



GENERAL COMMITTEE OF ADJUSTMENT

# ***united transportation union***

UNION PACIFIC RAILROAD COMPANY  
(Former C&NW Railway Co.)

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MILWAUKEE, WI 53207  
414-489-3700  
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## **CIRCULAR LETTER NO. 7**

August 30, 2007

### **TO ALL LOCAL CHAIRPERSONS:**

Dear Sirs and Brothers:

As an ongoing process in the General Chairman's office, we send out Circular Letters as circumstances dictate in regard to issues that are of importance to all of our Membership. We are requesting that you read these documents at your Union Meetings for the Membership's benefit and also place them on bulletin boards for those Members who cannot attend the Union Meeting. Incorporated below are issues of importance for our Membership.

#### ◆ **CMTS Cutover :**

During the remainder of 2007 and in 2008, the carrier will implement the Crew Management and Timekeeping System (CMTS) on the former CNW territory. The Midwest District and Sioux City, Iowa, are scheduled to implement on September 1, 2007. The Central 5, Northern 4, Twin Cities Terminal, and Adams, Wisconsin, are scheduled to implement on October 1, 2007. It is highly recommended that you make copies of information stored in TCS, such as vacation schedules, seniority rosters, etc. While this information is available in CMTS, it is advisable to have a back-up during the transition.

#### ◆ **Engineer Re-certification:**

Refer to my letter dated May 1, 2007 (R-118-07), in regard to the carrier policy of suspending a locomotive engineer license following a failure of a skills examination. Attached is a letter from FRA Associate Administrator for Safety, Jo Strang, to Mr. Dennis Duffy. The letter lists the concerns of FRA concerning the denial of certification of engineers who previously demonstrated proficiency. The letter indicates that Union Pacific has amended their policy to address the concerns of FRA. Regardless, if a member experiences a failure of a skills examination the member and the local chairman must document every stage of the skills test review, training regimen, and re-certification procedure.

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CIRCULAR LETTER NO. 7

-2-

August 30, 2007

Trusting this information will aid you in keeping our Membership informed of issues confronting us and with best personal wishes, I remain

Fraternally yours,



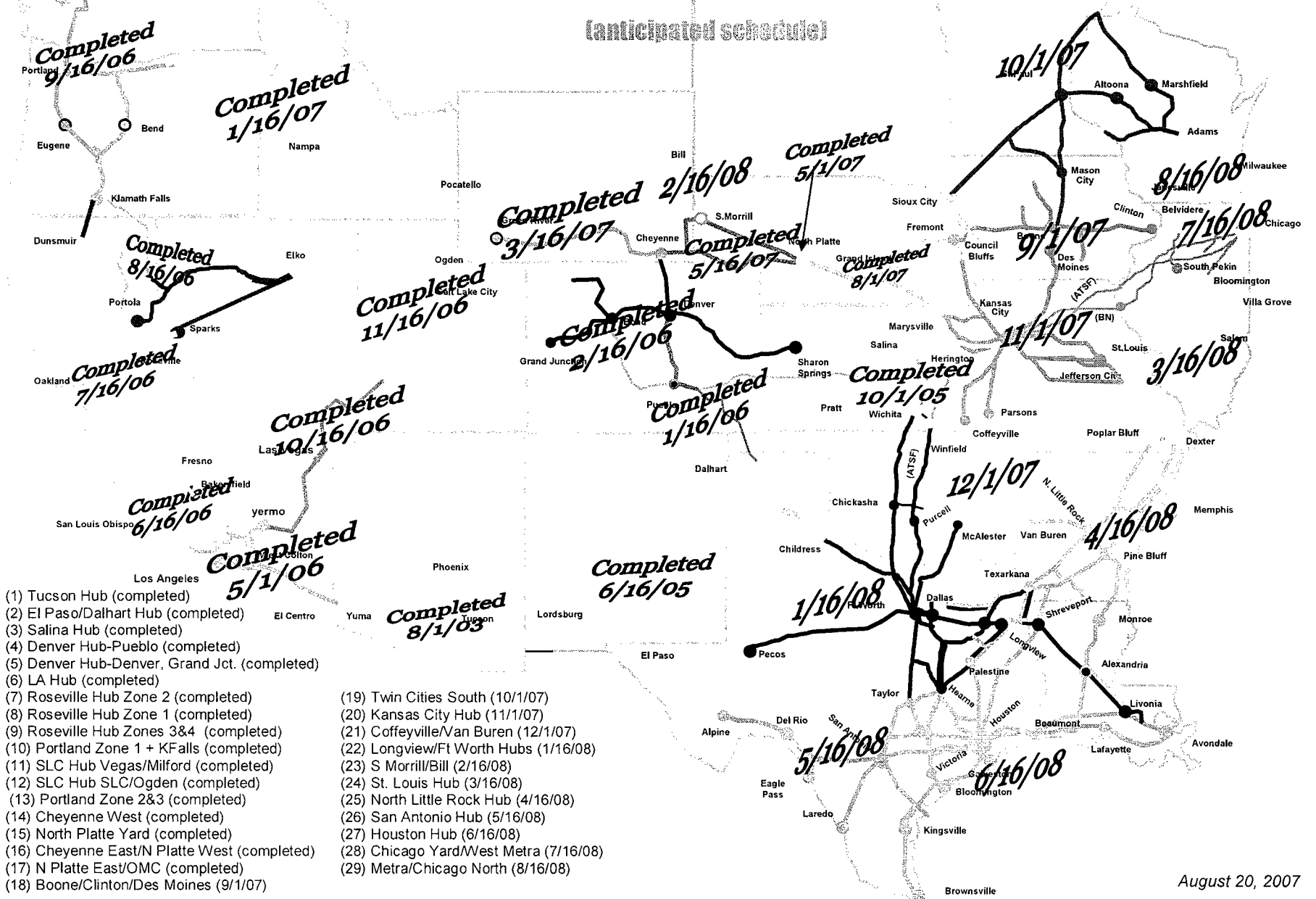
Michael J. Reedy  
General Chairman, G.C.A.

MJR:jg

cc: Paul Thompson, President - UTU  
Rick Marceau, Assistant President - UTU  
Dan Johnson, III - General Secretary/Treasurer - UTU  
Joe Szabo, Director Illinois State Legislative Board - UTU  
Pat Hendricks, Director Iowa State Legislative Board - UTU  
Phil Qualy, Director Minnesota State Legislative Board - UTU  
Ray Lineweber, Director Nebraska State Legislative Board - UTU  
Tim Deneen, Director Wisconsin State Legislative Board - UTU

# CMTS Implementation Map

(Anticipated schedule)



- (1) Tucson Hub (completed)
- (2) El Paso/Dalhart Hub (completed)
- (3) Salina Hub (completed)
- (4) Denver Hub-Pueblo (completed)
- (5) Denver Hub-Denver, Grand Jct. (completed)
- (6) LA Hub (completed)
- (7) Roseville Hub Zone 2 (completed)
- (8) Roseville Hub Zone 1 (completed)
- (9) Roseville Hub Zones 3&4 (completed)
- (10) Portland Zone 1 + KFalls (completed)
- (11) SLC Hub Vegas/Milford (completed)
- (12) SLC Hub SLC/Ogden (completed)
- (13) Portland Zone 2&3 (completed)
- (14) Cheyenne West (completed)
- (15) North Platte Yard (completed)
- (16) Cheyenne East/N Platte West (completed)
- (17) N Platte East/OMC (completed)
- (18) Boone/Clinton/Des Moines (9/1/07)

- (19) Twin Cities South (10/1/07)
- (20) Kansas City Hub (11/1/07)
- (21) Coffeyville/Van Buren (12/1/07)
- (22) Longview/Ft Worth Hubs (1/16/08)
- (23) S Morrill/Bill (2/16/08)
- (24) St. Louis Hub (3/16/08)
- (25) North Little Rock Hub (4/16/08)
- (26) San Antonio Hub (5/16/08)
- (27) Houston Hub (6/16/08)
- (28) Chicago Yard/West Metra (7/16/08)
- (29) Metra/Chicago North (8/16/08)



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

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

AUG - 2 2007

Mr. Dennis Duffy  
Executive Vice President, Operations  
Union Pacific Railroad Company  
1400 Douglas Street, Room 1020  
Omaha, Nebraska 68179

Dear Mr. Duffy:

I am writing this letter to express the Federal Railroad Administration's (FRA) appreciation of the Union Pacific Railroad Company's (UP) cooperation in addressing concerns FRA had about UP's recent policy of denying certifications (Title 49 Code of Federal Regulations (CFR) Section 240.219) to experienced locomotive engineers who have been operating trains for years. It was disconcerting to know that these engineers, who had demonstrated their proficiency during annual check rides and recertification skills tests, suddenly were denied certification because they were found to lack previously demonstrated skills. The original policy appeared to be applied inconsistently throughout UP's system. However, following a meeting FRA had on June 25, 2007, with Mr. Larry Breeden and Mr. Robert Grimaila of UP, FRA's concerns appear to have been addressed.

The above-mentioned regulation requires railroads to routinely evaluate the skills of locomotive engineers by conducting monitoring rides once a year (49 CFR § 240.129), and by taking skills tests every 3 years prior to recertification (49 CFR § 240.127). Until recently, certification denials had only involved first-time student engineers who could not pass skills tests or newly certified engineers who apparently slipped through the cracks and were reevaluated. The Locomotive Engineer Review Board (Board) has reviewed many appeals from these engineers and, in most cases, has upheld the railroad's denial decision. However, during the past year, the Board has recognized a changing pattern in the denial process. Also, FRA has received many calls from experienced engineers, and/or their representatives, expressing concern about this policy.

The FRA is aware that UP placed 150 engineers into student status during 2006. Of those engineers, seven were eventually denied certification. While the number of denials is comparatively smaller than the number of certifications, FRA is concerned with the application of 49 CFR § 240.219 of the regulation.

FRA has been working closely with UP to address these concerns and UP has been very cooperative. So that there is no misunderstanding about FRA's concerns, they have been listed below:

- **The Skills Performance Test** – If this test is not automatically graded by a simulator program, the evaluation form used by the Designated Supervisor of Locomotive Engineers (DSLE) should be largely weighted toward train-handling skills. While FRA recommends that the DSLE or Road Foreman observe all aspects of the engineer's performance, the test should primarily be centered on the engineer's train-handling ability. FRA does not believe that points deducted for "fuel conservation" and "schedule maintenance" should be counted towards the engineer's evaluation score. FRA learned, during our meeting with Mr. Breeden and Mr. Grimaila, that these items are no longer counted in evaluations.

The FRA understands that when UP uses simulators to conduct skills tests, UP does not utilize a simulator program to automatically grade the engineer. When such programs are utilized, subjectivity is taken out of the evaluation and the test can be applied consistently throughout the system. This eliminates any allegations of bias. UP should consider using such programs.

- **Simulator Programs** – We noted in a simulator test that a "clear" signal indication was darkened after it had already been viewed by the engineer. In addition, a yellow board was placed in close proximity to the darkened signal. The engineer failed to notice the darkened signal, which he believed was outside the capability of the simulator to display, and was told immediately that he had failed the skills test. This was the final skills test, resulting in the denial of his certification.

There are two issues that FRA takes exception to in regard to this program. The first is the darkened signal; this efficiency test was not conducted properly. Under identical circumstances in the field, the engineer would have received an "approach" indication prior to receiving the darkened signal. Dropping a signal to a red aspect or darkening a signal after it displayed a "clear" signal indication to the train is unacceptable. The second issue involves the construction of the simulator program. The scenario of finding a yellow board near a darkened signal appears to go beyond a simulation of routine train operations. While it is understandable that engineers should be able to multitask during routine operations, this simulator program appears to have created an unrealistic scenario. FRA notes that as soon as this issue was brought to the attention of Mr. Breeden, the test failure was reevaluated and the engineer was given the opportunity to take another test.

- **Timely Locomotive Event Recorder Data Analysis** – It was brought to FRA's attention that an engineer was confronted with event recorder data taken from a trip he made 2 to 3 months prior to the meeting. FRA believes the delay in investigating the incident diminished the effectiveness of the program and might

have also affected the due process rights afforded the engineer under 49 CFR § 240.307. This issue was discussed with UP and a new policy was introduced that requires supervisors to address train handling issues within 2 weeks of discovering them.

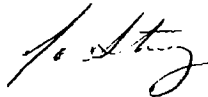
The FRA recognizes that there can be legitimate reasons for experienced engineers to fail skills tests. One reason could be that the engineer is experiencing medical or psychological problems; under these circumstances, denial of certification would not be appropriate. These are medical qualification issues that should be addressed by the railroad's medical department, not by those responsible for engineer certification. FRA also recognizes that circumstances can change once an engineer is certified; for example, relocating to a terminal where more complex train operations exist, or being forced from yard service to road service after many years. FRA understands that these new operations may be beyond the ability of certain individuals. In such cases, denial of certification may be warranted or accommodations may be made according to collective bargaining agreements. These are plausible explanations for a demonstrated sudden lack of skills by an engineer.

Apart from the special situations mentioned above, FRA believes it is illogical to think that engineers suddenly lose their skills to operate a train. FRA has encouraged UP to exercise proper oversight of this program to ensure that the program is applied fairly and consistently throughout UP's system. Such policies, if left unchecked, can lead to abuse of the system. FRA is already aware of one incident in which an engineer was threatened to be placed in student status, and was later fired. FRA notes that UP has established a system-level panel to review all certificate denials prior to their implementation. FRA commends UP for these efforts.

The FRA will be looking very closely at the previous monitoring rides and skills tests of experienced engineers who have been denied certification. Since these engineers have demonstrated in the past that they can operate a train safely, FRA needs to explore the possibility that the previous monitoring rides and/or skills tests were not properly conducted.

FRA appreciates UP's cooperation when working through these occasional issues. If you have any questions or concerns, please contact Mr. Douglas Taylor, Operating Practices Staff Director, at (202) 493-6255; or Mr. John Conklin, Program Manager for Engineer Certification, at (202) 493-6318.

Sincerely,



Jo Strang  
Associate Administrator for Safety



*"The Voice of Transportation Labor"*  
**UNITED TRANSPORTATION UNION**

## **NS, engineer facing environmental charges**

BRADFORD, Pa. -- Norfolk Southern Railroad and a former engineer will be facing environmental charges in McKean County Court.

On Tuesday, representatives of the railroad waived a preliminary hearing in front of District Judge Bill Todd in Smethport on charges of unlawful conduct and pollution of waters, in cases brought by the state attorney general's office and the Fish and Boat Commission, respectively.

And the judge bound over all charges against the engineer. He is charged with two counts each of management of hazardous waste and unlawful conduct.

The charges are the result of the June 30, 2006, derailment of a Norfolk Southern train on Keating Summit near Gardeau and the subsequent chemical spill of 42,000 gallons of sodium hydroxide.

The charges against Norfolk Southern allege that the corporation dumped sodium hydroxide onto the surface of the ground or into the waterways without obtaining a permit from the Department of Environmental Protection; disposed of sodium hydroxide in a manner contrary to rules and regulations of the Pennsylvania Solid Waste Management Act or in a manner contrary to public health; and that several tanks under their control ruptured, allowing sodium hydroxide to empty into Big Fill Run and then downstream to other waters.

The engineer's charges allege that he recklessly disposed of hazardous waste with a pH in excess of 12.5, which is in violation of the Pennsylvania Solid Waste Management Act; and without being authorized by the rules and regulations of the state Department of Environmental Protection.

The remaining charges allege that he disposed of the waste in a manner to create a public nuisance or adversely impact public health; and violated the provisions of the Pennsylvania Clean Streams Law in McKean and Cameron counties.

He is also facing charges of causing a catastrophe, risking a catastrophe and recklessly endangering another person for

operating the speeding train while under the influence of drugs. Court records indicate that his toxicology test following the derailment showed benzodiazepines and opiates.

The speed restriction for Keating Summit is 15 mph. The train was traveling 76 mph when it derailed, the records indicate.

The train was carrying chlorine in addition to sodium hydroxide. The chlorine tank did not rupture, but residents of the area were evacuated as a precaution.

The attorney general's case is being prosecuted by Deputy Attorney General Andrew Thiros. The Fish and Boat Commission's case will be prosecuted by the McKean County District Attorney's office.

(The preceding article by Marci Schellhammer was published August 29, 2007, by The Bradford Era.)

August 30, 2007