



**Brotherhood of Maintenance of Way Employees Division
of the International Brotherhood of Teamsters**

NORTHEASTERN SYSTEM FEDERATION

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May 4, 2009

Overnight Fed EX 8663 7350 6722

Mr. R. F. Palmer, Director Labor Relations
National Railroad Passenger Corporation
30th & Market Streets, 2nd Floor - South Tower
Philadelphia, PA 19104

Re: TLM Proposal

Dear Mr. Palmer,

This is in reference to our ongoing discussions concerning Amtrak's desire to contract out concrete tie replacement work on the New England Division by leasing a Track Laying Machine (TLM) operated by contractor employees. As you know or certainly should know, such work is reserved to BMWED members by Section 1 A of the Amtrak Scope Rule and can not be contracted out without my express written concurrence. While I certainly have no objection to the lease of additional equipment to supplement the TLM already owned by Amtrak, I want to make it crystal clear that I have no intention of agreeing to allow contractors to operate that equipment. Consequently, any attempt by Amtrak to contract out this work will constitute a repudiation of the collective bargaining agreement and I assure you that BMWED will respond accordingly to any exercise of such "self help" by Amtrak.

The work in question is reserved to BMWED-represented employees by the clear and unambiguous terms of Section 1 A of the Scope Rule which expressly provides that, "[t]rack inspection, maintenance, construction or repair from four (4) inches below the base of the tie up, and undercutting." may not "... be contracted out without the written concurrence, except in case of emergency, of the appropriate General Chairman." There can be no question that replacing concrete ties is fundamental track maintenance work and that such work is not an emergency. Therefore, it is clear that such work can not be contracted out on the New England Division without my express written concurrence, which I have not and will not grant.

Amtrak's proposal to contract out this fundamental track maintenance work is particularly egregious because the work is not only expressly reserved by the Scope Rule, but has been performed by BMWED members for as long as Amtrak has been in

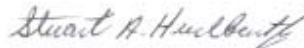
existence. In recognition of this fact, BMWED and Amtrak negotiated special terms in Rules 89, 90-A and 90-B that provide for staffing continuity on TLM's and their operation over large geographical territories in a highly efficient manner. Indeed, these provisions each provide that, "AMTRAK may establish one or more..." TLM units. Hence, the parties clearly contemplated Amtrak obtaining "one or more" TLM units for its employees to operate when these rules were negotiated decades ago. The fact that Amtrak has not had the foresight to obtain a sufficient number of TLM's to meet its needs can not be used as an excuse to contract out TLM work.

In light of the Scope Rule, Rules 89, 90-A and 90-B and decades of past practice, Amtrak's proposal to contract out TLM work is not simply a repudiation of the Agreement, but a blatant and egregious repudiation of the Agreement that smacks of bad faith and anti-union animus. I want to make it perfectly clear that the BMW Division of the International Brotherhood of Teamsters will not tolerate a repudiation of our collective bargaining agreement with Amtrak and that any such "self help" action by Amtrak will be vigorously opposed by BMWED/IBT.

While I want to be clear that we will not tolerate the contracting out of the work in question, I also want to make it clear that we will cooperate with Amtrak to insure that all TLM units Amtrak chooses to operate are staffed with well-trained and fully-qualified BMWED operators. I believe that BMWED employees are fully qualified to operate TLM equipment, just as they have done in the past. However, if you believe additional training is necessary, I will be happy to try and address any concerns you have so that employees represented by BMWED are ready to operate all necessary equipment at a high level of efficiency from day one.

Please do not hesitate to call or write if you have training issues that you believe we need to address.

Sincerely,



Stuart A. Hurlburt

cc: Mr. Fred Simpson
Mr. Henry Wise
Mr. Jed Dodd
Mr. Steve Powers