pocket Maximum (exclusive of deductible)		
Individual	None	\$1,500.00
Family	None	\$3,000.00
Maximum Lifetime Benefit	None	\$1,000,000 (\$5,000 annual Restoration)
Special Maximum Lifetime Benefit for Mental Health	None	\$100,000 lifetime (\$500 annual Restoration)
Hospital Charges (inpatient and outpatient)	100%	75% *
Ambulatory Surgery	100%	75% *
Emergency Room	100% after \$15 Employee copayment	75%
Inpatient Mental Health & Substance Abuse		
Benefit		
Hospital	100%	75% #
Alternative Care	100%	75% #
Residential Treatment Center Inpatient or Partial Hospitalization/ Day Treatment		

PLAN FEATURE	IN-NETWORK	OUT-OF-NETWORK @
Outpatient Mental Health & Substance Abuse	100% after \$15 employee co payment per visit	75% #
Physician Services		
Surgery/Anesthesia	100%	75% *
Hospital visits	100%	75% *
Office Visits	100% after \$15 Employee Co payment	75% **
Diagnostic Tests	100%	75% *
Routine Physical	100% after \$15 Employee Co payment	Not Covered
Well Baby Care	100% after \$15 Employee Co payment	Not Covered
Skilled Nursing Facility Care	100%	75% *
Hospice Care	100%	75% *
Home Health Care	100%	75% *
Temporomandibular Joint Syndrome	100%	75% *
Birth Center	100%	75% *
Prescription Drugs (other than by mail order)	100% after \$5 Employee Co payment For brand name (\$3 for generic)	75% *
Mail Order Prescription Drugs (60-90 day supply of maintenance drugs only)	100% after \$5 employee Co payment	100% (not subject to Regular deductible) after \$5 employee co payment (not Counted toward regular Deductible) **

PLAN FEATURE	In-Network	Out - of - Network @
Claim System	Paperless	Forms Required
Approval by Utilization Review/Large Case Management	Physician -initiated; Included in network management	Required. If approval not given, benefits reduced by 20% (except for mental health and substance abuse care where benefits reduced by 50%) both before and after annual out of pocket maximum is reached, and amount of reduction is not counted toward that maximum.

@ The medically necessary health care services for which out-of-network benefits will be paid are those listed in subparagraphs 1 through 7 of Part A, Section 5, of this Agreement.

* Benefits reduced by 20% if care is not approved by utilization review program.

Benefits reduced by 50% if care is not approved by utilization review program.

** Benefits not generally subject to utilization review program but may be reviewable in specific circumstances with advance notice to the employee; in such cases, benefits reduced by 20% if care not approved by utilization review program.

At any time after the expiration of two years from the effective date of implementation of the first managed care network, either the carriers or the organizations may bring before the Joint Plan Committee for consideration a proposal to change the Plan's in-network or out-of-network benefits for the purpose of promoting an increase in the use of in-network providers by Plan participants.

Section 5 - Comprehensive Health Care Benefits

The comprehensive health care benefits provided under the Plan in geographical areas where managed care networks are not available to Plan participants and their dependents, and in cases where a Plan participant has elected to be covered, along with his or her dependents, by such comprehensive benefits rather than to be enrolled in a managed care network, shall be as described below. Terms used in such description shall have the same meaning as they have in the Plan.

After satisfaction of an annual deductible of \$100 per covered individual or \$300 per family unit of three or more, the Plan will pay 85%, and the covered individual 15%, of certain health care expenses, up to an annual out-of-pocket maximum (which shall not include the deductible) of \$1,500 per covered individual or \$3,000 per family. The expenses counted toward the \$3,000 annual family out-of-pocket maximum will include those, which are otherwise eligible, incurred on behalf of a covered employee and each of his or her covered dependents regardless of whether the employee or dependent has reached the \$1,500 individual annual out-of-pocket maximum. Once the applicable annual out-of-pocket maximum has been reached, the Plan will pay 100% of such reasonable charges up to an overall lifetime maximum of \$1 million per covered individual, restorable at a rate of \$5,000 per year; provided, however, that there shall be a separate lifetime maximum of \$100,000 per covered individual, restorable at a rate of \$500 per year, for Plan benefits for the treatment of mental and/or nervous conditions and substance abuse. (Benefits counted for purposes of determining whether or not a lifetime maximum has been reached are all benefits paid under the Plan as amended by this Agreement and all Major Medical Expense Benefits paid under the Plan prior to such amendments.) The Plan will pay 85% of the reasonable charges for medically necessary health care services as follows:

1. All expenses that are "Covered Expenses" (as defined in the Plan) at any time under the current major medical expense benefits provisions of the Plan, and not within any exclusion from or limitation upon them, except that the exclusion for treatment of polio will be removed.
2. Expenses for mammograms described in American Cancer Society guidelines, childhood disease immunization, pap smears and colorectal cancer screening.
3. Donor expense benefits as now defined.
4. Jaw joint disorder benefits as now defined, and subject to the current exclusions from and limitation on them, except that the \$50 separate lifetime cash deductible will be removed.

5. Home health care expense benefits as now defined, subject to the current exclusions from and limitation on them, except that the exclusion that governs if polio benefits are payable will be removed.
6. Treatment center expense benefits, subject to the current exclusions from and limitation on them, except that
 - a. the separate \$100 cash deductible per confinement will be removed in connection with benefits for transportation to a treatment center, and
 - b. the separate \$100 cash deductible per benefit period and the \$40 maximum limitation on benefits per episode of treatment — all with regard to outpatient benefits— will be removed.
7. Expenses for the services of psychologists if benefits would be paid for such services had they been rendered by a physician.

The Plan will provide the same benefits to all employees eligible for Plan coverage, including those in their first year of such eligibility and those eligible for extended Plan coverage because of disability.

The Plan's comprehensive health care benefits will include, where permissible under applicable law, a mail order prescription drug benefit that will reimburse a covered individual, after he or she pays \$5.00 per prescription, 100% of the cost of prescriptions covering a 60-to-90 day supply of maintenance drugs for such individual. This benefit will not be subject to, and the covered individual's \$5.00 copayment will not be counted against, the Plan's regular \$100/\$300 deductible and will be included only upon execution of appropriate contracts with vendors.

Section 6 - Strengthened Utilization Review and Case Management

The Plan's current utilization review/case management contractor, and any successor, shall henceforth require that its prior approval be secured for the following services to the extent that benefits with respect to them are payable under the Plan: (a) all non-emergency confinements, and all lengths of stay, in any facility, (b) all home health care, and (c) all in-patient and out-patient procedures and treatment, except for any care where, pursuant to standards developed by the Joint Plan Committee, prior approval is not feasible or would not be cost-efficient. Approval may be withheld if the utilization review/case management contractor determines that a less intensive or more appropriate diagnostic or treatment alternative could be used.

If an individual covered by the Plan incurs expenses without the requisite approval of the Plan's utilization review/case management contractor, such benefits as the Plan would otherwise pay will be reduced by one-fifth; provided, however, that if such unapproved expenses are incurred for the treatment of mental or nervous conditions or substance abuse, such benefits as the Plan would otherwise pay will be reduced by one-half. These reductions will continue to apply after the out-of-pocket maximum is reached, i.e., the 100% benefit will become 80% (or 50%, as the case may be) if approval by the utilization review/case management contractor is not obtained.

When there is disagreement between an attending physician and the utilization review/case management contractor, the patient and/or attending physician after all opportunities for appeal have been exhausted within the utilization review/case management contractor's organization, shall be afforded an opportunity to obtain a review (including if necessary, an examination) by an independent specialist physician. This independent physician, who shall be conveniently located and board certified in the appropriate specialty, shall be designated by a physician appointed for this purpose by the Joint Plan Committee. Neither physician may be an employee of or under contract to the utilization review/case management contractor. In the event of an appeal to a specialist described above, the utilization review/case management contractor shall bear the burden of convincing the specialist that the utilization review/case management contractor's determination was correct

Section 7 - Coordination of Benefits

The Plan's coordination of benefit rules shall be changed so that the Plan will pay no benefit to any covered individual that would cause the sum of the benefits paid by the Plan and by any other plan with which the Plan coordinates benefits to exceed (a) the maximum benefit available under the more generous of the Plan and such other plan, or (b) with respect only to spouses who are both covered as employees under the Plan (and the Dependents of such spouses), and to spouses one of whom is covered as an employee under the Plan and the other as a retired railroad employee under the Railroad Employees National Early Retirement Major Medical Benefit Plan (and the Dependents of such spouses), 100% of the reasonable charges for services the expense of which is covered by the Plan.

Section 8 - Medicare Part B Premiums

Active employees currently covered by Medicare Part B and those who elect to enroll in Medicare Part B when they become eligible shall not be reimbursed for premiums they pay for such Part B Medicare participation unless Medicare is their primary payer of medical benefits.

Section 9 - Solicitation of Bids

As promptly as practicable, the Joint Plan Committee will solicit bids from qualified entities for the performance of (a) all managed care functions under the Plan, including without limitation the establishing and/or arranging for the use by individuals covered by the Plan of managed networks of health care providers in those geographical areas where it is feasible to do so, and (b) all utilization review/case management functions under the Plan, including specialized utilization review/case management functions for mental health and substance abuse to assure expert determination of medical necessity and appropriateness of treatment and provider. The Committee will select one or more contractors, from among those that the Committee determines are likely to provide high-quality, cost-effective services, to perform such functions on behalf of the Plan. In the meantime, the Plan's current utilization review/case management contractor will continue to perform those functions. Hospital associations shall be incorporated into the managed care networks wherever appropriate.

Upon the expiration of three years from the effective date of this Agreement, the Joint Plan Committee will solicit bids for all of the services involved in the administration of the Plan, including the utilization review/case management and/or managed care functions, unless the Committee unanimously determines not to seek bids for any one or more of the services involved in the administration of the Plan.

Part B - Early Retirement Major Medical Benefit Plan

Section 1 - Continuation of Plan

The Railroad Employees Early Retirement Major Medical Benefit Plan ("ERMA"), modified as provided in this Part, will be continued subject to the provisions of the Railway Labor Act, as amended. Contributions to ERMA will be offset by the expeditious use of such amounts as may at any time be in one or more special accounts or funds maintained by any insurer, third party administrator or other entity in connection with ERMA and by the use of funds held in trust that are not otherwise needed to pay claims, premiums, or administrative expenses that are payable from funds held in trust; provided, however, that such amounts as may at any time be in the special account maintained at the United Health Care in connection with the obligations of ERMA to pay benefits incurred but not paid at the time of termination of ERMA, in the event such termination should occur, shall be used to pay or provide for Plan benefits as follows: one-third of the balance in such special account as of January 1, 1992, shall be used to pay or provide for benefits that become due and payable during 1992. One-half of the balance in such special account as of January 1, 1993, shall be used to pay or provide for benefits that become due and payable during 1993. All of the balance in such special account in excess of \$1 million as of January 1, 1994, shall be used to pay or provide for benefits that become due and payable during 1994. The \$1 million referred to in the preceding sentence shall be maintained by the Plan as a cash reserve to protect against adverse claims experience from year to year.

Section 2 - Change to Self-Insurance

ERMA will be wholly self-insured. It will be administered, under an administrative services only arrangement, by an insurance company or third party administrator.

Section 3 - Coordination of Benefits

ERMA's coordination of benefit rules shall be changed so that ERMA will pay no benefit to any covered individual that would cause the sum of the benefits paid by ERMA and by any other plan with which ERMA coordinates benefits to exceed (a) the maximum benefit available under the more generous of ERMA and such other plan, or (b) with respect only to spouses who are both covered as retired railroad employees under ERMA (and the Dependents of such spouses), and to spouses one of whom is covered as a retired railroad employee under ERMA and the other as an employee under the Railroad Employees National Health and Welfare Plan (and the Dependents of such spouses), 100% of the reasonable charges for services the expense of which is covered by ERMA,

Section 4 - Strengthened Utilization Review and Case Management

ERMA's current utilization review/case management contractor, and any successor, shall henceforth require that its prior approval be secured for the following services to the extent that benefits with respect to them are payable under ERMA: (a) all non-emergency confinements, and all lengths of stay, in any facility, (b) all home health care, and (c) all in-patient and out-patient procedures and treatment, except for any care where prior approval is not feasible or would not be cost-efficient. Approval may be withheld if the utilization review/case management contractor determines that a less intensive or more appropriate diagnostic or treatment alternative could be used.

If an individual covered by ERMA incurs expenses without the requisite approval of ERMA's utilization review/case management contractor, such benefits as ERMA would otherwise pay will be reduced by one-fifth; provided, however, that if such unapproved expenses are incurred for the treatment of mental or nervous conditions or substance abuse, such benefits as ERMA would otherwise pay will be reduced by one-half.

When there is disagreement between an attending physician and the utilization review/case management contractor, the patient and/or attending physician, after all opportunities for appeal have been exhausted within the utilization review/case management contractor's organization, shall be afforded an opportunity to obtain a review (including if necessary, an examination) by an independent specialist physician. This independent physician, who shall be conveniently located and board certified in the appropriate specialty, shall be designated by a physician appointed for this purpose by mutual agreement between the Chairman of the Health and Welfare Committee, Cooperating Railway Labor Organization and of the National Carriers' Conference Committee. Neither physician may be an employee of or under contract to the utilization review/case management contractor. In the event of an

appeal to a specialist described above, the utilization review/case management contractor shall bear the burden of convincing the specialist that the utilization review/case management contractor's determination was correct.

The standards developed by the Joint Plan Committee for determining whether or not prior approval is feasible and cost-efficient under the Health and Welfare Plan shall be applied by the National Carriers' Conference Committee under ERMA, and the utilization review/case management contractors) selected by the Joint Plan Committee under the Health and Welfare Plan shall be selected by the National Carriers' Conference Committee under ERMA.

Section 5 - Mail Order Prescription Drug Benefit

The Plan's benefits will include, where permissible under applicable law, a mail order prescription drug benefit that will reimburse a covered individual, after he or she pays \$5 per prescription, 100% of the cost of each prescription covering a 60-90 day supply of maintenance drugs for such individual. This benefit will not be subject to, and the covered individual's \$5.00 copayment will not be counted against, the Plan's regular \$100 deductible, and will be included only upon execution of appropriate contracts with vendors.

Section 6 - Solicitation of Bids

As promptly as practicable, the National Carriers' Conference Committee will solicit bids from qualified entities for the performance of all utilization review/case management functions under the Plan, including specialized utilization review/case management functions for mental health and substance abuse to assure expert determination of medical necessity and appropriateness of treatment and provider. The Committee will select one or more contractors, from among those that the Committee determines are likely to provide high-quality, cost-effective services, to perform such functions on behalf of the Plan. In the meantime, the Plan's current utilization review/case management contractor will continue to perform those functions.

Upon the expiration of three years from the date of this Agreement, the National Carriers' Conference Committee will solicit bids for all of the services involved in the administration of the Plan, including the utilization review/case management function, unless the Committee determines not to seek bids for anyone or more of the services involved in the administration of the Plan.

Modification of the Railroad Employees National Health and Welfare Plan ("the Plan"), Article V of the National Mediation Agreement Dated May 31, 2001, is reproduced below:

"Article V – Health and Welfare Plan

Section 1 – Continuation of Health and Welfare Plan

The Railroad Employees National Health and Welfare Plan ("the Plan"), modified as provided in this Article with respect to employees represented by the organization and their eligible dependents, will be continued subject to the provisions of the Railway Labor Act.

Section 2 – Plan Benefit Changes

(a) The Plan's Comprehensive Health Care Benefit (CHCB) is amended to include one routine physical examination (including diagnostic testing and immunizations in connection with such examination) each calendar year for covered employees and their eligible dependents. Such CHCB benefit shall cover 100% of the Covered Expenses involved up to \$150, and 75% of such Covered Expenses in excess of \$150.

(b) Routine childhood (up to age 18) immunization, including boosters, for Diphtheria, Pertussis or Tetanus (DPT), measles, mumps, rubella and polio shall be provided under the CHCB. This benefit is subject to the applicable deductible and percentage of covered expenses payable.

(c) In addition to the Plan's existing coverage for speech therapy, such therapy will be Covered Expense under the CHCB and the Plan's Managed Medical Care Program ("MMCP"), when given to children under three years of age as part of a treatment for infantile autism, development delay, cerebral palsy, hearing impairment or major congenital anomalies that affect speech.

(d) Phenylketonurial blood test ("PKU") will be a Covered Expense under the MMCP and the CHCB when given to infants under the age of one in a hospital or on an out-patient basis.

(e) The MMCP will continue to require a co-payment with respect to the first office visit by a participant or beneficiary to her obstetrician or gynecologist for treatment of a pregnancy but will not require a co-payment with respect to any subsequent visit to that obstetrician or gynecologist for treatment of the same pregnancy.

(f) The MMCP will not require a co-payment on behalf of a participant or beneficiary with respect to any visit to a physician's office solely for the administration of an allergy shot.

(g) The Plan's Prescription Drug Card Program co-payments per prescription are revised as follows: (i) Generic Drug - \$5.00; (ii) Brand Name Drug - \$10.00. The Plan's Mail Order Prescription Drug Program co-payment is revised as follows: (i) Generic Drug - \$10.00; (ii) Brand Name Drug - \$15.00.

(h) All of the benefits as changed herein will be subject to the Plan's generally applicable limitations, conditions and exclusions. Existing Plan provisions not specifically amended by this Section shall continue in effect without change.

(i) A Hearing Benefit will be provided. Such arrangement shall provide a Maximum Benefit of \$600.00 annually for each covered person for covered expenses. Covered expenses shall consist of charges for medically necessary tests and examinations to establish whether and to what extent there is a hearing loss and charges for a permanent hearing aid that is medically necessary to restore lost hearing or help impaired hearing. Such Benefit may, at the carriers' option, be administered through the Plan or as a separate arrangement administered by the National Carriers' Conference Committee, and will include standard limitations, conditions and exclusions.

(j) The Plan life insurance benefit for active employees shall be increased to \$20,000, and the Plan's maximum accidental death and dismemberment benefit for active employees shall be increased to \$16,000.

(k) This section shall become effective with respect to employees covered by this Agreement on January 1, 2002.

Section 3 – Vision Care

Effective January 1, 2002, the benefits provided under the Vision Care Plan shall be changed from the Select to the Standard arrangement.”

APPENDIX "M"

SUPPLEMENTAL SICKNESS BENEFITS

The January 9, 1980 Supplemental Sickness Benefit Agreement, as subsequently amended (Sickness Agreement), shall be further amended as provided in this Appendix, for periods of disability commencing on or after the date of this Agreement.

Section 1 - Adjustment of Plan Benefits

- (a) Benefits shall be provided under the Plan established pursuant to the Sickness Agreement as set forth in paragraph (b) so as to restore the same ratio of benefits to rates of pay as existed on December 31, 1999 under the terms of that Agreement.
- (b) Section 4 of the Sickness Agreement shall be revised as follows:

	<u>Per Hour</u>	<u>Per Month</u>
Class I Employees Earning (as of December 31, 1999)	\$17.36 or more	\$3,021 or more
Class II Employees Earning (as of December 31, 1999)	\$16.03 or more but less than \$17.36	\$2,789 or more but less than \$3,021
Class III Employees Earning (as of December 31, 1999)	Less than \$16.03	Less than \$2,789

Basic and Maximum Benefit Amount Per Month

<u>Classification</u>	<u>Basic</u>	<u>RUIA</u>	<u>Maximum</u>
Class I	\$992	\$1,044	\$2,036
Class II	\$873	\$1,044	\$1,917
Class III	\$738	\$1,044	\$1,782

Combined Benefit Limit

<u>Classification</u>	<u>Maximum Monthly Amount</u>
Class I	\$2,185
Class II	\$2,054
Class III	\$1,911

Section 2 - Adjustment of Plan Benefits During Agreement Term

Effective December 31, 2004, the benefits provided under the plan shall be adjusted so as to restore the same ratio of benefits to rates of pay as existed on the effective date of this Article.

Section 3 – Return to Work

(a) When an employee's physician determines that the employee's disability (as the term is defined by the Plan) has ended and the employee is medically qualified to return to work, and the carrier's designated medical officer finds in his medical judgment that such employee is not medically qualified to return to work, the employee shall be promptly notified in writing. The employee's disability payments due under the Plan shall continue until the sooner of the date the employee is found to be medically qualified to return to service by the carrier's designated medical officer or the expiration of the twelve-month limitation on Plan benefits for such disability.

(b) nothing contained herein shall be construed to extend the amount or duration of payments under the Plan to any employee beyond that currently provided.

APPENDIX "N"
LETTERS OF UNDERSTANDINGS

Letter No. 1

D & H CORPORATION

MONTREAL, August 6, 1990

Mr. John J. Davison
General Chairman
Brotherhood of Maintenance
of Way Employees
450 Chauncy Street
Mansfield, Ma. 02048

Dear Sir:

This is in connection with our discussions on N&W protection.

It is agreed that by signing the Collective Agreement between the BMWWE and the D&H Corporation the Organization does not waive any rights that its members may have under the (D&H) N&W Protection Agreement. Similarly, by signing the Collective Agreement, D&H Corporation does not waive any defenses that it may have to any actions initiated against it by the BMWWE for any BMWWE members under or related to the N&W Protection Agreement.

Yours truly,

(Sgd) D. V. Brazier
Assistant Vice President
Industrial Relations
CPRail

I Concur:

(Sgd) John J. Davison
General Chairman
Brotherhood of Maintenance of Way Employees

Letter No. 2

D&H Corporation

March 25, 1991
013.293

Mr. John Davison
General Chairman
Northeastern System Federation
BMWWE
450 Chauncy Street
Mansfield, Mass, 02048

Dear John,

Further to our meeting in connection with the conversation on seniority, the following is my understanding of our resolve to these issues:

1. D&H Corporation will upgrade one of the existing positions of mechanic to Work Equipment Repair Foreman with headquarters at Oneonta, N.Y. Employee will be a working foreman and perform all duties of a mechanic in conjunction with other foreman's duties as assigned by D&H Management.
2. Change of pay rates for the following types of equipment which is recognized may require selected skills.
 1. Self raising and lining production tampers.
(Jackson 6700, Mark III Tamper and Torsion Beam tamper),
 2. Burro Cranes or facsimile.
 3. American Crane or facsimile.
 4. Lucky Tie Unloading Crane.
 5. Backhoe Tie Unloader.
 6. Undercutter (added to this list January 19, 1999)

Pay rates for these listed positions are increased to \$13.30 per hour. This rate differential will be maintained in any subsequent increases.

3. Rule 20.5 of the BMW Collective Agreement shall have the following application:

Employees awarded a position as a System Equipment Operator shall establish seniority in that class from the date first awarded an advertised position in that class. They shall retain and continue to accumulate seniority they hold in other classes in the M of W Department

Very truly yours,

(Sgd) T. F. Waver
General Manager - O&M

I agree with the terms of this agreement.

BMW
(Sgd) John J Davison

4/15/91
(Date)

Letter No. 3

Clifton Park, August 26, 1992

Mr. John Davison
General Chairman
Brotherhood of Maintenance
of Way Employes

Dear Sir:

This is in connection with our discussions concerning the use of Backhoes by Signal Department.

It is agreed that any work being performed by hand or requiring a backhoe, which will interfere with the integrity of the Load Structure of the track will be performed by the appropriate classification of the Maintenance of Way Agreement.

Work performed by hand or requiring a backhoe that does not disturb the integrity of the Load Structure of the track may continue to be performed by Signal & Communication Department personnel.

This letter of understanding supercedes the letter concerning the Use of Backhoes by Signal Department dated August 9, 1991 and August 22, 1991.

Yours truly,

(Sgd.) L. S. Wormsbecker
(for)General Manager, O&M

I Concur:

(Sgd. John J. Davison
General Chairman
BMWE

MEMORANDUM OF AGREEMENT

SENIORITY RIGHTS INTER-DIVISIONAL GANGS

Pursuant to our meeting at Clifton Park on July 19, 1991, the following Agreement relative to inter-divisional seniority rights are established.

*Employees who obtain seniority rights in a Inter-divisional gang will have these rights accrued to his or her Home Roster

*If the individual has seniority rights in multiple sub-divisions, then the earliest date shall determine the Home Roster.

*Newly hired employees will be placed on the roster based upon Home location. Exception to this are former BMW employees who live off line. They will be placed on the roster mutually agreed upon for expense purposes.

I agree:

(Sgd)John J Davison 8/22/91
General Manager (Date)

(Sgd) T. F. Waver Aug. 9/91
General Manager, O&M (Date)

Letter No. 5

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

August 30, 1991

Mr. John Parola, Chief Engineer,
200 Clifton Corporate Parkway
P. O. Box 8002
Clifton Park, NY 12065

RE: B & B Department Welding

Dear Sir:

In order to resolve the welding dispute the following conditions will apply:

- 1) Plumbers will perform the shop and facility fabrication.
- 2) B&B Mechanics will perform the welding on the bridges.
- 3) In the event one class is not available to perform a welding assignment, then the closest available qualified employee within the B&B Department will be used. However, this assignment shall not exceed two (2) days.

Kindly return a signed copy to this office.

Sincerely,

(Sgd) John J. Davison
General Chairman - BMWE

I Agree: (Sgd) J. J. Parola 9/09/91
Chief Engineer Date

Letter No. 6

Clifton Park, December 18, 1991

Mr. John J. Davison
General Chairman
Brotherhood of Maintenance
of Way Employes
450 Chauncy Street,
Mansfield, Ma, 01048

Dear Mr. Davison:

This is in regards to Article VIII - Rate Progression - New Hires of the Memorandum of Agreement entered into today.

The provisions of the amended Rule 29.8 shall also apply to employees qualifying for and holding a bulletined position of Welder.

The term "mechanic" contained in the amended Rule 29.8 shall apply only to the position classification "Work Equipment Repairman" as identified in Rule 28.2D (ii) of the Collective Agreement between the parties.

Prior to the effective date of the amended Rule 29.8, the Chief Engineer shall meet with the General Chairman for the purpose of preparing a list of machines that would qualify as requiring skill and experience to operate.

Yours truly,

(Sgd) L. S. Wormsbecker
(for)Manager, Labor Relations
CP Rail
on behalf of the Delaware and
Hudson Railway Company, Inc.

Letter No. 7

Clifton Park December 18, 1991

Mr. John J. Davison
General Chairman
Brotherhood of Maintenance
of Way Employes
450 Chauncy Street
Mansfield, Ma. 10148

Dear Mr. Davison:

This is in regards to the provision of washroom facilities for production gang employees.

To the extent that it is reasonable and practicable, the Carrier shall provide washroom facilities for production gang employees. In circumstances when the carrier is unable to provide such facilities, the appropriate representative of the organization will be advised. Failure to provide such facilities shall not entitle the organization to a claim of any kind.

For the purposes of this letter, washroom facilities shall be defined as a toilet and a sink with running water. These items can either be portable or fixed, as determined by the Carrier. Should the Carrier require the washroom facilities to be maintained by production gang employees, such maintenance will be performed during working hours.

Yours truly,

(Sgd) L. S. Wormsbecker
(for) Manager, Labor Relations
CP Rail
on behalf of the Delaware and
Hudson Railway Company, Inc.

Letter No. 8

DELAWARE & HUDSON

MONTREAL, July 15, 1992

Mr. John J. Davison
General Chairman
BMW
450 Chauncy Street
Mansfield, Ma.
02048

Dear Mr. Davison:

This is in regard to your meeting with the Chief Engineer to prepare a list of machines that would qualify as requiring skill and experience to operate, with respect to the application of Rule 29 of the Collective Agreement.

As per your discussion with Mr. L.S. Wormsbecker of this department on July 14, 1992, the list developed was agreed to contain the following machines:

1. Self raising tamper
2. Cranes
3. Tie inserters (production type)
4. Ballast regulators
5. Brushcutters on rail
6. Tie extruder (production type)
7. Self propelled automatic spikers
8. Tie handlers
9. Front end loader, Backhoe, Gradall, Bulldozer, Speedswing
10. Lucky tie crane
11. Ballast undercutter

If this properly reflects your understanding of this matter, please signify your agreement in the space provided below and return one original copy for my records.

Yours truly,

(Sgd) I. J. Waddell
Manager, Labor Relations

I Concur: (Sgd) John J Davison
General Chairman

TRAINING FOR BMW EMPLOYEES

The D&H Corp. has committed to provide training for all BMW employees.

Training will consist of different courses as they apply to each job classification.

Examples of the training are as follows:

1. Standard Work Practices.
2. Safety & Tool Training.
3. Bridge Maintenance.
4. Welding.
5. Specialized Equipment.
6. Rules Training.

Selection for training will be based on seniority and qualifications.

Where applicable, the company will negotiate with the union on expenses and compensation for training.

Under the terms of this agreement the organization agrees to allow the D&H to perform road crossing, paving work between Oneonta and Binghamton without conference.

AGREED:

(sgd) T. F. Waver
General Manager

Date: August 9, 1991

AGREED:

(Sgd) John J. Davison
General Chairman

Date: August 22, 1991

July 25, 2002

Mr. Stuart A. Hurlburt, Jr.
General Chairman BMW
P. O. Box 138
Mansfield, MA. 02048

Dear Mr. Hurlburt,

The parties have had numerous discussions regarding trackman required *to* drive company vehicles that do *not* require a CDL license and what, if anything, they would receive as additional compensation *for* these duties.

As well, several outstanding claims have yet *to* be resolved concerning this issue.

Accordingly, the parties have agreed that any trackman, required *to* drive a truck, that does *not* require a CDL license, will receive twenty-five cents (\$.25) per hour, in addition *to* his normal trackman's hourly rate, *for* each day that he is required *to* drive the vehicle in question.

If this meets with your understanding, please so indicate by affixing *your* signature in the outlined area below.

Sincerely,

(sgd)Cathryn Frankenburg
AVP LR &HR

I Concur:
(Sgd) Stuart A. Hurlburt, Jr.
General Chairman BMW

May 2, 2005

Mr. Stuart A. Hurlburt, Jr.
General Chairman BMWWE
135 Mick Lane
Oneonta, NY. 13820-4316

Re: Assistant Work Equipment Repairmen

Dear Mr. Hurlburt,

Reference is made *to* the recent discussions concerning establishing an hourly rate of pay *for* an Assistant Work Equipment Repairmen. The parties acknowledge that the position has existed, as is supported by the applicable rosters, yet *no* rate was ever established since CPR's purchase of D&H.

The parties have mutually agreed *to* use this position, as a means of training future Work Equipment Repairmen.

As such, the parties have as well mutually agreed *to* establish a rate of \$18.49 per hour, *for* the Assistant Work Equipment Repairmen, which would become effective December 31, 2004.

It is also mutually agreed that the tools required of the Assistant Work Equipment Repairmen, are the same as those listed, and required of the System Equipment Operator.

It is further understood, that the Collective Agreement between the BMWED and D&H, dated December 21, 1999, as amended, will apply *to* this position, as, and where, applicable.

If this meets with your understanding of the mutual agreement between the parties, please *so* acknowledge by affixing *your* signature in the outlined area below.

Sincerely,

(Sgd)Cathryn S. Frankenberg
AVP LR&HR

(Sgd)Thomas Lomax
Manager Production /Work Equipment

I Concur:

(Sgd) Stuart A. Hurlburt, Jr.
General Chairman BMWED

APPENDIX - "O"

401K SAVINGS PLAN

Within 120 days of the implementation of this Agreement, all employees covered under this Agreement may participate in the "SOO LINE 401K PLAN FOR UNIONIZED EMPLOYEES", and if electing to participate/will be governed by all the Rules and Regulations as outlined in the aforementioned Plan.

Effective January 1, 2005, add the following language to the 401 K Savings Plan.

"The current 10% of annual salary maximum of Salary Reduction Contributions under the Plan will be increased to 20%, subject to the annual dollar limit imposed by the IRS (\$14,000 for 2005 adjusted by the IRS in future years).

Salary Reduction Catch Up Contributions provision will be implemented allowing Plan participants age 50 and older to make an additional \$4,000 of Salary Reduction Contributions in 2005 and \$5,000 in 2006 (adjusted by the IRS in future years) without regard to the 20% limit under the Plan or the applicable IRS annual dollar limit for the year."

APPENDIX "P"

DEPENDENT CARE ASSISTANCE PLAN

D&H will make available to all eligible employees working under the labor contract with the BMW of North America, LLC a Dependent Care Assistance Plan on the same basis as this is available to D&H management. This Plan is established pursuant to Sections 125 and 129 of the Internal Revenue Code.

The Plan may be changed from time to time consistent with ERISA, IRS and other applicable laws and regulations,

APPENDIX "Q"

SALE OF D&H

The railroads should provide at least a 60-day notice of intent to sell or lease a line of railroad to a purchaser under 49 U.S.C. 10901. During the 60-day period, the parties shall meet upon the request of the organization to discuss the planned transfer. The transaction agreement between the carrier and the purchaser should obligate the purchaser to give priority hiring consideration to employees of the selling carrier who work on the line. Further, the agreement between the carrier and the purchaser should obligate the purchaser to assume a neutral stance in any union organizing effort undertaken by the organization. Should any recommendation in this paragraph be deemed contrary to the Railway Labor Act, the remaining recommendations shall continue in full force and effect.

The selling carrier shall provide affected employees priority employment rights for other positions on the seller, both within the craft and in other crafts where qualified. For access to position within craft, the parties shall, at the request of the organization, develop a system seniority roster for use in such transactions in the same manner as that provided in the UTU and BLE national settlements. In addition, employees securing positions on the selling carrier which require a change in residence shall be eligible for up to \$5,000 in relocation allowance, again in the same manner as provided in the UTU and BLE settlements,

Employees who secure a position with the buyer should be provided with an opportunity to return to the seller during the first 12-month period. Employees displaced by the sale shall have recall rights on the seller's property, as a minimum, for a period equal to their company seniority.

Amended April 10, 2002 to include the following:

"In the event the D&H is sold and the Surface Transportation Board does not provide labor protection, any employees holding positions with the D&H at the time of the sale will be entitled to a separation allowance of \$30,000 if they are not offered work with the new owner or operator and \$10,000 for those who are offered such work. Any employees entitled to any other benefits under the Collective Bargaining Agreement will be entitled to that benefit or the one provided here, whichever is greater."

APPENDIX "R "

Q&A'S FOR THE MEMORANDUM OF AGREEMENT, DATED JANUARY 19, 1999

January 27, 1999

Mr. Stuart A, Hurlburt Jr.
General Chairman BMWWE
P.O. Box 138
Mansfield, HA 02048-0138

Dear Mr. Hurlburt,

Further to our meeting of January 26, 1999, at Binghamton N.Y. and pursuant to the Memorandum of Agreement between the Brotherhood of Maintenance of Way Employees and the Delaware and Hudson Railway Company, Inc., dated January 19, 1999, and as well the Collective Agreement between the parties, dated September 28, 1992, the following is a list of questions and answers that are agreed upon interpretations of the referenced Agreement Articles or Rules. The Parties agree that if future questions should arise concerning interpretation of this Memorandum of Agreement, or the Collective Agreement, the parties will meet in an effort to resolve those issues.

Q&A's for the Memorandum of Agreement, dated January 19, 1999

Article VII Work Rules (g) Incidental Work

The following is a short list of possible examples of where the Incidental Work Rule may be applied. It is understood that this list does not include all the variations of how this Rule may be applied, but rather gives a general idea of its application. Further, as stated previously, should further interpretation be needed, or more examples required, the parties will meet in an effort to resolve these issues.

1. Q. Can B&B employees, who are plowing and cindering, use the front-end loader to load cinders?
 - A. Yes
- 1a. Q. Is it expected that a B&B employee will be required to operate a loader if a operator is present and available.
 - A. No

Stuart A. Hurlburt, Jr.

January 27, 1999

Page Two

2. Q. Can a another Class, who finds a whistle post down along the right-of-way, put the whistle post back up?
 - A. Yes
3. Q. Can the welder, who finds a broken angle bar, change the angle bar without the assistance of a trackman?
 - A. Yes
4. Q. Can the equipment operator be required to perform general maintenance on equipment? (Change oil and filter, lubricate, etc.)
 - A. Yes (Additionally, reference Rule 20.1)
5. Q. Can the equipment operator be required to make emergency repairs? (Jump start. Hydraulic hose repair/etc.)
 - A. Yes (Additionally, reference Rule 20.1)
6. Q. Can another Class remove a rail lubricator in order to perform track related work?
 - A. Yes
- 6a.Q. Can another Class re-install a rail lubricator in order to perform track related work?
 - A. Yes (only if Qualified.)
7. Q. When ditching involves a culvert, is a B&B employee required to be present?
 - A. No

Stuart A, Hurlburt, Jr.
January 27, 1999
Page three

Q&A's from the Collective Agreement, dated September 28, 1992

Rule 19 Production Gang Work

1. Q. How is your Sub-Division seniority protected?

A. Only if your working an Inter-Divisional gang.

2. Q. What is an Inter-Divisional Gang?

A. A gang that is bulletined on more than one (1) Division,

(Sgd.) Donald V. Brazier
Donald V. Brazier
Director Labor Relations
Delaware and Hudson Railway
Company, Inc.

(Sgd) Stuart A. Hurlburt, Jr.
Stuart A. Hurlburt, Jr.
General Chairman
Brotherhood of Maintenance
of Way Employees

Signed this 27th of January, 1999

APPENDIX "S"

D&H SUPPLEMENTAL UNEMPLOYMENT BENEFIT PLAN

The parties agree to incorporate the parameters of the Conrail September 27, 1996 Enhanced Supplemental Unemployment Benefit Plan into a SUB Plan to cover D&H employees represented by the BMW, with changes appropriate to make it apply to the D&H. Covered employees will be those with 15 or more years of service. This SUB Plan will be effective 01-01-01.

INTRODUCTION

Pursuant to Article VI " D&H SUPPLEMENTAL UNEMPLOYMENT BENEFIT PLAN" (SUB), of the Memorandum of Agreement, dated January 19, 1999 between the Brotherhood of Maintenance Way Employees (BMWE) and the Delaware and Hudson Railway Company, Inc. (D&H), those employees represented by the BMWE who have attained fifteen (15) years with the D&H will be provided benefits pursuant to the newly established Plan as agreed to by D&H and the BMWE.

The purpose of this plan is to provide to employees of the Delaware and Hudson Railway Co., Inc. a supplement to benefits under the Railroad Unemployment Insurance Act (RUIA) during periods of involuntary unemployment. This plan is not meant to preempt, replace or duplicate RUIA benefits. Benefits under this plan are not intended to be remuneration or compensation under the Railroad Unemployment Insurance or Railroad Retirement Acts.

This agreement explains the qualifications required for participation in this new SUB Plan, the benefits that are available, and the procedures required in order to receive those benefits, as they apply to employees represented by the BMWE.

The administration of SUB is overseen by a Joint Interpretation Committee, as defined herein.

The masculine gender, where it appears in this plan, includes both the masculine and feminine gender. When citing this guide, the feminine pronoun may be substituted for the masculine when appropriate.

This booklet contains a description of the major features of the Plan as it applies to employees represented by the BMWE.

SECTION I - DEFINITIONS

SUB	The Supplemental Unemployment Benefit Plan made effective January 1, 2001 covering D&H BMWE Agreement Employees.
Board	The Railroad Retirement Board
Calendar Week	A seven-day week beginning Wednesday and ending Tuesday, to coincide with D&H payroll periods.
Company	Delaware and Hudson Railway Company, Inc.
BMWE	Brotherhood of Maintenance of Way Employees.
Covered Employee	An employee represented by the BMWE who has attained fifteen (15) years of BMWE service with the Company.

Deprived of Employment	The inability of an Employee to obtain a position with D&H through the normal exercise of seniority, except that for purposes of seeking or claiming moving expenses under this Agreement, an Employee shall be deemed to be deprived of employment if required to make a change in residence in order to obtain or retain active employment or obtain or retain a position which has been moved to another location and is covered by a collective bargaining agreement <u>provided</u> , that an Employee who is dismissed for cause, retires, dies, or is unable to work due to sickness or disability shall not be deemed deprived of employment, and provided further, that benefits shall be suspended for any period of disciplinary suspension for cause,
Employee	Any individual with an employment relationship with D&H represented by the BMW.
ERISA	The Employee Retirement Income Security Act of 1974, as amended, including any regulations issued thereunder.
Joint Interpretation Committee	A committee consisting of two representatives from D&H and two representatives from the BMW representing the D&H BMW employees, responsible for the interpretation and application of the SUB as more specifically set forth in this instrument.
Plan	The D&H/BMW Supplemental Unemployment Benefit Plan, also know as the "SUB" as more fully described in this document and as may be amended from time to time.
Plan Administrator	The Company's Manager US Human Resources Service Center(or successor thereto) who has authority to administer this Plan. The Plan Administrator shall be the "plan administrator" within the meaning of Section 3(16)(A) of the Employee Retirement Income Security Act of 1974 ("ERISA"),

Responsibilities of the Plan Administrator

The powers, duties, responsibilities, and obligations of the Plan Administrator include the following:

- A. To make and enforce rules and procedures necessary or appropriate for the efficient administration of the Plan;
- B. To interpret the Plan, consistent with the guidelines established by the Joint Interpretation Committee, and to decide questions of eligibility of coverage under the Plan;
- C. To describe procedures for applying for benefits;

- D. To authorize the payment of benefits and to determine the timing of such benefits;
- E. To prepare or cause to be prepared, and to file with appropriate governmental agencies, any summaries of and reports on the Plan required by applicable law;
- F. To receive from the Company, from Covered Employees, and from the Joint Interpretation Committee, any information necessary for the proper administration of the Plan;
- G. To furnish the Joint Interpretation Committee and the Company any reports and information concerning the administration of the Plan deemed appropriate by the Joint Interpretation Committee or the Company;
- H. To furnish or disclose to Covered Employees information about the Plan in accordance with the applicable laws; and
- I. To employ and rely upon advisors, including attorneys and actuaries, to assist in the administration of the Plan.

The Plan Administrator has no power to add to, subtract from, or modify any of the terms of the Plan, to change any benefits provided by the Plan, or to waive or fail to apply requirements for participation in the Plan or for receipt of benefits under the Plan.

Responsibilities of the Joint Interpretation Committee

A D&H/BMWE Joint Interpretation Committee shall be established, consisting of two representatives from the D&H and two representatives from the BMW representing D&H BMW employees and shall be consulted by the D&H in the development of rules for the administration of the SUB. These rules shall be consistent with the terms of the SUB and shall be effective on January 1, 2001. In addition, the Joint Interpretation Committee has the responsibility to review claims and/or disputes or questions arising relative to the interpretation or application of the SUB, in order to ensure uniform application of the SUB rules, as more specifically set forth in Section X. In addition to these responsibilities, the D&H/BMWE Joint Interpretation Committee will periodically review data related to the Plan.

SECTION II - WHAT IS SUB?

The D&H/BMWE Supplemental Unemployment Benefit Plan is, among other things, an aggregate benefit account not to exceed \$40,000 for BMW represented employees upon attainment of fifteen (15) years of service.

These payments are available to employees in four different forms;

1. Subsistence payments of \$50.00 a day designed to

supplement Railroad Unemployment Insurance.

2. Health and Welfare benefits, specifically the continuance of the United Health Care GA-23000 for (12) months following the month of furlough without deductions from the benefit account. A Covered Employee may elect to purchase this coverage for any month subsequent to the twelve months immediately following furlough. **NOTE:**
This coverage includes Supplemental Sickness and dental coverage.
3. Relocation benefits as out lined in Section VII.
4. New Career Training Assistance, which provides for reimbursement to employees for certain educational expenses.

SECTION III - WHO QUALIFIES FOR PARTICIPATION IN THE SUB PROGRAM?

The enhanced and modified SUB Program is designed to provide benefits for BMWWE represented employees who attain fifteen (15) years of BMWWE service. In order to qualify for benefits under SUB, an employee must be deprived of employment as defined in the Definitions Section of this Guide.

Pursuant to the provisions of this Agreement, a Covered Employee may be eligible for relocation expenses provided by SUB. These benefits are explained in the section entitled "How to Apply for Benefits" - "Relocation".

AN EMPLOYEE WHO IS UNABLE TO WORK DUE TO DISCIPLINE, SICKNESS, DISABILITY, OR WHO HAS REFUSED WORK AS DEFINED IN THE SECTION ENTITLED "WORK OBLIGATIONS" IS NOT CONSIDERED DEPRIVED OF EMPLOYMENT. AN EMPLOYEE WHO BECOMES SICK OR DISABLED WHILE COLLECTING SUB AND BEGINS COLLECTING DISABILITY OR SICKNESS BENEFITS FROM THE RAILROAD RETIREMENT BOARD MUST NOTIFY D&H ON FORM D&H 01 (c) PROVIDED IN APPENDIX A.

BMWWE represented employees with fifteen (15) years of BMWWE service, shall be eligible for benefits if they meet any one of the following eligibility criteria:

1. The Covered Employee performed compensated service on or after January 1, 2001 and is furloughed or subsequently becomes furloughed; or,
2. The Covered Employee who does not meet the above criteria will be eligible to receive SUB by returning to work in BMWWE and working at least one hundred (100) days in any twelve (12) month period, subsequent to January 1, 2001.

Covered Employees, when deprived of employment, are entitled to subsistence benefits of \$50.00 per day unemployment for each day in excess of 20 days of unemployment in a twelve (12) month period. In cases of continuous unemployment in excess of twelve (12) months, no further twenty-day period of ineligibility will apply to such period of continuous unemployment; nor will the twenty-day period of ineligibility exceed twenty (20) days in any calendar year.

The 20 days of unemployment required do not include days on which subsistence payments were made under SUB nor do they include rest days or days for which the employee receives any pay for time not actually worked, i.e., vacation or personal days.

The 20-day qualification requirement is reviewed each month. The SUB system will review days of unemployment for which no SUB payments were made in the month the subsistence payment is due and in the previous 11 months. As long as the total is 20, payment will be made. If the total is less than 20, payment will be suspended until the total unpaid for days of unemployment during the applicable 12-month period is 20. If the Covered Employee is furloughed for more than 12 consecutive months and remains eligible for SUB, the 20-day qualification requirement will be suspended for the remaining period of unemployment.

For purposes of determining eligibility for relocation, the 20 days and 12 months have no application. Also, it is not intended that the relocation provisions apply when a Covered Employee seeks to exercise seniority to another position as a matter of convenience for himself or in the normal exercise of seniority.

SECTION IV - WHAT BENEFITS ARE AVAILABLE UNDER SUB?

Subsistence Allowance

Employees who are entitled to SUB benefits are eligible to receive those benefits in the form of a subsistence allowance of \$50.00 per day for five days in any calendar week (for SUB purposes the calendar week involved begins on Wednesday and ends on a Tuesday) during which they are deprived of employment, i.e., unable to obtain a job in the normal exercise of seniority and therefore furloughed.

Plan benefits are payable only for days which the employee has applied for, claimed, and has been determined to be eligible for RUIA benefits, except that benefits may also be payable for days in waiting periods, days after an otherwise eligible employee has exhausted rights to RUIA benefits, or days for which an otherwise eligible employee lacks qualifying compensation under RUIA.

Plan benefits plus RUIA benefits are not to exceed employee's straight-time wage and salary.

HOW PAYMENTS ARE CALCULATED WHEN AN
EMPLOYEE HAS EARNINGS WHILE FURLOUGHED

SUBSISTENCE UNDER SUB IS BASED ON
PAY FOR 5 OUT OF 7 DAYS.

	W	T	F	S	S	M	T	TOTAL
EARNINGS	-	-	\$100	-	-	-	-	\$100

1. EMPLOYEE IS FURLOUGHED AND COLLECTING SUB.
2. EARNINGS (\$100)- \$48(RUIA) == (\$52).
3. NORMAL SUB BENEFIT FOR WEEK == 5 X \$50 (\$250)
4. NORMAL SUB BENEFIT (\$250) - OFFSET (\$52) = SUBSISTENCE (\$198)

EMPLOYEE WOULD RECEIVE: \$100 IN WAGES,
\$192 IN RUIA BENEFITS, \$198 IN SUB BENEFITS,
FOR A TOTAL OF \$490 FOR THE WEEK.

The subsistence allowance will be reduced by the amount of any D&H or other earnings during the week involved. The earnings for the week will first be reduced by the \$48.00 for each day the employee worked during the week (equal to the lost RUIA benefit) and then the result will be subtracted from \$250, which is 5 times the \$50.00 per day or one week's SUB benefits.

Outside earnings must be reported on Form "D", of Appendix "A" within ten (10) days from the date of receiving same.

The figure above shows an example calculation for an employee who earned \$100 during a week in which there was no position available for the employee and the employee was determined by the Engineering Department to be furloughed.

SECTION V - Replenishment

The SUB Plan provides, among other things, an aggregate benefit account not to exceed \$40,000 to each employee except that each sum, when reduced by the applicable provisions contained herein, will be restored up to a maximum of \$40,000 by an amount equal to \$350.00 for each month in which the employee renders compensated service on seven (7) or more days.

SECTION VI - Health and Welfare Benefits

Covered Employees will be entitled to continuation of the Health and Welfare benefits following furlough for up to twelve (12) months following the month of furlough without deductions from the employee's SUB account. Supplemental Sickness and dental coverage will be continued in the same manner for the same duration.

If an employee chooses to continue these benefits under the SUB, beginning with the thirteenth (13th) month after the last month he

performed service, the cost of premiums will be deducted from the employee's SUB account for each month premiums are paid.

SECTION VII - Relocation Expenses

- (a) A Covered Employee who is offered employment pursuant to Section IX (WORK OBLIGATIONS) subparagraph A(I.) (b) i), who elects to transfer to the new point of employment and therefore changes his place of residence, shall be reimbursed for all expenses of moving his household and other personal effects and for traveling expenses of himself and members of his family, including living expenses for himself and his family and his own actual wage loss during the time necessary for such transfer, and for a reasonable time thereafter, (not to exceed ten (10) working days), used in securing a place of residence in his new location. The exact extent of the responsibility of the Carrier under this provision and the ways and means of transportation shall be agreed upon in advance between the Manager US HR Service Center and the BMW General Chairman representing the effected employee. No claim for expenses under this Section shall be allowed unless they are incurred within three (3) years from the date the employee elects the new point of employment and the claim must be submitted within ninety (90) days after the expenses are incurred.
- (b) If any such employee is furloughed within three (3) years after changing his point of employment, as outlined in paragraph (a), he may elect to move his place of residence back to his original point of employment, and be reimbursed in accordance with this Section VII.
- (c) Except to the extent provided in paragraph (b) changes in place of residence which grow out of the normal exercise of seniority in accordance with the Collective Agreement between the parties, dated December 21, 1999, as amended, are not comprehended within the provisions of this section.
- (d) If the employee owns his own home in the locality from which he is required to move, he shall at his option and in accordance with this section, be reimbursed 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 the date the employee elects to transfer to the point of employment. The employing Carrier 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 party.
- (e) If an employee holds an unexpired lease on a dwelling occupied by him as his home, he shall be protected from all loss and cost in securing the cancellation of said lease.
- (f) Should a controversy arise with 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 his representative, and the Company. In the event they are unable to agree, the dispute or controversy may be referred by either party to the Joint Interpretation Committee, who shall consult with those real estate appraisers selected to appraise the property in question, and use those appraisals in order to review the D&H's decisions to refuse payment of loss on the sale.

Any decision rendered by the Joint Interpretation Committee on this matter shall be final and binding upon the parties. In the event that a majority of the Joint Interpretation Committee fails to agree, the General Chairman may appeal the case in accordance with Rule 24.5 of the D&H/BMWE Collective Bargaining Agreement.

- (g) The individual's \$40,000 SUB account will be charged with the expenses actually involved in the move, as outlined in this Section VII.
- (h) If the employee is so close to the \$40,000 limit that not enough money remains to cover the charge from the mover, the employee will be expected to advance sufficient money to make up the difference.

VIII - NEW CAREER TRAINING ASSISTANCE

Under SUB, an employee deprived of employment may receive reimbursement for expenses involved in retraining at a qualified institution for new career opportunities. Those expenses may consist of the cost of room, board, tuition, fees and educational materials in an amount not to exceed \$3,000. In the event required educational materials are not purchased from the qualified institution, the employee must submit: 1. a statement from the institution that the materials purchased are necessary to a course of instruction in which the participant is or was enrolled; and, 2. a receipt from the seller of the materials.

A "qualified institution" means: 1. an educational institution accredited for payment by the Veterans Administration under Chapter 36 Title 38 of the United States Code; 2. state-accredited institution which has been in existence for not less than two years.

SECTION IX - WORK OBLIGATIONS

After a Covered Employee has been furloughed for a period of a year without interruption, he or she may be offered a position which is subject to the D&H/BMWE Collective Bargaining Agreement subject to the provisions contained in Section "A" below. In addition, a Covered Employee may be offered or voluntarily elect to transfer to a craft not subject to the D&H/BMWE Collective Bargaining Agreement pursuant to the provisions contained in Section "B" below.

A. Work Within the Craft (BMWE)

- 1. After an employee has collected SUB for a year without interruption, he or she may be offered any vacant position in his or her seniority district which is subject to the D&H/BMWE Collective Bargaining Agreement with the following consequences. The offer will be made via certified mail, return receipt requested. If the letter is returned undelivered or the employee does not respond in a timely fashion as specified in paragraphs a) and b) below they shall be placed, in a voluntary furlough status pursuant to subparagraphs a)ii or b)iii) below.
 - a) Within ten (10) days of an offer of a position which is bulletined to commence work within fifty (50) miles of the employee's residence, the individual may elect:
 - i) to accept the position; or,

- ii) to decline the position and be voluntarily furloughed. By accepting the voluntary furlough the employee relinquishes all SUB benefits for the period of such furlough. Such an employee will again be eligible for SUB benefits only by returning to active service and performing a minimum of 100 days of compensated service in BMW, in a 12-month period subsequent to the period of voluntary furlough.
- b) Where the offered position is fifty (50) or more miles from the employee's residence, he or she will, within thirty (30) days, elect:
 - i) to accept the position. The employee will then be entitled to relocation benefits as outlined in the "Relocation Expenses" part of this SUB Agreement.
 - ii) to obtain a separation allowance of \$30,000 in consideration of the employee's resignation and the relinquishment of all seniority; or,
 - iii) to decline the position and be voluntarily furloughed. By accepting a voluntary furlough the employee relinquishes all SUB benefits for the period of such furlough. Such employee will again be eligible for SUB benefits only by returning to active service and performing a minimum of 100 days of compensated service in BMW, in a 12-month period subsequent to the period of voluntary furlough.

B. Work Outside the Craft

1. Other than train and engine service. After an employee has collected SUB for a year without interruption, he or she may be offered any vacant position which is headquarter within fifty (50) miles of the employee's residence with the following consequences. The offer of employment will be made via certified mail, return receipt requested. If the letter is returned undelivered or the employee does not respond within ten (10) days of the offer of a position he or she shall be placed in a voluntary furlough status pursuant to paragraph b) below.
 - a) if the employee accepts the position, they will be subject to the following terms and conditions of employment:
 - i) the employee will be granted a leave of absence for the period of active service in the other craft. In order to retain his or her BMW seniority it will be necessary for said employee to pay a retention fee to the BMW; and,
 - ii) the employee will have the right to exercise their BMW seniority by displacement pursuant to Rule 4 of the D&H-BMW Collective Bargaining Agreement and must return to a position subject to that Agreement at any time he or she is deprived of employment in the other craft. In addition, at the start of each production season an employee may elect to return to a position subject to the BMW Collective Bargaining Agreement; and,

- iii) during the period of employment in the other craft, said employee will not be subject to recall to a position covered by the BMWWE Collective Bargaining Agreement; and,
- iv) days worked in the other craft will be considered as compensated service for the sole purpose of applying the Non-Ops National Vacation Agreement; and,
- v) in order to mitigate any barrier to inter-craft transfer, the employee will be eligible to receive an annual lump-sum payment which may exist as a result of rate progression rules applicable to that craft. This payment will equal the excess, if any, of the amount the individual would have earned as a BMWWE employee during the preceding twelve (12) months over the amount which was earned in the other craft during that period. The calculation of BMWWE earnings pursuant to the preceding sentence shall be on the basis of the straight time daily rate of the position last worked as a BMWWE employee multiplied by 261. The calculation of earnings in the other craft shall be on the basis of gross wages earned in the other craft during the twelve (12) month period in question. Compensation for days the employee is not available for service account of sickness, furlough or absence from work without permission (excluding vacation, paid personal leave days, jury duty or paid bereavement leave) will be deducted from the lump-sum payment, and will be calculated on the basis of the straight time daily rate of the BMWWE position last worked multiplied by the number of days the employee is not available. Annual payments will be paid pursuant to this paragraph only with respect to a twelve (12) month period during which the employee was subject to rate progression rules for the entire period. Employees claiming payments under this part must complete Form "E, of Appendix "A" within sixty (60) days, from the end of the twelve (12) month period on which claim is based.
- vi) an employee failing to qualify in the craft to which transferred or forfeiting seniority in the craft to which transferred due to refusal to exercise seniority to a position more than fifty (50) miles from the employee's residence will again qualify for SUB if there is no BMWWE covered position available to him in a normal exercise of seniority.
- b) if the employee declines the position and becomes voluntarily furloughed, the employee relinquishes all SUB benefits for the period of such furlough. Such an employee will again be eligible for SUB benefits only by returning to active service and performing a minimum of 100 days of compensated service in BMWWE, in a 12-month period subsequent to the period of voluntary furlough.

2. **Train and Engine Service.** A Covered Employee will be considered for transfer to a position in train and engine service on a voluntary basis, and will be granted a leave of absence for the period of active service in these crafts. While employed in train or engine service, the following terms and conditions will apply:

- a) in order to retain his or her BMWWE seniority it will be necessary for said employee to pay a retention fee to the BMWWE; and,
- b) an employee who transfers to train and engine service must remain in those crafts, unless he or she is unable to retain any position in the normal exercise of seniority pursuant to the provisions of the UTU(C&T) or BLE Collective Bargaining Agreements. Inability to retain a train or engine service position does not include being deprived of employment by reason of retirement, receipt of separation allowance, resignation, dismissal or disciplinary suspension for cause, work stoppage, or failure to work due to illness or disability; and,
- c) while working in train or engine service, a furloughed BMWWE employee will not be subject to recall to a position covered by the BMWWE Collective Bargaining Agreement. If an employee is unable to retain a train or engine service position as described in paragraph b) above, he or she must exercise their seniority in accordance with the provisions contained in the BMWWE Collective Bargaining Agreement. However, such employee remains subject to recall to a train or engine service position. An employee failing to answer recall to a train or engine service position will forfeit all BMWWE seniority. An employee unable to retain a train or engine service position as described in b) above, and who currently is furloughed in his or her former BMWWE craft will not be considered eligible for recall to a BMWWE position unless and until the employee notifies the appropriate labor relations officer, in writing, of his or her change in status and availability for recall to a BMWWE position; and,
- d) days worked in train and/or engine service will be considered as compensated service for the purpose of applying the Non-Ops National Vacation Agreement to BMWWE represented employees who return to a BMWWE position in accordance with the provisions of paragraph c) above,
- e) an employee retaining seniority under this Agreement may not relinquish train and/or engine service seniority, but may leave such service to accept promotion to a non-agreement position; and,
- f) a BMWWE represented employee with an entered service date prior to June 2, 1985 who transfers to train service under the terms of this understanding and who thereafter fails to successfully complete Engineer Training School (ETS) may exercise seniority in accordance with the BMWWE Collective Bargaining Agreement. An employee with a entered service date on or after June 2, 1985 who transfers to a train service position under the terms of this understanding and who subsequently fails to successfully complete ETS will forfeit all BMWWE seniority in addition to all accrued train service seniority; and,
- g) in order to mitigate any barrier to inter-craft transfer, the employee will be eligible to receive an annual lump-sum payment which may exist as a result of rate progression rules applicable to train or engine service. This payment will equal the excess, if any, of the amount the individual

would have earned as a BMW employee during the preceding twelve (12) months over the amount which was earned in train and engine service during that period. The calculation of BMW earnings pursuant to the preceding sentence shall be on the basis of the straight time daily rate of the position last worked as a BMW employee multiplied by 261. The calculation of earnings in train and/or engine service shall be on the basis of gross wages earned in those crafts during twelve (12) month period in question. Compensation for days the employee is not available for service account of sickness, furlough or absence from work without permission (excluding vacation, paid personal leave days, jury duty or paid bereavement leave) will be deducted from the lump-sum payment, and will be calculated on the basis of the straight time daily rate of the BMW position last worked multiplied by the number of days the employee is not available. Annual payments will be made pursuant to this paragraph only with respect to a twelve (12) month period during which the employee was subject to rate progression rules for the entire period. Employees claiming payments under this part must complete Form "E", of Appendix "A" within sixty (60) days from the end of the twelve (12) month period on which the claim is based.

3. **Voluntary application to a Non-operating Craft.** An employee may apply for a vacant position in another non-operating craft. If the employee's application is accepted, he or she will be subject to the following terms and conditions of employment, provided the inter-craft transfer permits D&H to avoid the hiring of a new employee:
- a) the employee will be granted a leave of absence for the period of active service in the other craft. Such an employee will be required to pay a retention fee to the BMW to retain his or her BMW seniority; and,
 - b) the employee will have a right to exercise their BMW seniority by displacement pursuant to Rule 4 of the BMW Collective Bargaining Agreement and must return to a position subject to that Agreement at any time he or she is deprived of employment in the other craft. The employee also may elect to return to a position subject to the BMW Collective Bargaining Agreement at the start of each production season; and,
 - c) the employee will not be subject to recall to a position subject to the BMW Collective Bargaining Agreement during the period of employment in the other craft; and,
 - d) days worked in the other craft will be considered as compensated service for the purpose of applying the Non-Ops National Vacation Agreement; and,
 - e) if the position is fifty or more miles from the employee's residence and the employee changes his or her residence, he or she will be entitled to relocation benefits in accordance with the "Relocations Expenses" part of this SUB Agreement,

SECTION X - How to Apply for Benefits

1. Subsistence and Health and Welfare

Each Covered Employee will be automatically registered to receive a subsistence allowance and health and welfare coverage under SUB. After 12 months following furlough a covered employee may elect to purchase continued health and welfare coverage by submitting a Form D&H 01 (a), SUB Insurance Registration Form, to the Manager US HR Service Center, indicating which options he or she wishes to maintain.

As previously stated, deductions of health and welfare premiums from the employee's SUB account does not begin until the thirteenth consecutive month of furlough and includes United Health Care GA-23000, supplemental sickness and dental insurance. A Covered Employee may decline to receive a subsistence allowance and any or all of the health and welfare coverage provided by SUB. To make these elections the employee must complete the SUB Registration Form D&H 01 (b) and send it to the Manager US HR Service Center.

NOTE: If an employee wishes to receive the subsistence allowance and all health and welfare coverage (for up to 12 months) YOU ARE NOT REQUIRED TO SUBMIT A REGISTRATION FORM. Under this plan Covered Employees are automatically registered for these benefits when they attain fifteen (15) years of service.

A Covered Employee's election of benefits is not activated until his payroll status is "FURLOUGHED". Employees should confirm their furloughed status with their immediate supervisor.

A Covered Employee who is eligible for benefits under both this Plan and some other job security or other protective conditions or arrangements may elect between the benefits under this Plan and benefits under such other arrangement and, for so long as he continues to receive such benefits under the provisions which he elects, he shall not be entitled to the same type of benefit under the provisions he does not so elect.

In order to allow for prompt and accurate payment of subsistence allowances to qualified employees, an automatic payment system may be developed that results in a payment to the employee within 45 days of the day he or she is entitled to a payment, based on the information in the payroll computer data base. Subsistence payments are made on the payday based on the employee's usual pay cycle.

ALTHOUGH D&H EARNINGS WILL BE CONSIDERED AUTOMATICALLY, IF AN EMPLOYEE HAS EARNINGS FROM OTHER THAN D&H, HE OR SHE IS REQUIRED TO REPORT THOSE EARNINGS TO THE MANAGER US HR SERVICE CENTER THESE EARNINGS ARE TO BE REPORTED ON THE SUB APPEAL FORM, FORM "D" OF APPENDIX "A" WITHIN TEN (10) DAYS OF RECEIVING SAME.

A Covered Employee may change his or her election by submitting the change of status to the Manager US HR Service Center, on the D&H 01 (c) Form. This change will be effective within sixty (60) days of receipt by the Manager US HR Service Center, except when a covered employee is collecting a subsistence allowance at the time of the filing of the election change. In this situation the election will be effective upon the cessation of subsistence payments.

2. Applying for Relocation Benefits

In order to apply for any relocation benefits, the employee must complete SUB Forms A and B found in Appendix A. The supervisor of the position to which he or she is transferring must sign Form B. The completed forms should be sent to the D&H Labor Relations Officer, who will determine if the employee is eligible for relocation benefits under SUB. Once the forms have been reviewed by the Labor Relations Officer and it is determined that the employee is eligible, they will be sent to the Manager US HR Service Center for processing.

If the employee is deemed eligible for relocation benefits under SUB, and has completed the SUB Reserve Authorization Form "A", that form will be used as authorization for D&H to reserve sufficient SUB funds to cover the costs provided in the "Relocation Expenses" provision of SUB. Amounts unspent will be returned to the employee SUB account.

In order to obtain reimbursement for expenses the employee must complete an Expense Reimbursement Form. All expenses must be claimed within 90 days of the time they are incurred. Completed Expense Reimbursement Forms should be sent to the D&H Labor Relations Officer. Employees relocating under the SUB are not entitled to Temporary Living Expenses.

3. New Career Training Assistance

Prior to incurring New Career Training expenses a covered employee should contact the Manager US HR Service Center, to discuss the nature of the training the employee is considering and its qualifications under the second paragraph of Article VIII of this Agreement. In the event the Manager is unsure about the certification and/or qualifications of the chosen institution or course of study, the Manager may request that the employee provide proof from the institution establishing their qualifications,

There is a special form for seeking reimbursement for education and training. The reverse side contains instructions on how to complete the form. See Form "C" of Appendix "A".

When the form is completed, it should be sent to the Manager US HR Service Center.

SECTION XI - HOW TO MAKE AN APPEAL AND GET HELP

1. Subsistence Allowance

An employee entitled to a subsistence payment should receive a payment mailed to his home address within 45 days of the day for which he is entitled to payment. (NOTE: Normally, this date for payment entitlement will be up to 20 work days following furlough).

If an employee does not receive a payment within 45 days, he or his duly accredited representative may submit a claim on the appeal form (See Form "D" of Appendix "A") to the Manager US HR Service Center, with a copy to the D&H Labor Relations Officer. However no benefits will be paid or payable for any period in excess of 105 calendar days after the date for which the claim is filed. An employee must file a claim within 60 days of the 45th day.

Information about status and earnings must be shown for each day of any week during which a payment is expected.

Within 60 days of receipt of the appeal, the Manager US HR Service Center, will respond in writing to the employee explaining the rejection of his appeal or notifying him of payment. The response will also explain what additional information or material might be necessary to complete the claim.

If notice of a decision is not furnished to the employee within 60 days, the claim will be considered denied and the employee will be permitted to proceed to the next level of review.

If the Manager US HR Service Center denies the appeal, either entirely or partially, the General Chairman may appeal the case in accordance with Rule 24.5 of the D&H/BMWE Collective Bargaining Agreement.

2. Health and Welfare

Questions about insurance coverage should be directed to Manager US HR Service Center. The appeal process is the same as for the subsistence allowance.

3. Relocation

If the employee's Form B is rejected by the Manager US HR Service Center, the appeal process will be the same as for the subsistence allowance. The employee must appeal the decision within sixty (60) days of notification that the form has been rejected.

4. New Career Training Assistance

If the employee's request for New Career Training is rejected by the Manager US HR Service Center, the appeal process will be the same as the subsistence allowance. The employee must appeal the decision within sixty (60) days of notification that the form has been rejected.

5. Claim by D&H

In the event the Plan Administrator determines that a Covered Employee has been paid benefits in excess of that amount actually owed, the Company will have the right to deduct such excess amounts from said employee's wages at a rate of ten percent (10%) of his or her wages per week until such excess is repaid.

6. Amendment or Termination

Neither the D&H nor the BMWE may amend, curtail, nor terminate the Plan at any time without the consent of the other party. Any such change shall be accomplished only in accordance with Section 6 of the Railway Labor Act, 45 U.S.C. 156, except that any amendments 1) agreed to between the parties, or 2) required by law, or 3) which relate to administration of the Plan and which do not materially affect the Covered Employee's benefits, may be implemented by the Plan Administrator or the Joint Interpretation Committee.

In the event of any inconsistency between this SUB Plan and the provisions of The Employee Retirement Income Security Act of 1974, as amended. The Employee Retirement Income Security Act of 1974, as amended, shall prevail.

In the event of any inconsistency between this SUB Plan and the Collective Bargaining Agreement between the parties, dated December 21, 1999, as amended, concerning the exercising of an employees' seniority, the Collective Bargaining Agreement between the parties, dated December 21, 1999, as amended, shall prevail.

Approved: D&H - BMW

Date:

(Sgd.) Stuart A. Hurlburt, Jr.
General Chairman BMW

(Sgd.) Donald V. Brazier
Director, Labor Relations

APPENDIX "A"

The following forms are part of this Appendix:

SUB Insurance Registration Form (D&H 01 (a))

SUB Election Form (D&H 01 (b))

SUB Status Change Notification Form (D&H 01 (c))

SUB Reserve Authorization Form (Form A)

Relocation Benefits Initiation Form (Form B)

New Career Training Application Form (Form C)

Subsistence Allowance Appeal and Report of Outside Earnings Form
(Form D)

Rate progression/ Lump Sum Form (Form E)

D&H 01(a)

**SUPPLEMENTAL UNEMPLOYMENT BENEFITS (S.U.B.)
INSURANCE REGISTRATION FORM**

To: _____

From: Employee No. _____ Name: _____

Home Address: _____

When otherwise qualified, I wish to continue to receive:

_____ Health & Welfare coverage under United Health Care,
GA23000

_____ Supplemental Sickness

_____ Dental Insurance

Health & Welfare and Dental Insurance includes benefits
for myself and my dependents.

Note: If any or all of these options are checked, the monthly
premiums will be deducted from the balance in your S.U.B.
fund.

In order to ensure uninterrupted insurance coverage, this
form should be received by the Manager US HR Service
Center no later than the end of the 11th month of the
continuous furlough. Failure to submit this form in a
timely fashion will result in your insurance coverage
stopping at the end of the 12th month of continuous
furlough.

Signature: _____

Date: _____

D&H 01 (b)

**SUPPLEMENTAL UNEMPLOYMENT BENEFITS (S.U.B.)
ELECTION FORM**

To: _____

From: Employee No. : _____ Name: _____

Home Address: _____

Please check the box which applies and fill in the blanks with the effective date of the status change.

_____ I do not wish to receive Supplemental Unemployment Benefits. To be effective*: _____

_____ I do not wish to have Health & Welfare premiums deducted from my S.U.B. account. To be effective: _____

_____ I do not wish to have Supplemental Sickness Benefits premiums deducted from the S.U.B account. To be effective: _____

_____ I do not wish to have Dental Insurance premiums deducted from my S.U.B. account. To be effective: _____

Signature: _____

Date: _____

*Note: If you are already receiving Subsistence Benefits, this election will only be effective upon receipt of this form.

D&H 01(c)

**SUPPLEMENTAL UNEMPLOYMENT BENEFITS (S.U.B.)
STATUS CHANGE/SICKNESS/RETIREMENT NOTIFICATION FORM**

To: _____

From: Employee No. _____ Name: _____

Home Address: _____

Please check the box which applies and fill in the blanks with the effective date of the status change.

_____ I have filed for sickness benefits with the RRB and have
Been approved effective: _____

_____ I have filed for retirement annuity and have been
approved effective: _____

_____ Other (please specify): _____
e.g. Leave of Absence, Family Leave, or other Non-Active
Status.

I understand that any SUB payments covering periods for which I am
eligible for sickness or retirement benefits must be returned to
D&H.

Signature: _____

Date: _____

FORM "A"
SUB RESERVE AUTHORIZATION FORM

I, _____ (Employee No. _____), hereby authorize Delaware and Hudson Railway Co., Inc. to place a reserve against my remaining SUB benefits in order to pay the following expenses relative to my relocation from _____ to _____, and to ensure no overruns of SUB allowances.

() Moving Expenses	\$ _____
() Home Sale Closing	\$ _____
() Health & Welfare	\$ _____

I understand that all dollar amounts will be completed by D&H and that the amount held for moving expenses and home sale shall be modified as appraisals, moving estimates and actual bills are received. I understand that, while this authorization remains in effect, no reserved funds shall be paid out for any benefits other than those which have been checked on this form.

If the total amount reserved is not used, I am entitled to what I would have received in the absence of the reserve, provided that I submit a Subsistence Allowance Appeal Form claiming the amount owed.

This authorization shall remain in effect until all bills and expenses relating to the relocation are paid. I shall receive a completed copy of this form from D&H when this occurs, indicating the amounts deducted from the SUB benefits for payment of these expenses.

Signature: _____

Dated: _____

AMOUNT OF SUB
REMAINING: _____
(To be completed by D&H)

Authorized by: _____

Dated: _____

FORM "B"
AGREEMENT EMPLOYEES RELOCATION BENEFITS INITIATION FORM

PURPOSE: PROPER COMPLETION OF THIS FORM WILL PROVIDE THE NECESSARY INFORMATION TO MAINTAIN THE APPROPRIATE RECORD KEEPING SYSTEM FOR TAX PURPOSES RELATIVE TO YOUR TRANSFER.

DIRECTIONS: COMPLETE AND RETURN TO THE MANAGER US HR SERVICE CENTER FOR APPROVAL AS SOON AS A DECISION TO RELOCATE IS MADE.

GENERAL INFORMATION

EMPLOYEE NAME: _____

FIRST

MIDDLE

LAST

EMPLOYEE NUMBER: _____

SOCIAL SECURITY NO: _____

FIRST DAY ON JOB: _____

PRESENT HOME ADDRESS:

NEW ADDRESS (IF KNOWN):

HOME PHONE NO: _____

HOMEOWNER _____

HOME OWNER _____

RENTER _____

RENTER _____

DEPARTMENT INFORMATION

TRANSFERRED FROM:

TRANSFERRED TO:

LOCATION: _____

Location: _____

TITLE: _____

Title: _____

DEPARTMENT: _____

Department: _____

MANAGEMENT CENTRE: _____

WORK ORDER: _____

WORK LOCATION PHONE NUMBER:
NUMBER:

WORK LOCATION PHONE

HAVE YOU BEEN RELOCATED PREVIOUSLY BY D&H?

YES ___

NO ___

DATE OF LAST RELOCATION _____

HOME DISPOSITION (CHECK ONE)

_____ I WILL SELL MY CURRENT HOME

_____ I WILL NOT SELL MY CURRENT HOME

EMPLOYEE'S SIGNATURE

DATE

NEW POSITION SUPERVISOR'S SIGNATURE

DATE

APPROVED: MANAGER

DATE:

SUB RESERVE \$ _____

Form "C"

D&H/BMWED Supplemental Unemployment Benefits Plan
New Career Training Application & Reimbursement Form

1. Print First Name, Middle Initial and Last Name | 2. Employee Number

3. Print Address (Number Street/Apt No. PO Box)

City | State | Zip

4. Last Occupation:

5. Full Name of School or Retraining Program

6. Address of School or Retraining Program

7. What is the Final Educational, Professional or Vocational Goal You Plan To Reach Through This Program? (Highest Degree or Occupation)

8. Education For Training Will Be By: (Check Boxes That Apply)

- () School Attendance () Farm Cooperative
() Correspondence () Apprentice or On-The-Job
() Other (Please List) _____

9. Expenses Claimed As Reimbursable

A. Room

1. Address At Which Expenses Were Incurred

2. Period Covered
From To

3. Identification Numbers of Supporting Documents

4. Amount Claimed

B. Board

1. Address at Which Expenses Were Incurred

2. Period Covered
From To

3. Identification Numbers of Supporting Documents

4. Amount Claimed

\$

General Instructions

Before completing this form, read the following instructions and information very carefully. If you have any questions, contact the Labor Relations Department.

Eligibility

You may be eligible for NCTA if you are a Covered Employee and have worked 125 days in the calendar year before the year for which you are claiming benefits and are "deprived of employment" and unable to obtain a position in the normal exercise of seniority.

If you are eligible you may be reimbursed up to a limit of \$3,000 for actual expenses incurred after January 1, 2001, in your training for a new career. Reimbursement expenses include room, board, tuition, fees and educational materials.

Claim For Reimbursement

Complete and return this form within six months of incurring a reimbursable expense for new career training. If you are prevented from filing this form within six months, enclose an explanation of the circumstances which prevented your timely filing. Claims filed for less than \$50 in reimbursable expenses may be held by D&H until \$50 in claims has accumulated. However, claims for less than \$50 will be processed if you indicate by checking the appropriate box in Item 10 on this form that this is the final claim for training assistance that you intend to file.

Schools and Training Establishments

You may attend elementary schools, high schools, vocational and technical schools, business colleges, colleges, universities and other schools or programs of study approved by the State for veterans' study under Title 38, U.S. Code, Chapters 34, 35, 36, or any schools licensed by the State which has been in existence over two years.

You may also receive reimbursement for expenses incurred in connection with a D&H retraining program specifically agreed to by the involved Labor Organization.

Documentation of Claimed Expenses-Item 9 Room, board, tuition and fees.

The proof of payment of category A, B, C, D or E expenses must clearly show:

- the name of the school, place of business, or person providing the service, instructions, or merchandise purchased.
- the nature of the service, instructions or merchandise purchased.

- your name as the person paying the expenses.

Educational materials

The proof of payment of category expenses must clearly show:

- the name of the school, place of business, or person selling the merchandise.
- an itemized list of merchandise purchased, (items such as "school supplies" are not acceptable).
- your name as the person paying the expenses.
- Supporting documents for fees and educational material not purchased from the school must include a statement from the school that such fees or materials are required by course.

Assembling and indexing documentation

All documents supporting claimed expenses should be assembled and indexed as follows:

- on the upper right hand corner of each document place the capital letter of the category (A, B, C, D or E) under which the expense is claimed.
- Next to the category letter, number the documents in each category in sequence. For example. A1, A2, A3,.. .etc.
- Two documents supporting the same expense item (for example, a receipt and cancelled check) should have the same index letter and number.

Certification

Sign your full legal name. Any claim not signed by you will not be processed by D&H. It will be returned to you.

Mail Completed Form and Supporting Documents to:

G. A. Deriemaeker
Manager U. S. Human
Resources Service Center
Canadian Pacific Railway
501 Marquette Room 1000
P. O. Box 530
Minneapolis, Minnesota 55440

Form "D"

D&H/BMWED Supplemental Unemployment Benefits Plan

- Appeal
- Report of Outside Earnings

	Month	Day	Year
Entered Service Date			
Furloughed Date			

1. Print FirstName, Middle Initial and Last Name:	2. Employee Number

3. Print Address (Number, Street/Apt., P.O. Box)

City	State	Zip Code

4.a. For the period of this claim, did you work & receive wages from non-D&H employment, including self employment? ___ YES ___ NO	4.b Name(s) of Non-D&H Employers	4.c Job Location City & State
(If YES, answer questions 4.b and 4.c). If NO. GO to item 5		

5. Under the days in this section, show the date and your work status for each day during the week in which benefits are claimed, beginning with Wednesday. For any date you worked, show the wages you earned on that date (including non-D&H earnings). If you received vacation pay, show the dates for which it was paid and the amount you were paid.

	Day Codes
	X - Day Not Worked
	W - Day Worked or Received vacation Pay

WED	THUR	FRI	SAT	SUN	MON	TUES	WED	THUR	FRI	SAT	SUN	MON	TUES
WED	THUR	FRI	SAT	SUN	MON	TUES	WED	THUR	FRI	SAT	SUN	MON	TUES

Certification: "I certify that the information I gave to D&H on this claim is true to the best of my knowledge."

Signature of Claimant	Date signed	Telephone number (Include area code)

Note: Once collecting SUB subsistence benefits you must inform the Plan Administrator of any outside earnings.

Form "E"
RATE PROGRESSION/LUMP SUM

This form must be completed whenever claiming the lump sum payment provided for in "Section IX - WORK OBLIGATIONS, parts B., v) or B., 2, g)" of this SUB Plan.

Annual payments, pursuant to the aforementioned sections, will be paid only with respect to a twelve (12) month period during which the employee was subject to the rate progression rules for the entire period.

1. Time period claimed: From: _____ To: _____

The position on which you were subject to
the rate progression. _____

2. The straight time daily rate of the position
last work as a BMWED employee. _____

3. Multiply line 2 times 261. _____

4. What were the gross wages for line 1. _____

5. Subtract line 3 from line 4. _____

6. If line 5 equals a positive amount, it is
the amount claimed, enter here. _____

Please mail completed form to the Manager U. S. Human Resources Service Center.

I HEREBY CERTIFY THAT THE INFORMATION SHOWN ABOVE IS TRUE AND CORRECT.

Signature: _____

Date: _____

Employee Number: _____

G. A. Deriemaeker
Manager U. S. Human
Resources Service Center
Canadian Pacific Railway 501
Marquette Room 1000
P. O. Box 530
Minneapolis, Minnesota 55440

Fax: 612-337-8859

Howard Buchanan
Manager Labor Relations
Delaware and Hudson Railway Co., Inc.
P.O. 3160
Binghamton, N.Y. 13902