



John J. Fleps  
Vice President  
Labor Relations

BNSF Railway Company  
P. O. Box 961030  
Ft. Worth, TX 76161-0030

2600 Lou Menk Drive  
Fort Worth, TX 76131  
Phone: 817-352-1020  
Fax: 817-352-7319

October 30, 2007

Mr. Craig E. Walsh  
Mr. John R. England  
Mr. Jim A. Huston  
Mr. Paul W. Tibbit  
Mr. W.E. Young, III

Mr. Robert D. Kerley  
Mr. John D. Fitzgerald  
Mr. Randy S. Knutson  
Mr. Tony R. McAdams

United Transportation Union  
BNSF General Chairmen's Association  
1603 North Highway CC  
Nixa, MO 65714

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OFFICE OF THE  
GENERAL CHAIRMAN  
UTU

Re: BNSF Labor Update Video

Gentlemen:

Thanks for your thoughtful letter regarding BNSF's "Fall Labor Update" video.

I appreciate your insight, but still think the breakdown in our mutual efforts during the fall of 2004 had a whole lot more to do with obstruction from Cleveland than with BNSF's widely expected and traditional participation in national handling. In fact, when we had our most productive meeting, on November 16, 2004, the bargaining round had already started, and everyone knew then that BNSF was in national handling for section 6 purposes. We had served written notice to that effect back on November 1.

The whole purpose of our local meetings, which all participants well understood, was to see if we could make our own deal and avoid the need to stay fully in the national process, which ironically enough, still has produced no agreement with your union. Of course, with complete knowledge of the overall setting and purpose, we made considerable progress that day together in mid-November, 2004, and we scheduled another meeting for mid-December. It was only on the eve of the December meeting, with barely a day's warning, that I learned UTU's key negotiators would not show up. By that time, BNSF's joining formal national bargaining was very old news. And not long before the December date, as I understand it, Paul Thompson called National Carriers' Conference Committee chairman Bob Allen to object to our local talks. Bob said that he had no problem with our parallel negotiations. So, it's really pretty easy to put "two and two" together. I respect your loyalty to Mr. Thompson; but facts are facts.

Anyway, I wholeheartedly share what I take to be your view still that the essence of what we tried to do three years ago was bold, constructive, and creative, especially on your parts. And, even at this late date, you have my sincere appreciation for the effort.

Let me add a few words about the misleading entry rate talking points from UTU headquarters. Yes, our last national agreement did commit the parties to deal with entry rates first-out. But that agreement decidedly did not require the railroads to give up anything for nothing, and the negotiators at the time (who included Mr. Thompson) well knew it. As it has been in this round, we've been ready and willing from the beginning to deal with this issue in the context of a total



package. And, to be sure, if our talks on the big technology issues had progressed earlier in the round, there's a good chance we could have worked out entry rates (among other changes sought by UTU) to everyone's considerable satisfaction. But, UTU's intransigence at the national table ever since has allowed events (and most other rail unions) to pass UTU by. Now, years beyond our once promising local efforts, we have a rock-solid industry pattern which is very generous on wages, but leaves entry rates unchanged. At this stage of things, no right-minded person could really expect the industry to grant a hugely expensive entry rate roll-back, and pay high pattern wages to boot. But, in essence, that's what Mr. Thompson has demanded. It's just not going to happen that way. We all need to realize it, and stop trying to exploit language in the old national agreement to grab some moral authority which just is not there.

And, let's all move away from this "personality" thing. I have nothing against Paul on a personal level. In fact, I respect his tough-mindedness, and he and I got along just fine until UTU leaders from Cleveland to the Beltway decided to punish the railroads and BNSF in particular simply because we pursued entirely legitimate productivity improvements while fully prepared to protect our employees. As it is, the problem lies solely in UTU's now very shop-worn "all-out-war" playbook, which your union amazingly still has not retired even while this bargaining round has throttled down to deal merely with the most routine of collective bargaining issues--basic compensation stuff.

For now, I hold out hope that we can eventually get through the current bargaining round professionally and realistically, and then give serious thought to how we can mutually reconstruct a healthy approach to all of our issues going forward. There's a lot we can do together for your members and the whole BNSF enterprise--the foundation of all our livelihoods--if we all try harder to understand where each party comes from...and where we need to go.

Yours truly,

A handwritten signature in black ink, appearing to be "John", written in a cursive style with a long, sweeping tail.

cc: James Stem

C. E. Walsh  
J. R. England  
J. A. Huston  
P. W. Tibbit  
W. E. Young, III

**UNITED TRANSPORTATION UNION**  
**BNSF GENERAL CHAIRMEN'S ASSOCIATION**  
1603 N Hwy CC  
Nixa Mo 65714

R. D. Kerley, Secretary  
J. D. Fitzgerald  
R. S. Knutson  
T. R. McAdams

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November 9, 2007

Mr. John J. Fleps  
Vice President Labor Relations  
BNSF Railway Company  
2600 Lou Menk Drive  
PO Box 961030  
Fort Worth TX 76161-0030

**Re: BNSF Negotiations Update Video**

Dear Mr. Fleps:

We have read your October 30, 2007 missive relative to the above caption, and we feel that a response is called for.

The nature and substance of BNSF's entry into national handling in 2004 was anything but "widely expected and traditional." Illegal demands for work rule changes completely outside the scope of national bargaining are hardly a *tradition* in our industry. But perhaps you are correct in suggesting that the UTU General Chairmen should have expected BNSF to join the other Carriers in making those illegal demands for changes in Crew Consist and the Federal Employers Liability Act. Maybe we should always expect you and your colleagues to flaunt the law and our contracts in order to renege on promises made at the bargaining table. We didn't. Shame on us.

It's not surprising to hear that Bob Allen had no problem with "parallel negotiations." Since Mr. Allen is, after all, *your* spokesman in those national negotiations, I'm sure he was happy to accommodate your attempt to leverage your own efforts to modify Crew Consist on the property. That illegal strategy backfired, and it is rather disingenuous to continue blaming either President Thompson or the UTU General Chairmen who had hoped that *voluntary*, good-faith bargaining might work for all of us at BNSF.

As for entry rates, UTU Side Letter No. 2 is neither vague nor ambiguous. *"The parties agree that at the earliest opportunity in the next national bargaining round, the matter of relating the existing service scales in effect on each participating road to training and experience will be addressed."*

Clearly, the *only* subjects tied to entry rates were training and experience. There's no mention of Crew Consist or FELA or a "total package" or a "rock-solid industry pattern" (by the way, there is also no such Side Letter in the 2003 BLET Agreement.) But despite the many opportunities available over the past three years, entry rates still have not been addressed in national handling. Instead we have yet another broken promise, and sadly that's what we're learning to expect.

Sincerely,

General Chairmen  
BNSF General Chairmen's Association  
United Transportation Union