

## MEMORANDUM OF AGREEMENT

**Between  
BNSF Railway  
and  
SMART-TD**

In recognition of the mutual benefits of expediting the movement of traffic between Longview, TX and Silsbee(Beaumont), TX/Shreveport, TX, the following conditions will govern the operation of an interdivisional service operation headquartered at Longview, TX:

### **1. Establishment of New Service**

A. A pool of trainmen will be established and maintained to handle service between Longview and Silsbee/Shreveport, including all routes and side trips. For purposes of this operation, Longview will be the home terminal and Silsbee and Shreveport will be the away-from-home terminals.

- i. Subject to subsections (a) and (b) below, the Longview-Silsbee and Longview-Shreveport routes will be single-ended with a home terminal at Longview.
  - a. If there are no pool or extra board trainmen available in Longview for Longview-Silsbee service, then a Silsbee extra board trainman may be called to operate for one round trip in this interdivisional service.
  - b. If there are no Longview trainmen available in Silsbee for Longview-Silsbee service, then a Silsbee extra board trainman may be called to operate for one round trip in this interdivisional service.

NOTE: Subsection (b) is applicable where there are no available pool crews at the away-from-home terminal when a train destined for Longview ties down short of Rebecca and therefore is outside the hours of service zone for the Longview extra board (see Part 3 below).

- ii. Trainmen called in this service may be used beyond the home terminal switching limits of Longview, up to and including MP 24 (Overton siding) on the UP Palestine Subdivision, to get or deliver their train. In doing so, they may operate through the Longview terminal without release. Compensation for this operation is outlined in Part 6 below.
- iii. Trainmen called in this service may be used beyond the away-from-home terminal switching limits of Silsbee/Beaumont to get or deliver their train, up to and including the following locations:
  - a. MP 110 (Romayor siding) on the BNSF Conroe Subdivision
  - b. MP 308 (Devers siding) on the UP Houston Subdivision
  - c. MP 453 (Elizabeth siding) on the UP Beaumont Subdivision
  - d. MP 270 (Connell siding) on the UP Lafayette Subdivision

In doing so, they may operate through the Silsbee/Beaumont terminal without release. Compensation for this operation is outlined in Part 6 below.

B. This pool will operate under former ATSF Northern and Southern Agreement rules.

- C. Unless otherwise agreed to (in writing), pool trainmen working in this service will receive a two-hour call at the home terminal and a 90-minute call at the away-from-home-terminal.

## **2. Through Freight Service**

- A. Except as otherwise provided in this Agreement, pool trainmen will be called first-in, first-out provided the first-out trainman is fully rested under the Hours of Service law. If there are no fully rested pool trainmen, then an extra trainman may be called to operate for one round trip under the provisions of this Agreement.
- B. Trainmen called in this service will be positioned at the home terminal based upon their tie-up time unless they are runaround at or en route from the same away-from-home terminal. If a trainman is runaround by another trainman from the same away-from-home terminal, the trainman's turn will be restored to its proper position upon tie-up at the home terminal if the trainman calls the crew office and requests such restoration.

NOTE: The employees will be obligated to manually contact the crew office, as outlined above, until BNSF programs a more expeditious method for turn restoration under this provision. Further, this restoration provision is not intended to create a basis for a claim for employees.

- C. Trainmen called in this service will be positioned at the away-from-home terminals based upon their home on-duty time.
- D. Trainmen may be deadheaded in the most efficient and safe manner, as determined by BNSF, which may include deadheading via van or train. Whenever possible, BNSF will make an effort to deadhead employees on higher priority trains.
- E. Pool trainmen turned short of the distant terminal for any reason will be compensated a one-way trip rate of the route traversed with overtime starting at the expiration of 8'00" of service. If the miles run by a trainman exceeds the applicable trip rate, then the excess miles will be paid separate and apart from the trip rate payment. The excess miles will not affect the 8'00" overtime threshold.
- F. Trainmen may trade trains operating in the same direction, but they will not be required to trade trains moving in the opposite direction. Compensation for trading trains is outlined in Part 6 below.

## **3. Hours of Service Relief**

- A. When practicable, the coverage zones for hours of service relief in this service are as follows:
  - i. Between Longview and Silsbee
    - a. For traffic destined for Longview, the following crews can perform hours of service relief between Rebecca and Longview (in priority order and subject to manpower availability): (1) Longview extra board, (2) Longview-Silsbee pool, and (3) Silsbee extra board.
    - b. For traffic destined for Silsbee, the following boards can perform hours of service relief between San Augustine and Silsbee (in priority order and subject to manpower availability): (1) Silsbee extra board, (2) Longview-Silsbee pool, and (3) Longview extra board.
  - ii. Between Longview and Shreveport
    - a. The Longview extra board can relieve any traffic destined for Longview or Shreveport.

- B. Nothing contained in this Agreement is intended to prohibit interdivisional crews from operating trains that traverse only part of the specified territory provided trainmen are then handled forward to the opposite terminal, or paid as if they had been.

#### **4. Called and Released**

- A. When a trainman in this unassigned pool is called and released at any point after being called for service such trainman will be paid a one-way trip rate of the trip for which called and stand last out on the board.

NOTE: The above provision will apply to extra board employees called for “cut in” turns who are called to perform service in this pool.

- B. If a trainman is called and released at the away-from-home terminal, either before or after time of going on duty, they will be paid a basic day and stand first out on the board. If rest is required, the trainman may be runaround without penalty until legally rested.

NOTE: If the trainman was on pay for held-away-from-home terminal time prior to being called and released the trainman will remain on held-away until being called to perform service to the home terminal.

#### **5. Pool Regulation, Vacancies and Layoffs**

- A. Unless otherwise agreed to, this interdivisional pool will be regulated under current mileage agreements. For purposes of pool regulation, only trip rate miles will be counted.
- B. All temporary vacancies occurring on these interdivisional pool turns at the home terminal will be filled by the trainman’s extra board.
- C. When trainmen in this service mark up from layoff, or place to a turn via standing bid or displacement rights, the following will occur:
  - i. If the turn is at the home terminal, they will be marked back to the turn and assume its current position on the board.
  - ii. If the turn is working or at an AFHT, the turn will automatically be placed to the bottom of the board (The employee previously on the turn will be placed on a bogus position which will be removed from the board upon tie-up at the home terminal).
- D. Layoffs resulting in permanent vacancies as defined by the ATSF Northern and Southern agreements will continue to be handled by the terms outlined in the ATSF Northern and Southern agreements.
- E. Trainmen in this pool will not be allowed to lay off at the away-from-home terminal, except in case of emergency such as illness or injury. Trainmen laying off under such emergency circumstances will be permitted to ride a train to the home terminal provided they notify the dispatcher or Supervisor of which train they desire to ride in advance of that train’s departure.

#### **6. Compensation**

- A. Unless agreed to otherwise, the current trip rates will apply to the runs in this pool.
- B. When a trainman operates through Longview in accordance with Part 1(A)(ii) above, the trainman will be compensated actual additional miles traversed (including van miles), at the applicable daily rate, with a minimum of 25 miles paid separate and apart from the trip rate. These miles will be paid in addition to the trip rate and will not extend the overtime threshold.

- C. When a trainman operates beyond MP 20 on the Silsbee subdivision in accordance with Part 1(A)(iii) above, the trainman will be compensated actual miles traversed (including van miles), at the applicable daily rate, with a minimum of 20 miles paid separate and apart from the trip rate. These miles will be paid in addition to the trip rate and will not extend the overtime threshold.
- D. Following implementation of this interdivisional service, if BNSF would like to incorporate any or all of the payments made pursuant to Part 6(B) and/or Part 6(C) into the trip rates, then it will provide 15 days' written notice to the SMART-TD General Chairmen so any concerns can be promptly discussed and a reasonable testing period can be identified. However, the frequency of these operations is dependent upon business and customer service demands. If BNSF determines that business no longer warrants the inclusion of any or all these miles in the trip rate, then BNSF may remove these miles from the trip rate after providing 15 days' written notice to the SMART-TD General Chairmen.
- E. When a trainman trades trains in accordance with Part 2(F), the trainman will be paid one hour at the applicable daily rate in addition to all other earnings for the trip. Only one payment will be made per tour of duty.
- F. When a trainman is tied up under the Hours of Service Law en route to the final terminal, the time waiting for transportation will be paid on a minute basis from the time the trainman expired under the Hours of Service Law until the departure of transportation (at the location where the trainman expired) to the final terminal.
  - i. At no time will wait time and overtime be paid concurrently. When the trainman meets the qualifications for both payments, only overtime will be due.
- G. Trainmen in this service who are held at the away-from-home terminal in excess of 16 hours will receive continuous held-away-from-home terminal pay until placed on duty at the away-from-home terminal.

## **7. Meal Period**

- A. In order to expedite movement of trains operating under this Agreement, trainmen will not stop their train to eat. All meal allowances will be included in these trip rates, so no additional compensation is due for a meal en route.

NOTE: This does not preclude a trainman from seeking food items at retail locations in close proximity to where they may be standing in the clear of the main track awaiting other rail traffic, or for unforeseen reasons, so long as this does not create undue delay to the operation. It is understood that the trainman will be required to obtain permission from the dispatcher prior to leaving the train to obtain food. Should this request be denied, no penalty is due.

## **8. Equity**

- A. Handling of equity is addressed in Side Letter #1 appended hereto.

## **9. Lodging and Away-From-Home Terminal Meals**

- A. Suitable lodging, as defined in the ATSF Northern and Southern agreements, shall be provided for trainmen tied up at the away-from-home terminal.
- B. Trainmen who are performing this interdivisional service will be allowed payment for meals at the away-from-home terminal in accordance with national agreement provisions, as amended.

**10. Other Provisions**

- A. When a trainman is required to report for duty or is finally relieved from duty at a point other than the on and off duty points fixed for this service established hereunder, BNSF shall authorize and provide suitable transportation for the employee. Suitable transportation includes BNSF owned or provided passenger carrying motor vehicles, taxis, and Amtrak, but excludes other forms of public transportation.
- B. The on and off duty points within the terminals for this service may be changed by BNSF with 10 days' written notice to the General Chairman. The trip rate will then be adjusted to reflect the change.
- C. BNSF, with concurrence of the SMART-TD, reserves the right to implement a fatigue management system such as, but not limited to, Predictive Work Schedules (PWS), call windows, etc. that would govern the handling of the interdivisional through freight service established herein.

**11. Protection**

- A. Every trainman adversely affected as a result of the implementation of this Agreement will receive the protection afforded under Article IX, Section 7 of the 1985 UTU National Agreement.

**12. Non-Referable Clause**

- A. The provisions of this Agreement are agreed to on a non-referable basis and will only be applicable to the Longview – Silsbee/Shreveport pool. It is understood that this Agreement will not establish a precedent applicable to future assignments of this nature or a party's ability to implement some or all of these changes without Article IX.

**13. Savings Clause**

- A. Except as specifically provided herein, nothing contained herein shall be construed as modifying, amending or superseding any of the provisions of agreements or schedule rules implemented between BNSF and SMART-TD.

This Agreement shall take effect on \_\_\_\_\_, 2018.

**For BNSF Railway:**

**For SMART-TD:**

\_\_\_\_\_  
AVP – Labor Relations

\_\_\_\_\_  
General Chairman – ATSF N/S

\_\_\_\_\_  
General Director – Workforce Ops Change

\_\_\_\_\_  
Director – Workforce Ops Change

## **Side Letter #1 – Handling of Equity Between Longview and Silsbee**

When this pool is self-sustaining (i.e. pool turns are not being filled by extra board employees as outlined in Side Letter 2), the distribution of work in this pool will be handled under the following terms:

1. It is understood that the track from Longview to San Augustine (87.2 miles) and the track from Longview to Shreveport (123.5 miles) will be allocated to the Longview terminal strictly for work distribution purposes. Likewise, the track from Silsbee to San Augustine (99.4 miles) will be allocated to the Silsbee terminal strictly for work distribution purposes; meaning, it does not establish any equity distributions that do not exist today.
2. This pool shall be manned by the trainmen from the respective terminal in proportion, as near as practicable, to the train miles operated on the respective track(s). Such count of train miles shall be compiled for a period of not less than six (6) months. Such test period shall be established at a time agreed upon, sufficiently prior to the effective date of implementation, to give a fair and equitable representation of normal business handled by trainmen from the respective terminals.
3. In accordance with the above, BNSF will provide SMART-TD with the agreed upon test period data and SMART-TD will provide an Order of Selection List (OSL) that will govern the distribution of work in this pool.
4. If no Silsbee trainmen bids on a Silsbee allocated position in this pool, the position may be filled by a Longview trainman.
5. This will not prevent a Silsbee trainman from displacing to a Silsbee allocated turn at any time.
6. If there are no bidders for a position in this pool, the position will be force assigned to a Longview trainman in accordance with existing rules.
7. Silsbee trainmen will not be force assigned to any trainmen positions (assigned or unassigned) at Longview.
8. The parties agree to meet at least every twelve (12) months to review the distribution of work and determine whether the equity should be adjusted. Furthermore, this section shall not serve to prevent any representative from requesting more frequent meetings.
9. It is understood that this Side Letter does not establish any terminal equity arrangement or any other equity arrangement that does not exist prior to the effective date of this Agreement. This Side Letter is strictly for purposes of establishing work allocations for the new interdivisional pool.

## **Side Letter #2 – Extra Board Pool Protection**

If/when this interdivisional service does not handle enough traffic to warrant four or more pool turns, the pool turns for this interdivisional service may be protected by the Longview extra board upon a 10 days' written request by the SMART-TD General Chairman.

If/when the traffic later increases to the point this interdivisional can support four or more pool turns, the pools turns for this interdivisional service will bulletined for permanent assignments upon 10 days' written request by a BNSF Representative.

NOTE: This is not a one-time right to exercise; rather, it may be exercised by either party if/when the preconditions are met.

### **Side Letter #3 – Relocation**

This letter outlines the understanding reached in connection with the relocation benefits that are applicable for Silsbee trainmen working in Silsbee on or before August 1, 2018:

1. The relocation benefits as identified in Article XIII of the 1972 National Agreement.
2. In lieu of the benefits provided above, a \$12,000 allowance payable in three payments of \$4,000 at 12 months, 24 months and 36 months after the employee makes this election; provided, however, that the employee must, seniority permitting, hold a turn in this pool. In the event the employee fails to exercise seniority and hold the pool when seniority would permit, that employee shall forfeit any unpaid payments provided under this Section.
  - a. Additionally, employees selecting this option will be reimbursed for usual and customary closing costs for the sale of the employee's existing home and the purchase of the new home. BNSF will also pay reasonable costs for the move of household goods.
3. The total number of packages offered and accepted pursuant to the terms of this letter shall not exceed the highest number of Silsbee allocated turns in the pool. Additional packages will be made available if and when business levels increase, and additional Silsbee allocated slots are sustained for 90 days.
4. The Carrier will compensate the employee up to three basic days for the purpose of house hunting.
5. Trainmen awarded a relocation package to Longview may not be displaced by another trainman for three (3) years (measured from the effective date of this Agreement) unless that trainman cannot hold any position to which he is entitled (i.e. otherwise subject to furlough).
6. A trainman awarded relocation benefits to Longview and later displaced from the Longview pool due to normal business fluctuations and/or mileage regulation cannot be force assigned to Silsbee for a period of three (3) years from the time the trainman initially accepts the relocation benefits.
7. Subject to subsections (a) and (b) below, if an employee accepts any relocation benefits outlined in Items 1 and 2 above, the employee will be obligated to remain working in Longview for a period of three (3) years from the date a benefit is accepted so long as there is enough work in Longview for the employee to hold a position. If an employee voluntarily relocates from Longview within three (3) years from the date of acceptance of a relocation benefit, the employee will be obligated to repay BNSF the full amount of the relocation benefit accepted.
  - a. If a trainman cannot hold a position in the Longview pool, the trainman may voluntarily bid to a trainman's position at Silsbee; however, he/she must exercise seniority back to the Longview pool when a pool position becomes available or repay BNSF pursuant to Item 7.
  - b. While an employee remains under an obligation to repay BNSF in accordance with Item 7, if BNSF completely abandons the operation of this pool and there is no work remaining at Longview for the Silsbee trainman, a trainman who has accepted a relocation package can make a bona fide move back to Silsbee and remain entitled to the remainder of his/her relocation incentive, if any, without any obligation to repay BNSF pursuant to Item 7.
8. BNSF's obligation to offer the relocation benefits in accordance with this letter will end ten (10) years from the effective date of this Agreement. Further, the calculation of packages, as outlined in Item 3, shall not be increased should an employee fail to fulfill the obligations contained herein or subsequently relocate after fulfilling the obligations contained herein.
9. The Carrier has agreed to a one time offer for reverse lodging for Silsbee trainmen which have successfully bid to the newly formed pool. The employees will be allowed reverse lodging beginning for a thirty (30) day period measured from the effective date of this Agreement.