

1 MR. ROSS: I would like to call Michael Russell.

2 Whereupon,

3 MICHAEL RUSSELL,

4 a witness, was called for examination by counsel for the BLE and, having
5 been first duly sworn, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. ROSS:

8 Q Would you please state your name and spell your last name
9 for the court reporter, please?

10 A Michael L. Russell, R-u-s-s-e-l-l.

11 Q And Mr. Russell, what is your residence address?

12 A 1287 Limestone Road, Marysville, Kansas.

13 Q And by whom are you employed?

14 A Union Pacific Railroad.

15 Q And how long have you been employed by the Union Pacific?

16 A Nine years.

17 Q Nine years?

18 A Nine years.

19 Q Okay. Will you tell us a little bit of your background.

20 Where are you from?

21 A Graduated from Marysville High School in 1980; attended
22 college at Coffeyville Community College in Coffeyville, Kansas;
23 graduated from Kansas State University in 1985. After that, I briefly
24 tried out -- had a free- agent tryout with the Cincinnati Bengals. When
25 that didn't work out, I went into the livestock business with my father.

1 After that, I started working for the railroad.

2 Q So as I would understand it, you joined the railroad in
3 1990; is that correct?

4 A That's correct.

5 Q Do you remember the month?

6 A June of '90.

7 Q Do you --

8 A June 12.

9 Q June of '90?

10 A Yes.

11 Q When you joined the railroad, did you try to become an
12 engineer?

13 A When I was hired on the railroad, they were hiring brakemen
14 and switchmen at the time.

15 Q So what did you start your career on the Union Pacific -- in
16 what position?

17 A I started my career -- my seniority date would be June 12th
18 of '90, and I had a brakeman-switchman seniority date at that time.

19 Q Did you join a union when you became a brakeman?

20 A Yes.

21 Q What was that union?

22 A United Transportation Union.

23 Q Would you briefly describe your duties as a
24 brakeman-switchman with the Union Pacific?

25 A As a -- well, as a brakeman, you basically will -- at that

1 time, rode freight trains between terminals, performed any duties such
2 as line and switches, coupling air hoses, participated in airbrake tests
3 or making pickups or setouts on line.

4 Q Now, you indicated, at that time, there was a brakeman on
5 the trains that you rode.

6 A Correct.

7 Q Do you mean to indicate by that that something changed after
8 you were employed on the Union Pacific in regard to brakemen?

9 A Right. I'm not positive of the date, but subsequent to my
10 hiring with Union Pacific, they have reduced the size of the train crews
11 from a conductor and a brakeman, sometimes two brakemen, to just a
12 conductor.

13 Q Is that true on all trains or just some of the trains?

14 A All through-freight trains. Locals still have one brakeman
15 and a conductor on them, I believe.

16 Q So on those ones that you just mentioned, you would have a
17 three-man crew, an engineer, a conductor and a brakeman, is that right?

18 A Right.

19 Q Okay. Now, how long did you remain a brakeman?

20 A I was a brakeman until I started training to be an engineer
21 in January of '93.

22 Q Prior to beginning your training as an engineer, did you
23 work in any other capacity on the Union Pacific?

24 A Until -- no, I didn't.

25 Q Did you -- were you promoted to conductor at any time?

1 A At the time I was promoted to conductor, I was in the
2 process of training to be a locomotive engineer.

3 Q I see. So you didn't become a conductor until after you
4 began your engineer training?

5 A Yes.

6 Q Let's -- did you work as a conductor after you received your
7 conductor's date?

8 A I -- a couple times after I had qualified as an engineer and
9 then was cut back to train service, and I worked as a conductor.

10 Q Well, as a conductor, what were your duties?

11 A The duties of a conductor are basically the same as a
12 brakeman with the exception of the gathering of paperwork before the
13 tour of duty, the handling of paperwork after you have made a pickup and
14 setout, and things of that nature.

15 Q Now, in either of those cases, as a brakeman or a conductor,
16 were you required to receive a certificate under the FRA regulations or
17 -- FRA certificate?

18 A Not to my knowledge.

19 Q Did you have any special training programs or test that you
20 had to take to become a brakeman?

21 A Well, we had a rules exam to take before we were turned
22 loose or started our working --

23 Q So you had a rules exam before you started to work as a
24 brakeman?

25 A Right.

1 Q As a conductor, were there any special tests or training
2 programs that you had to enter into before you were promoted to
3 conductor?

4 A We had to take another exam, a conductor's exam, and in
5 addition to that, we were required to take a computer class dealing with
6 -- it's called ATCS training. It had to do with making pickups and
7 setouts and doing it on a computer instead of calling St. Louis Service
8 Center.

9 Q Who qualified you as a conductor?

10 A When I became a conductor, I was qualified after I passed
11 the test.

12 Q Engineer test -- or the conductor test?

13 A Right.

14 Q Okay. Now, what procedure did you follow to enter into the
15 engineer's training program while you were working as a brakeman on the
16 Union Pacific?

17 A The Union Pacific came out with a bulletin that said that
18 they were opening a class for I believe twelve people to -- for
19 through-freight engineer service between Marysville and Kansas City, and
20 I called the CMS bid clerk and notified them that I wanted to put my
21 name on the bid sheet, and when the bid came down, I had enough
22 seniority to hold it, so I was able to enter the program.

23 Q When was that bulletin posted by the Union Pacific?

24 A It was I believe first to the middle of October in '92.

25 Q So in '92, you put -- you saw the bulletin and you applied

1 for the job.

2 When were you accepted into the engineer's training program?

3 A I was accepted soon after the bulletin came out, but it was
4 my understanding that there were only so many slots available at the
5 training center for us to start our training, so we weren't able to
6 start training then until January.

7 Q Of 1993?

8 A Yes.

9 Q And how many people were in your engineer training class?

10 A Twelve.

11 Q Did -- to your knowledge, did all of the individuals who
12 entered the training class follow the same application process that you
13 had followed?

14 A Yes.

15 Q Do you know of any person working as an engineer who did not
16 voluntarily apply to become -- enter one of these engineer training
17 classes and become an engineer?

18 A I don't know of any, no.

19 Q Are they ever in need of additional people to as applicants
20 enter the engineer training program?

21 A Every time since I've been on the railroad that they have
22 wanted applicants to go into engine service, they have had more than
23 enough applicants.

24 Q On your territory; is that what you're --

25 A That I would, yes, that I would know about.

1 Q What is the territory that you hold seniority on?

2 A The territory I have seniority on runs from Kansas City to
3 Marysville, Kansas, and now it encompasses the Kansas City hub and
4 spoke.

5 Q Is there a formal name, if you can remember it, as to that

6 --

7 A Well --

8 Q -- seniority district?

9 A Right now, I believe it's called Zone 2 in the Kansas City
10 hub. At that time, it was the 8th District on the Eastern District of
11 the Union Pacific Railroad.

12 Q Could you briefly describe the training program that you
13 attended to become a locomotive engineer?

14 A Okay. In January -- well, after we were notified we were
15 accepted in the class, then we were asked to determine or find an
16 engineer that we would like to train with. After we found a person that
17 we wanted to train with, then we asked them; they accepted or declined.
18 We started running trains with them as our direct supervisor for
19 approximately four months. We would go -- every time this particular
20 engineer would be called out, I would go with him, I would come home
21 with him, for four months.

22 After that time, we were sent for classroom training in Salt
23 Lake City, which lasted approximately four weeks, and then subsequent to
24 that, when we came home, we were then marked back up with that engineer
25 and continued training for a period of close to a month, maybe five

1 weeks, something like that.

2 Q Okay. So that comprised your training.

3 A Right.

4 Q Now, while you were at the Salt Lake City training school,
5 what kind of training did you receive?

6 A Okay. At Salt Lake City, we were given tests again on rules
7 compliance, safety compliance, airbrake tests, mechanical. Let's see.
8 Mechanical. We were given instruction on train handling, integrated
9 parts of the airbrake system on a train. We were given simulator
10 training. We were given training in engine inspection. We were quizzed
11 on these things every day with the opportunity to go back and correct
12 any mistakes that we might make on our quizzes, and we had a final exam
13 at the end.

14 Q Did you also have any kind of examination as to your
15 simulator handling?

16 A We were graded on our simulators.

17 Q Graded on that.

18 What type of materials did you study off of? Were they all
19 written or were there other kinds?

20 A We were provided with course videos, pamphlets, manuals,
21 oral and visual aids, things of that nature.

22 MR. ROSS: I would like to at this time have marked as BLE
23 Exhibit Number 19, I --

24 MS. VIRK: Sixteen.

25 MR. ROSS: 16?

1 [BLE Exhibit Number 16 was marked for
2 identification.]

3 BY MR. ROSS:

4 Q Mr. Russell, I have handed to you what has been identified
5 as BLE Exhibit Number 16, which carries a Union Pacific medallion on the
6 face of it, and underneath it it says, "Fuel conservation and train
7 handling." And if you turn to the second page, you will see it says,
8 "Table of Contents, December 14, 1990." Are you familiar with this guide
9 or manual?

10 A Yes, I am.

11 Q Did you receive a guide or manual similar to this while you
12 were at the training school?

13 A Yes.

14 Q And that is the -- one of the materials that was passed out
15 to you at the training school that you had to study?

16 A That is correct.

17 Q And were you examined in various ways concerning the subject
18 matter in that manual?

19 A Yes, we were.

20 Q To your knowledge, are you -- do you continue to be examined
21 on subjects such as this by the Union Pacific?

22 A Yes, periodically, we will have simulator training on
23 property or training in fuel conservation, things like that.

24 Q Do any of the train service employees, like the conductors,
25 have to study similar subjects like train handling and fuel

1 conservation?

2 A Not that I know of.

3 Q Did you ever do that as a conductor?

4 A No.

5 Q Okay. Do conductors or trainmen take classes on train
6 handling and fuel conservation?

7 MR. MILLER: I am going to object to the point of the
8 question as being very leading through this area?

9 MR. ROSS: I don't think it is leading. I am just asking
10 him did he do it.

11 MR. MILLER: And that requests affirmation or negation,
12 which is the definition of a leading question.

13 HEARING OFFICER MANSFIELD: I am going to let him do it. I
14 am overruling the objection.

15 BY MR. ROSS:

16 Q Are you aware of conductors having classroom work and being
17 tested on this subject matter?

18 A No.

19 Q Let's go fast forward for the record, if we may. You
20 indicated that you have training -- now that you have become an
21 engineer, you do have training classes.

22 A Correct.

23 Q What type of materials are distributed to -- or what type of
24 materials are used during those training classes?

25 A Pamphlets like this, videos and other things.

1 Q So there are videos that are used?

2 A Yes.

3 Q Are there any videos that you are aware of that are used in
4 regard to mechanical inspection?

5 A Yes. We have had a video on locomotive inspection and
6 mechanical stuff.

7 MR. ROSS: At this time, Madame Hearing Officer, what we
8 would like to do, introduce through this witness, is the videotape that
9 we have obtained from the Union Pacific and to show it at this time.

10 HEARING OFFICER MANSFIELD: Okay. Let's wait a second. Do
11 you want to move for receipt of BLE 16?

12 MR. ROSS: Yes, we do.

13 HEARING OFFICER MANSFIELD: Do you have any objection?

14 MR. MILLER: No objection.

15 HEARING OFFICER MANSFIELD: Okay. BLE 16 is received.

16 [BLE Exhibit Number 16 was received into
17 evidence.]

18 HEARING OFFICER MANSFIELD: Would you like to mark as BLE 17
19 the written version of the videotape?

20 MR. ROSS: Yes. And I believe that we have supplied that.

21 HEARING OFFICER MANSFIELD: Yes, you have. And I think it is
22 actually in one of the notebooks. When you supplied it, it went in to

23 --

24 MR. COHEN: Is that the prehearing conference you asked for
25 it? We told you we were going to do it, and then we sent it.

1 HEARING OFFICER MANSFIELD: Yes. You did send it, but I
2 thought it was for --

3 MR. COHEN: Did we put it in the binder? We did not put it
4 in the binder.

5 HEARING OFFICER MANSFIELD: Okay. Now, I have it.

6 MR. COHEN: We wanted some extra special surprises for
7 everyone.

8 HEARING OFFICER MANSFIELD: So that will be marked as BLE
9 17, the written version of the --

10 MR. COHEN: Yes.

11 HEARING OFFICER MANSFIELD: Well, wait. Not to get ahead of
12 you, but why don't we mark the transcribed version as 17-A and the video
13 itself as 17-B.

14 [BLE Exhibits Number 17-A and 17-B were
15 marked for identification.]

16 MR. ROSS: That's fine.

17 HEARING OFFICER MANSFIELD: And you would not like to watch
18 the video?

19 MR. ROSS: Yes.

20 HEARING OFFICER MANSFIELD: Do you have any objection to
21 viewing the videotape?

22 MR. MILLER: Well, I may not be present for the entire time,
23 but it may be shown, of course.

24 HEARING OFFICER MANSFIELD: Okay.

25 MR. LINSEY: Can we eat peanuts during this presentation?

1 HEARING OFFICER MANSFIELD: Well, I actually prefer popcorn
2 at the theater. Okay. Let's proceed then with the showing of the
3 videotape.

4 Will you turn the lights down? So long as everyone behaves.

5 THE REPORTER: Do want the transcript to continue during the
6 video?

7 HEARING OFFICER MANSFIELD: Wait a second. Can we -- wait,
8 before we turn the lights down. Excuse me. Wait, before you do the
9 video. Do you want him to transcribe the videotape?

10 MR. COHEN: No.

11 HEARING OFFICER MANSFIELD: I don't think that is necessary.
12 Actually, we can go off the record for the showing of the videotape. We
13 already have a transcription of the videotape, so you can enjoy the
14 movie.

15 [Recess to show videotape.]

16 HEARING OFFICER MANSFIELD: Okay. Let's go back on the
17 record.

18 BY MR. ROSS:

19 Q As I understand what you stated prior to the video going on,
20 that one of the subjects at the Salt Lake City training center, and also
21 at subsequent classes that you have taken after you became a locomotive
22 engineer, cover locomotive inspection, is that right?

23 A That's correct.

24 Q Okay. And during the course of those classes or courses,
25 have you ever seen this video?

1 A Yes.

2 MR. ROSS: At this time I would like to have the video and
3 the video transcript received into evidence.

4 HEARING OFFICER MANSFIELD: Okay. BLE has moved 17-A and
5 17-B into evidence. Do you have any objection?

6 MR. MILLER: No objection.

7 HEARING OFFICER MANSFIELD: Okay. 17-A and 17-B is received.

8 [BLE Exhibits Number 17-A and 17-B were
9 received into evidence.]

10 BY MR. ROSS:

11 Q Let's go back to the training school again. What kinds of
12 tests did you have while you were at the training school?

13 A We were tested daily on the information that we covered each
14 particular day on the subjects that I mentioned before, air brakes,
15 train handling, mechanical. And we were given these tests, had a period
16 of time to complete them. They were taken up, graded. We were given a
17 chance to correct anything that we didn't get right.

18 Q Was there any particular score that you had to have on those
19 examinations?

20 A We had to receive 85 percent on the final test in order to
21 pass it.

22 Q If you failed to get that 85 percent and, therefore, didn't
23 pass the test, what occurred?

24 A Well, it was my understanding if you didn't achieve a score
25 of 85 percent or more on the test, you obviously didn't pass it, and you

1 were required to come back at a later date at your own expense, and try
2 it. I believe you had one more test -- one more chance, I am not
3 positive.

4 Q Well, obviously, you passed the first time?

5 A Yes.

6 Q So you don't know, but what would happen, according to what
7 you just said, if the individual didn't pass it the second time?

8 MR. MILLER: Well, I am going to object. That would be
9 speculation on his part.

10 HEARING OFFICER MANSFIELD: Sustained.

11 BY MR. ROSS:

12 Q Well, how long did the phase at the Salt Lake City training
13 school last?

14 A Approximately four weeks.

15 Q Was there any additional training after that before you
16 became an engineer?

17 A Yeah. When we were finished at Salt Lake, we came back and
18 marked up with an engineer again.

19 Q Okay. At what point then did you become qualified as an
20 engineer and receive your certificate?

21 A I was qualified on June 28th of '93 after a Manager of
22 Operating Practices rode with me each way on our run and determined that
23 I was capable of performing the job.

24 Q What kind of certificate, if any, did you receive at that
25 time?

1 A Well, I received a license afterwards, that was my trip to
2 see if I was qualified to be licensed as an engineer, locomotive
3 engineer.

4 Q And when did you become certified so that you could operate
5 as a locomotive engineer?

6 A Twenty-eighth of June.

7 Q Okay. When you became a brakeman, or when you became a
8 conductor, did you receive any kind of a certificate to indicate that?

9 A Just a rules card that said we passed the rules, but nothing
10 -- no license.

11 Q Were you allowed to operate any locomotives or be an
12 engineer on a train assignment before you received your engineer
13 license?

14 A You have to be licensed to operate a locomotive.

15 Q And do you know what causes you -- what places that
16 requirement into effect to have a license before you can --

17 A Federal regulations state that you must be licensed to
18 operate a locomotive, and UP rules also state that.

19 Q Now, is the date that you received as a locomotive engineer
20 the same date you had in train service?

21 A No.

22 Q What seniority date governs your assignments and working
23 conditions as an engineer?

24 A The June 28th date of '93.

25 Q That is your engineer's date?

1 A Correct.

2 Q What seniority date governs your location, or home location
3 as a locomotive engineer?

4 A The June 28th date.

5 Q Does that June 28th date govern any other working conditions
6 or concerns that you might have as a locomotive engineer?

7 A Well, it governed my position on my seniority roster also.

8 Q After you became an engineer, did you continue your
9 membership in the United Transportation Union?

10 A For a short time.

11 Q And when did you become a member of the BLE?

12 A I believe it was around April of '94.

13 Q Now, although you had received a certificate as an engineer,
14 did you work as an engineer immediately after you received that
15 certificate?

16 A No, it took approximately six months for me to attain the
17 seniority that I needed in order to hold a job as an engineer.

18 Q During that period of time, what did you do?

19 A During the period of time that I couldn't work as an
20 engineer, I was cut back to train service, and I worked wherever I
21 could, which the majority of the time seemed to be Council Bluffs, Iowa.

22 Q As a trainman?

23 A Correct. Well, I was a switchman in the yard. Yeah.

24 Q And how long did work in Council Bluffs?

25 A Oh, on and off for the six months.

1 Q For that entire six month period?

2 A Uh-huh.

3 Q And then what happened after the --

4 THE REPORTER: Was that a yes?

5 THE WITNESS: Excuse me?

6 THE REPORTER: The entire six month period?

7 THE WITNESS: On and off.

8 THE REPORTER: Please answer yes or no.

9 HEARING OFFICER MANSFIELD: You have to -- you said uh-huh.

10 You have to say yes or no.

11 THE WITNESS: Oh, I am sorry. What was the question?

12 THE REPORTER: For the entire six month period?

13 THE WITNESS: It wasn't for the entire six month period, but
14 on and off during that six month period, I did.

15 Is that good enough?

16 HEARING OFFICER MANSFIELD: That's fine.

17 THE WITNESS: Okay.

18 BY MR. ROSS:

19 Q When it was off during that six month period, did you work
20 elsewhere?

21 A Yeah, I worked in Marysville for a while, Council Bluffs for
22 a time, wherever I could obviously work to get a pay check to pay the
23 bills.

24 Q Okay. And was that always in train service, or did you have
25 some assignments as an engineer?

1 A There were times when they would add back to the engineers
2 board in Kansas City and then I would be taken to Council Bluffs and put
3 on the engineers board, or a board on the 8th District, I should say.

4 Q Could you bid on a train service job at any time that you
5 could hold your seniority as an engineer, entitle you to a job as an
6 engineer?

7 A If I can work as a locomotive engineer, I have to work as an
8 engineer.

9 Q And are you required to exhaust your engineer seniority
10 before you can bump back into train service?

11 A Yes.

12 Q At the end of this six-month period that we're talking
13 about, sometime in 1993, would that be about June or July '93, did you
14 obtain a regular engineer's assignment?

15 A I was able to hold a regular engineer assignment in January
16 of '94. I was qualified in June of '93. In the six months' period I
17 couldn't. I was finally able to hold one in January of '94.

18 Q And what was that assignment?

19 A It was an eighth district extra board. I believe it was in
20 Topeka, but I'm not positive.

21 Q Do you currently have a regular assignment as a locomotive
22 engineer?

23 A Yes.

24 Q And what is that assignment?

25 A I work on a -- it's called a Jeffrey Energy Pool out of

1 Marysville, Kansas. It's a local. It takes loaded coal trains down to
2 a powerplant, dumps the coal, and returns to Marysville with the train.

3 Q And approximately how long have you held that job?

4 A I believe it's three years now.

5 Q What are the other members of the crew on that run?

6 A We have a conductor and a brakeman are the other two
7 members.

8 Q Do you work with the same conductor and the same brakeman
9 every day?

10 A No, I -- the jobs that they have are sometimes different
11 than ours, so they have seven conductors. Each one has a brakeman.
12 They're always together. And it just works out at times that the pools
13 will move separately, so we work with different people from time to
14 time.

15 Q I'd like to go through your daily duties and
16 responsibilities. What responsibilities if any do you regularly perform
17 before you move the train?

18 A Well, I'll just -- when I come to work, I obviously have to
19 look over my track warrants and track bulletins to see what is in there
20 that's going to affect the movement of my train. I'll go through that
21 and check it all out, write it down, kind of formulate a plan in my head
22 as to what's -- where it is on my run.

23 Then when the train arrives, I'll take my stuff and head out
24 to the train. And as I go to the train, I usually like to look over the
25 engines as I'm approaching them just to see if it's the kind of power

1 that I think it is by the numbers, because we get a printout of the
2 consist of our train before we get work, so I'll look that over on the
3 way.

4 When I get to the train I'll usually get on board, of course
5 put my bag down. Then I need to check cards and inspection dates. I'll
6 check the blue card, see if the engine's due a periodic inspection.
7 I'll check a cab signal card, which is something that's kind of isolated
8 to our Marysville sub. And then I will check the daily inspection card
9 on the locomotive to see if they're in date.

10 Q What if the daily inspection card is not in date, as you
11 say?

12 A Well, if it looks like that I'm going to need to inspect the
13 engines before my tour of duty is over, I will usually -- well, I'll
14 have to contact the dispatcher and let him know. He will either tell me
15 do it now or do it downline somewhere.

16 Q What if he tells you to do it then? Is that inspection a
17 lot like what took place in the video?

18 A Yes, exactly.

19 Q And let's say that in doing that inspection you have three
20 cars that you have to -- or locomotives that you have to inspect.
21 Approximately how long does it take to do the inspection?

22 A Well, depending on the time of day and the weather
23 conditions, you can -- it can take anywhere from 15 to 30 minutes per
24 locomotive.

25 Q So if you had three locomotives on which the daily

1 inspection report was going to run out while you were on the trip or you
2 thought so, and the dispatcher thought you had sufficient time to
3 conduct the inspection, it would take you about an hour and a half to do
4 that?

5 A Yes, somewhere in that area.

6 Q Did you ever inspect one of these locomotives when you were
7 a brakeman?

8 A No.

9 Q Did you ever inspect a locomotive when you were a conductor?

10 A No.

11 Q To your knowledge, are conductors or brakemen responsible
12 for performing the daily locomotive inspection?

13 A No, they aren't.

14 Q Are they qualified to do that kind of an inspection?

15 A No.

16 Q Why aren't they qualified to do that?

17 A Well, you have to be a qualified locomotive engineer to
18 inspect them.

19 Q Does the carrier permit them to do the inspection if they're
20 qualified?

21 A No, they don't, and I don't believe -- I think it's
22 federally regulated as to who will inspect the locomotives.

23 Q It's the engineer?

24 A Yes.

25 MR. MILLER: I move to strike, because the answer is

1 speculative.

2 HEARING OFFICER MANSFIELD: We will strike that last
3 response.

4 BY MR. ROSS:

5 Q Well, what happens if during an inspection, one of these
6 inspections that you conduct, that something isn't working right, like
7 on the locomotive? What would you do?

8 A If I find a noncompliant condition, it's my job as an
9 engineer to determine whether that renders the locomotive unsafe to use
10 for power. I have to make that determination. And if I find a
11 noncomplying condition, I have to note it on the cards that of course
12 are on the video and let the dispatcher know as to whether I think it's
13 safe to use for power or we need to set it out, or if it's safe to just
14 ride along dead in consist or isolated.

15 Q Well, what are the kinds of noncomplying conditions that in
16 your judgment would render the locomotive not safe to move?

17 A Well, not safe to move anywhere would be a cracked wheel or
18 something dragging on the ground. Something that I wouldn't use the
19 locomotive for power for would be not depositing sand on the rail or
20 smoke, excessive smoke, excessive oil in the engine compartment, things
21 like that.

22 Q If you relay that information to the dispatcher, what
23 normally occurs after that?

24 A Normally he'll -- I'll tell him I have this problem on such
25 and such a train, and I don't think we should use it for power, I'm

1 going to isolate it and tag it, and he'll say fine, and we'll proceed
2 from there.

3 Q Have you ever had to take a locomotive out from your
4 locomotive consist and leave it where you were?

5 A Yes.

6 Q And the dispatcher has approved that?

7 A Yes.

8 Q What happens if you start a run and you determine that a
9 locomotive engineer has a serious problem?

10 A Well, again it's -- you have to make a decision to see
11 whether you can use the locomotive --

12 MR. ROSS: I'm sorry, I said locomotive engineer?

13 HEARING OFFICER MANSFIELD: No.

14 MR. ROSS: I meant to say locomotive engineer.

15 HEARING OFFICER MANSFIELD: I figured.

16 THE WITNESS: If I find a condition that develops enroute, I
17 have to again decide whether it's going to affect safe operation of that
18 train, whether this locomotive can be moved, whether it can be used for
19 power, or whether I have to isolate it.

20 BY MR. ROSS:

21 Q Have you ever been in the situation where you had an
22 emergency like that?

23 A Yes. Well, a couple times. One time I had a locomotive that
24 we began to smell diesel fuel. We couldn't figure out where it was
25 coming from. We stopped the train. After investigating farther, found a

1 fuel line that had come loose and was spewing fuel all over.

2 We shut the locomotive down and I contacted the dispatcher
3 and told him that I didn't believe that we could safely continue on a
4 run with this train, but since we were blocking the main line, I told
5 him that I thought, taking into consideration the number of crossings we
6 had to cross and things that we could safely move it to the next siting
7 at restricted speed, and he concurred and that's what we did.

8 Q Now that you have gone through your inspections and you have
9 gotten out there on the road, just describe for us what your duties and
10 responsibilities are as an engineer in a typical daily run.

11 A Besides these other things and monitoring the air brake
12 gauges and the amp meters and stopping at the red signals or controlling
13 the speed of my train and the slack, I think the train handling is
14 probably the most important thing to an engineer that probably sets us
15 apart from anyone and we are given -- well, this exhibit here, Train
16 Handling and Fuel Conservation --

17 Q You are referring to BLE Exhibit 16?

18 A Exactly.

19 Q Okay.

20 A We are given these methods and ways to handle our train, but
21 when we are out in the field it's strictly up to the engineer as to how
22 he wants to handle his train.

23 Let's just say an intermodal train, you are not going to use
24 the same techniques handling it that you would a loaded coal train or a
25 train that might handle one way in the summertime, you might use a

1 different technique to handle the speed and braking of that in the
2 winter.

3 On a clear day you might use different techniques than you
4 would on a rainy day. There's just -- the one thing that sticks out in
5 my mind from my training was every engineer I talked to would tell me
6 the spiel of "Every train handles different" and I thought, well, these
7 guys are nuts, but once you become an engineer and set over there you
8 realize that it is important as to how you handle these trains and just
9 because you have a certain train makeup or consist you are going to have
10 to make decisions affecting that through your whole trip.

11 Besides running the train, you have to be aware of what is
12 happening down the road, what -- you can't just stop a 60-mile-an-hour
13 coal train in 100 feet. You have to be ready to stop at two miles in
14 front, so you have to be continually updating the factors involved with
15 running the train and just stay fluid.

16 You have to know what the guy in front of your is doing, say
17 if he is climbing a hill, you have to be aware that you need to come off
18 the throttle because you are going to run up behind him.

19 There are just numerous, numerous decisions that affect the
20 way you handle the train, and obviously I can't set up here and convey
21 that to anyone that has never run a locomotive, but I think anyone that
22 would -- anyone that would want to know what it takes to handle a train,
23 their best bet would be to ride on a train and perhaps see how it's done
24 and talk to the engineer, see what he is thinking at each particular
25 time.

1 So I don't know if I explained it well enough, but --

2 MR. ROSS: I don't know. Does the Hearing Officer want to go
3 out and ride on the train?

4 HEARING OFFICER MANSFIELD: Not at the moment. Let's finish
5 the hearing.

6 THE WITNESS: You are welcome to come to Marysville if you
7 would like to.

8 HEARING OFFICER MANSFIELD: Well, I have always wanted to go
9 to Marysville, but I think I'll hold up for now.

10 [Laughter.]

11 BY MR. ROSS:

12 Q In your testimony you indicated that there was a difference
13 between an intermodal freight train and a coal train.

14 A Right.

15 Q What is the big difference there?

16 A Well, there's a huge differential in weight and sometimes
17 length and you might have a 7500 foot intermodal train that weighs 3,000
18 tons but you might have a 6,500 foot coal train that weights 17,000
19 tons, and you have to draw upon your experience, the things that you
20 learned.

21 You know, the things that I have learned in my six years as
22 a locomotive engineer I am continually drawing from those, and at the
23 same time I am drawing from the things that have happened six, seven
24 minutes ago that have happened with this particular train, so they can
25 give us this manual but you can't set this manual on a stand and run a

1 train by it. It's experience and feel and things like that.

2 Q Now I gather -- you used a word when you were testifying.
3 The word was "slack." What does that mean?

4 A Slack is the -- picture an accordion and that is how a train
5 is moving as you move down the railroad. You might have one part of your
6 train stretched up over hill and another part of your train coming in
7 behind you on the back. You have to be aware of that at all times.

8 It is the differential in length that the train is going to
9 be at all times.

10 Q What is the importance of that, though, to you as the
11 engineer? What could happen if you have, let's say, too much slack?

12 A Well, if you don't stay on top of a lot of trains through
13 undulating territory, you can tear the train in two. It's called
14 getting a knuckler, a draw bar -- or cause a derailment.

15 Obviously you learn as you go over your territory there are
16 certain ways to handle a train through certain parts of your territory
17 but then again, that is going to change daily in tune with the kind of
18 training that you are running on that particular day.

19 Q During the course of this operation that you describe, where
20 is the conductor on your train?

21 A Sitting over on the left side.

22 Q Does he have any controls that he can manipulate while he is
23 riding?

24 A Well, there is the emergency brake valve.

25 Q Can he touch the throttle or the braking devices other than

1 the emergency brake?

2 A No.

3 Q I gather that this operation in part is governed not only by
4 your own personal allowance after being out on the job, but by these
5 train handling rules, right?

6 A Correct.

7 Q Do those rules, train handling rules, apply to the
8 conductors and brakemen?

9 A There are train handling rules in the rulebook, but as far
10 as being trained to handle a train, they are not trained.

11 Q Are you familiar with the Federal Railroad Administration
12 regulations governing your certification as a locomotive engineer?

13 A Yes.

14 Q What effect do those regulations have on your day-to-day
15 life as a locomotive engineer?

16 A Well, my livelihood exists with the license that I carry.
17 If I go through a red signal or enter the main track without authority
18 or exceed my maximum speed by over 10 miles an hour, I am subject to
19 having my license removed.
20 And thus my income.

21 Q And that's what?

22 A The end of my income.

23 Q In your experience, can a conductor operate the locomotive?

24 A Not unless he's a qualified engineer that's cut back to
25 train service. And only then under my supervision.

1 Q And you say only then and along with your supervision?

2 A Yes.

3 Q Could he automatically do that himself?

4 A No, he has to get the permission of the engineer on duty in
5 order to run the train.

6 Q And why is that?

7 A UP and Federal regulations

8 Q So the UP has a rule that doesn't --

9 A Right.

10 Q Permit him to do that unless you permit it as the engineer.

11 A Right.

12 MR. ROSS: At this time I'd like to introduce or have moved
13 into evidence BLE Exhibit 16, the train-handling manual. I was told
14 that I hadn't done that.

15 HEARING OFFICER MANSFIELD: I think 16 was placed in
16 evidence already.

17 MR. ROSS: Oh, I'm sorry. I'm sorry. I see what that
18 meant.

19 If the hearing officer and the parties would look at binder
20 I, Roman II -- tab 2, you'll see behind there a document called "Union
21 Pacific air brake and train handling rules."

22 HEARING OFFICER MANSFIELD: Do you want this marked as BLE
23 18?

24 MR. ROSS: BLE 18.

25 [BLE Exhibit No. 18 was marked for

1 identification.]

2 BY MR. ROSS:

3 Q I'm going to hand that to you, Mr. Russell.

4 You had mentioned that there -- during your testimony a
5 couple of questions ago that all the employees are governed by a set of
6 air brake and train handling rules. Is that right?

7 A That is correct.

8 Q And saying that, is this the document that you were
9 referring to that contains those rules?

10 A Yes. Yes.

11 Q And what sections in there -- are all the sections in there
12 applicable to the locomotive engineers?

13 A Yes.

14 Q Are all the sections in there applicable to conductors?

15 A Well, I would -- there are sections in there that the
16 conductors wouldn't need to know, but as far as testing
17 responsibilities, I would assume that they would have to -- if they were
18 tested on it, they would have to know.

19 Q Okay.

20 MR. ROSS: At this time I would like to move that document,
21 BLE Exhibit 18, into evidence.

22 HEARING OFFICER MANSFIELD: Any objection?

23 MR. MILLER: No objection.

24 HEARING OFFICER MANSFIELD: BLE 18 is received.

25 [BLE Exhibit No. 18 was received into

1 evidence.]

2 MR. ROSS: I tender the witness for cross.

3 HEARING OFFICER MANSFIELD: Actually, before you
4 cross-examine, I have a couple of questions for the witness.

5 You said that at one point you were smelling diesel fuel
6 while your engine --

7 THE WITNESS: Correct.

8 HEARING OFFICER MANSFIELD: While you were on a run, and you
9 said we had to figure out where it came from.

10 When you said we, are you including the conductor and the
11 other people in the consist?

12 THE WITNESS: It was the conductor and myself, and we were
13 looking around, we thought we had stepped in diesel fuel when we left
14 the terminal. I stopped the train, exited through the rear door, and
15 began checking things out.

16 HEARING OFFICER MANSFIELD: Right. And did the conductor
17 also check things out?

18 THE WITNESS: I don't believe he did. I'm, you know, that
19 was several years ago, so --

20 HEARING OFFICER MANSFIELD: So are you saying you don't
21 recall?

22 THE WITNESS: I don't recall if he found it or --

23 HEARING OFFICER MANSFIELD: And when you say you regularly
24 look at track warrants and track bulletins --

25 THE WITNESS: Um-hum.

1 HEARING OFFICER MANSFIELD: Can you explain to me what a
2 track warrant is?

3 THE WITNESS: Well, the track -- when we come to work we're
4 given a track warrant which lists all the bulletins and form A, B's, and
5 C bulletins that will affect the movement of our trains. We call them
6 track warrants.

7 HEARING OFFICER MANSFIELD: So it would say if there's a
8 problem on the track you're running that day?

9 THE WITNESS: Correct. It would list any slow orders or --

10 HEARING OFFICER MANSFIELD: Okay.

11 THE WITNESS: Work that was being performed.

12 HEARING OFFICER MANSFIELD: Right. And do conductors also
13 receive copies of track warrants and track bulletins?

14 THE WITNESS: Oh, yes. Yes.

15 HEARING OFFICER MANSFIELD: Okay. I have no further
16 questions at this time.

17 CROSS EXAMINATION

18 BY MR. MILLER:

19 Q Mr. Russell, my name's Clint Miller. I'm general counsel to
20 UTU, and I just have a few questions for you.

21 To begin with, when you went into engineer training, it was
22 the UTU 1972 training agreement which in part governed your training
23 with respect to compensation and other matters, did it not?

24 A Well, I'm not positive what agreement it was.

25 Q So you don't know what agreement.

1 A I hired out in 1990, so I'm not -- I'm not sure about a '72
2 agreement.

3 Q You don't know what agreement governed when you were in
4 training. Is that right?

5 A No, I wouldn't.

6 Q Okay. When you have to decide, as you say you have, to take
7 an engine out of your consist because it fails to pass the engine
8 inspection --

9 A Right.

10 Q You need the conductor to help you take that engine out of
11 the consist, don't you?

12 A Obviously, yes.

13 Q Yes. And the conductor is equally responsible for the
14 information contained on the track warrants and track bulletins, isn't
15 he?

16 A Yes.

17 Q The conductor supervises the operation and administration of
18 the train, doesn't he?

19 A The train meaning the -- behind the last engine? Is that
20 what you mean by the train?

21 Q I'm reading the carrier's operating rule. That's what it
22 says. And all persons employed on the train must obey the conductor's
23 instructions unless the instruction endangered a train's safety or
24 violates the rules, right?

25 [Pause.]

1 Let me show you what's been entered previously as Exhibit
2 8-J, which are excerpts from the operating rules of Union Pacific
3 Railroad.

4 HEARING OFFICER MANSFIELD: Is that a BLE exhibit?

5 MR. MILLER: NO, it's UTU Exhibit 8-J.

6 BY MR. MILLER:

7 Q Do you see the two sentences I read there?

8 A Yes, but I see down there also it says the conductor must
9 consult the engineer, who will be equally responsible for safe and
10 proper handling.

11 Q A fair point.

12 When you pass signals, do both the engineer and the
13 conductor call out the aspect to each other?

14 A Yes.

15 Q Have you ever had a situation where you and your conductor
16 disagreed as to what the signal aspect was?

17 A No.

18 Q Did you do likewise when you served as a conductor?

19 A Call out signals?

20 Q Correct.

21 A Yes.

22 Q Do you know what seniority date you have governs your
23 vacation as to its length?

24 A I believe it's the date I hired out on Union Pacific.

25 Q So it's your brakeman date that governs your vacation?

1 A Correct.

2 MR. MILLER: I have no further questions.

3 THE WITNESS: Okay.

4 HEARING OFFICER MANSFIELD: I just have one more question
5 that I thought of.

6 MR. MILLER: Okay.

7 HEARING OFFICER MANSFIELD: On the videotape, it said that
8 if a mechanical employee is not available, --

9 THE WITNESS: Correct.

10 HEARING OFFICER MANSFIELD: -- the engineer needs to perform
11 the inspection.

12 THE WITNESS: Right.

13 HEARING OFFICER MANSFIELD: Does that mean that a -- if a
14 mechanical employee is available, that that person performs the
15 inspection?

16 THE WITNESS: Yes. Usually in the bigger terminals such as
17 Kansas City and North Platte, they will have mechanical forces on duty.

18 HEARING OFFICER MANSFIELD: And they would perform the
19 inspection?

20 THE WITNESS: Usually, unless they're too busy, and at that
21 point, the engineer will normally be told to inspect his engines. You
22 know, with 80 or 100 trains coming into a terminal, they're not going to
23 have enough people to do it.

24 Now, in Marysville, we don't have any mechanical forces, so
25 any inspections that are needed to be done up there will fall to the

1 engineer.

2 HEARING OFFICER MANSFIELD: Okay. And just so I'm clear,
3 when you -- so in Marysville, when there's an inspection, the engineer
4 will perform the inspection?

5 THE WITNESS: Correct.

6 HEARING OFFICER MANSFIELD: Does the conductor ever help the
7 engineer perform the inspection?

8 THE WITNESS: No.

9 HEARING OFFICER MANSFIELD: I have nothing further.
10 Is there any redirect?

11 MR. ROSS: A couple questions.

12 Are you done?

13 MR. MILLER: Yes, I was done.

14 MR. ROSS: Okay. I just wanted to know.

15 REDIRECT EXAMINATION

16 BY MR. ROSS:

17 Q When you were working as a conductor, what were your
18 vacation credits based upon?

19 A My hire date on the railroad.

20 Q It's your employment date that governs your -- the amount of
21 vacation you get in the railroad industry?

22 A Exactly. It's true with Maintenance of Way that transfer
23 over, too -- their seniority date is the same as their hire out date.

24 Q How about selection of vacation dates rather than the amount
25 of vacation you get? What governs that?

1 A That would be my engineer's date as to the seniority I have
2 as an engineer as to the quality of vacation I would receive, I guess
3 you could say.

4 MR. ROSS: Thank you. That's all I have.

5 HEARING OFFICER MANSFIELD: Do you have anything --

6 MR. MILLER: I have nothing further.

7 HEARING OFFICER MANSFIELD: Mr. Russell, you're excused.

8 MR. ROSS: Thank you, Mr. Russell.

9 [Witness excused.]

10 HEARING OFFICER MANSFIELD: How long is your next witness?

11 MR. ROSS: I think we can complete him before 6:00.

12 HEARING OFFICER MANSFIELD: Okay. Let's take a five-minute
13 break and then have the next witness.

14 [Recess.]

15 HEARING OFFICER MANSFIELD: Let's go back on the record.

16 Would you swear in the witness, please?

17 Whereupon,

18 MICHAEL A. YOUNG,

19 a witness, was called for examination by counsel for the BLE and, having
20 been first duly sworn, was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. ROSS:

23 Q Would you please state for the record your name.

24 A Michael A. Young.

25 Q How do you spell your last name?

1 A Y-o-u-n-g.

2 Q And what is your address, Mr. Young?

3 A My business address is 1620 Central Avenue, Room 203,
4 Cheyenne, Wyoming 82001.

5 Q What is your educational background?

6 A I have a high school diploma and a bachelor of arts degree
7 from Huron College, Huron, South Dakota.

8 Q And what year did you receive that BA from Huron College?

9 A 1970.

10 Q After you left college, did you enter railroad employment?

11 A Yes, I did.

12 Q And with what railroad did you hire out?

13 A I was employed by the Chicago Rock Island and Pacific
14 Railroad at Blue Island, Illinois, working in the greater Chicago area.

15 Q In what capacity were you hired by the Rock Island?

16 A I was hired in 1970 as a trainman, and --

17 Q And --

18 A As a trainman.

19 Q You were hired as a trainman. Did you hold any other
20 positions with the Rock Island?

21 A Yes. Eventually, I took promotion to conductor and worked
22 as a conductor and a brakeman.

23 Q When did you become employed by the Union Pacific?

24 A May 8th, 1976.

25 Q Now, was that because the Union Pacific acquired Rock

1 Island, or how did that come about?

2 A The circumstances were such that the Rock Island was
3 deteriorating, and due to my junior seniority, I sought other employment
4 on another railroad and secured employment on the Rock Island.

5 Q No, you secured employment on --

6 A On Union Pacific. Excuse me.

7 Q When was that in '76?

8 A May 8th, 1976.

9 Q And what position or craft did you hire out?

10 A I was hired as a switchman-brakeman at Cheyenne.

11 Q And give us a little background as to your employment with
12 the Union Pacific. In other words, state for the record what was your
13 employment history with the Union Pacific?

14 A I started as a switchman-brakeman in May of '76. I took
15 promotion or another promotion to yardmaster for a short period of time
16 and then, in November of that same year, I entered engineer service
17 training.

18 Q At the time that you entered engineer service training, did
19 you maintain your seniority in the trainmen's rank?

20 A No, I did not.

21 Q What happened to your train service seniority?

22 A To the best of my knowledge, I had to forfeit my trainman
23 seniority at that time to become an engineer.

24 Q And what did your training as a fireman consist of?

25 A It was --

1 HEARING OFFICER MANSFIELD: Go ahead.

2 THE WITNESS: Oh. It was to become very familiar with the
3 operating rules, to learn how to operation a locomotive in various
4 classes and -- classes of service, hostling, yard, locals,
5 through-freight operation, train handling techniques, airbrake, those
6 type of things.

7 BY MR. ROSS:

8 Q When and how did you become a locomotive engineer on the
9 Union Pacific?

10 A On November of -- well, on November 10th of 1976, I entered
11 the apprentice program, went through the various steps and stages,
12 including classroom training, on-the-job training, and that culminated
13 in being qualified as an engineer and placed on the roster on April 1,
14 1977.

15 Q And where did you work at as a locomotive engineer on the
16 Union Pacific when you were promoted?

17 A Between Cheyenne, Wyoming and North Platte, Nebraska.

18 Q Would you please briefly describe for us your history as a
19 member and officer of the Brotherhood of Locomotive Engineers?

20 A Well, let's see --

21 Q When did you become a member of the BLE?

22 A In 1977. I can't give you the month, but 1977. 1981, I was
23 elected to the position of local chairman of BLE Division 115. In 1986,
24 as a general committee officer, I became the vice general chairman. And
25 in 1988, I was moved up to the position of general chairman.

1 Q And general chairman of what? Could you describe that for
2 us?

3 A It's the Union Pacific Eastern District Territory.

4 Q And what does that encompass geographically?

5 A It encompasses from Kansas City and Omaha across Kansas,
6 Nebraska, Wyoming, Colorado and up to but not including Salt Lake City.

7 Q What craft or crafts does your general committee represent?

8 A We represent locomotive engineers.

9 Q And approximately how many locomotive engineers belong to
10 your General Committee of Adjustment?

11 A Approximately 1,200.

12 Q What are your responsibilities as a General Chairman?

13 A My responsibilities include negotiation, enforcement of
14 contracts and rules, including the handling of discipline and time claim
15 grievances of engineers.

16 Q At what level do you handle time claims and disciplinary
17 actions?

18 A At our level it is referred to, I believe, as the General
19 Level of the appeal process.

20 Q Why is it called the General Level, if you know?

21 A There is a Local Level, where the member initiates the claim
22 or grievance, which is handled by a Local Committee of Adjustment, which
23 is then forwarded to our office and on up through the process of the
24 Railway Labor Act.

25 Q And if you are unable to satisfactorily resolve that claim

1 or grievance with the company, what happens to it then?

2 A It would eventually be resolved under the Act up to and
3 including final and binding arbitration.

4 Q Now you said that you had been involved in the negotiation
5 of agreements. What types of agreements are you referring to?

6 A It would include schedule agreements, national agreements,
7 system agreements, merger implementing agreements, as we had in the UPS
8 pre-merger.

9 Q What is your function in regard to national agreements, as
10 the General Chairman what is your function?

11 A We -- at our level it is actually initiated, I believe, out
12 of the International Division, who will request authority, I think it is
13 called power of attorney, for them to represent our committee at the
14 national level.

15 Q How many national wage and rules movements have you been
16 involved in since you became General Chairman?

17 A I believe two.

18 Q What years did those two take place?

19 A The 1991 and the 1996 movement.

20 Q So there were two, 1991 and 1996. That's what you said,
21 correct?

22 A That's correct, yes.

23 Q And were you on the national negotiating committee in the
24 1991 round?

25 A No, not in that round. I don't believe I was.

1 Q Now did you have any status or participation, direct
2 participation, in the 1996 national movement?

3 A Yes, I did.

4 Q What was that participation?

5 A We participated in the movement as a general committee along
6 with numerous other general committees in what culminated, I believe, in
7 what was called the dual track package.

8 Q Okay. Dual track package -- would you define that for us?
9 What does that mean?

10 A Well, I think the dual track agreement was the wages and
11 rates of pay that were set as a national package and then we went on and
12 negotiated system agreements on the UP.

13 Q Who is that "we" that you are referring to negotiated system
14 agreements with the UP?

15 A Well, it was the Union Pacific BLE General Chairman that
16 negotiated with the carrier representatives for system agreements on UP.

17 Q Did all of the UP General Chairmen at that time participate
18 in the same negotiations?

19 A Yes, they did.

20 Q Did officers from any other union participate in the
21 negotiation of those system agreements?

22 A No, they did not.

23 Q What subjects were negotiated by you and the other General
24 Chairmen with the UP in 1996?

25 A The system agreements -- there were several. There was a

1 system agreement for discipline, time claim handling, a peer training
2 agreement, a system agreement on weight on drivers, which is rates of
3 pay for engineers.

4 I can't recount --

5 Q At this time I would like to show you what was BLE Exhibit
6 Binder 2, Exhibit 4.4, Tab 2, which is called the UP System Agreement.

7 We would like to have that marked as BLE Exhibit 19.

8 HEARING OFFICER MANSFIELD: I'm sorry, which tab are we on?

9 MR. ROSS: Two.

10 HEARING OFFICER MANSFIELD: Okay. It says Brotherhood of
11 Locomotive Engineers Wage/Rule Agreements, System Agreements Effective
12 June 1, 1996.

13 [BLE Exhibit No. 19 marked for
14 identification.]

15 BY MR. ROSS:

16 Q Is that the document that you were referring to, Mr. Young?

17 A Yes, it was.

18 MR. LINSEY: Excuse me, could you tell us where you are in
19 the binders?

20 MR. ROSS: Yes. It is Binder 2.

21 MR. LINSEY: Binder 2?

22 MR. ROSS: Yes.

23 HEARING OFFICER MANSFIELD: It is Binder 2, Tab 2.

24 MR. ROSS: Yes, Tab 2.

25 HEARING OFFICER MANSFIELD: It is right at the front of Tab

1 2.

2 MR. LINSEY: Okay.

3 HEARING OFFICER MANSFIELD: And that has been marked as BLE
4 Exhibit 19.

5 BY MR. ROSS:

6 Q Is that the system agreement that you and the other General
7 Chairmen on the UP negotiated?

8 A Yes, it is.

9 Q In 1997?

10 A Yes.

11 Q Having taken a look at that document, does that help you
12 recollect what subjects were negotiated by the UP General Chairman with
13 the UP at that time?

14 A Yes.

15 Q What were those?

16 A We negotiated a system agreement for a discipline rule, a
17 claim-handling process, instructor engineers, peer training, weight on
18 drivers, extra undisturbed rest, without fireman payment, and
19 compensation delivery.

20 Q Now was that document ratified by the BLE?

21 A Oh, yes.

22 Q How was that handled, that ratification process?

23 A That, as I recall, was sent out to every affected BLE
24 Division under our Constitution for ratification.

25 Q Under the BLE Constitution?

1 A Yes, sir.

2 Q Now, in addition to that system agreement, you mentioned
3 that you had a schedule agreement. What is a schedule agreement, how
4 would you define that?

5 A I guess I think schedule agreement is a core of agreements
6 we have with the carrier which we have had for a number of years.

7 Q And what type of subjects or things does the schedule
8 agreement cover?

9 A It covers such things as rates of pay, rules, working
10 conditions, contractual items that we have between us and the carrier.

11 Q Is that -- does a lot of negotiations take place in regard
12 to that schedule agreement?

13 A Oh, yes.

14 Q How often is that schedule agreement revised or modified?

15 A At times it can be almost daily.

16 Q Is that right? Well, how does that come about?

17 A The parties will have -- have to resolve disputes concerning
18 the schedule agreement. We may revise them or alter them in
19 negotiation.

20 Q And, generally, how is present in those negotiations of
21 these modifications or amendments to the schedule agreement?

22 A Generally, it will be myself, the effected BLE local
23 chairman from whatever location that may be directed effected, and the
24 counterpart for the carrier.

25 Q At this time I would like you to identify for us what has

1 been marked as BLE Exhibit 20. It is the first document in a Binder
2 Exhibit 3 of the BLE, it is 6-A. Would you please take a look at that
3 and tell us on the record what it is?

4 HEARING OFFICER MANSFIELD: Wait. Do you want to move --

5 MR. ROSS: I will move 19 into evidence.

6 HEARING OFFICER MANSFIELD: Do you have any objection to the
7 receipt of 19?

8 MR. MILLER: No objection.

9 HEARING OFFICER MANSFIELD: BLE Exhibit 19 is received.

10 [BLE Exhibit Number 19 was received into
11 evidence.]

12 HEARING OFFICER MANSFIELD: This is the Eastern District
13 agreement?

14 MR. ROSS: Yes, that's correct.

15 HEARING OFFICER MANSFIELD: So we are marking that as BLE
16 Exhibit 20.

17 [BLE Exhibit Number 20 was marked for
18 identification.]

19 MR. ROSS: That is correct.

20 BY MR. ROSS:

21 Q Would you look at Exhibit 20 and identify it for the record,
22 Mr. Young?

23 A This Exhibit 20 is the Schedule of Rules identified as the
24 agreement between the Union Pacific Railroad, Eastern District, and the
25 Brotherhood of Locomotive Engineers.

1 Q And that is a voluminous document, is that right?

2 A Oh, yes.

3 Q When was it last codified?

4 A It looks like 1979, December 1. December 1 of 1979.

5 Q And how is that -- and what other documents is that schedule
6 agreement amended?

7 A I don't understand that.

8 Q Well, you said that you have amendments and modifications of
9 that schedule agreement. Where are those amendments contained?

10 A Oh, you will find the amendments to this central Schedule of
11 Rules in national agreements, system agreements, local agreements, a
12 variety of places.

13 Q And how often are those schedule agreements brought up to
14 date so that you bring all of that into the document?

15 A We do it on a regular basis. I don't know. They don't do
16 it every year, but we try to keep it codified as we go along.

17 HEARING OFFICER MANSFIELD: Can I just jump in for a minute?

18 MR. ROSS: Sure, go ahead.

19 HEARING OFFICER MANSFIELD: This one is from 1979, so if you
20 are trying to bring it into one agreement as you go along, have you done
21 that since 1979?

22 THE WITNESS: This is the central agreement, bargaining
23 agreement that we use and everything builds off of this as we revised it
24 and alter it as we do business.

25 BY MR. ROSS:

1 Q But it hasn't been recodified since '79, is that right? In
2 other words, --

3 HEARING OFFICER MANSFIELD: It hasn't been put all in one
4 document since 1979?

5 THE WITNESS: Well, yes, we have.

6 BY MR. ROSS:

7 Q Where is that document?

8 A That is -- it is in here. We just did that not too long
9 ago. Maybe you have confused me with the question here.

10 MR. COHEN: It's in our file.

11 HEARING OFFICER MANSFIELD: Let's go off the record for a
12 moment.

13 [Discussion off the record.]

14 HEARING OFFICER MANSFIELD: Let's go back on the record.

15 BY MR. ROSS:

16 Q Back on the record, would you inform us what BLE Exhibit 20
17 is?

18 A BLE Exhibit 20 represents the 1979 agreement, collective
19 bargaining agreement between us and the carrier.

20 Q Okay. And is that document the basis of your collective
21 bargaining agreement with the Union Pacific?

22 A Yes, it is.

23 Q Has that document been amended and modified through other
24 agreements or documents after 1979?

25 A Oh, yes.

1 Q Those documents, however, are not located in one central
2 book or document; is that correct?

3 A That's correct.

4 Q Okay. So in order to know what the totality of the
5 collective bargaining agreement between your General Committee Eastern
6 Region and the UP -- Eastern District is with the UP, you need to look
7 at a number of documents. Is that right?

8 A Yes, a myriad of documents, to be exact.

9 Q Each of those become part of that central agreement or
10 schedule agreement. Is that right?

11 A That's correct.

12 Q Now let me go through for the edification of everybody.
13 That document itself has been amended through national agreements --

14 A Yes.

15 Q Has that document been amended through the system agreement
16 we were talking about previously?

17 A Yes.

18 Q Has that document been amended by letters of understanding?

19 A Yes.

20 Q And those haven't been centralized or tagged onto this
21 schedule agreement. Is that right?

22 A No.

23 Q And has that document been amended by these local agreements
24 that you were talking about?

25 A Yes.

1 Q So it consists of a number of documents which could be
2 thousands of pages?

3 A Yes.

4 Q Okay.

5 MR. MILLER: Does that mean there are going to be more
6 binders?

7 MR. ROSS: No. No. I refuse to put in more binders.

8 HEARING OFFICER MANSFIELD: Is there anything in BLE Exhibit
9 20 that hasn't been amended at this point, since you have thousands of
10 amendments?

11 THE WITNESS: There's --

12 HEARING OFFICER MANSFIELD: There's some core stuff that
13 still applies.

14 THE WITNESS: Right. Exactly.

15 BY MR. ROSS:

16 Q Has your schedule agreement been negotiated with any other
17 union?

18 A No.

19 Q Do any of the agreements that I refer to as the totality of
20 the collective bargaining agreement between UP and your general
21 committee, have they been negotiated with any other union?

22 A No.

23 Q Now you said that these changes in the schedule agreement
24 evolve out of local negotiations. Is that right?

25 A Yes.

1 Q And could you just briefly describe for us some of the
2 examples of local agreements that have been reached between your General
3 Committee and the Union Pacific.

4 A Let's see. I guess some of them would include such things
5 as Engineer Guaranteed Extra Board. There was a relief and staging
6 service agreement. And personal leave days.

7 Q Okay. Having said that, would you please turn to binder 2
8 that you have in front of you.

9 HEARING OFFICER MANSFIELD: Do you want to move for
10 admission of BLE 20?

11 MR. ROSS: Please, I'd like to -- thank you, yes, I would
12 like to move into admission BLE Exhibit No. 20, the schedule agreement.

13 MR. MILLER: I have no objection, and I will also stipulate
14 that Mr. Young's General Committee of Adjustment is the only one within
15 his geographic jurisdiction who can negotiate changes with respect to
16 locomotive engineers. If that helps.

17 MR. ROSS: That helps.

18 HEARING OFFICER MANSFIELD: Would you say that stipulation
19 again, because I'm not sure I understood it.

20 MR. MILLER: Yes, that UTU will stipulate that within the
21 scope of his internal BLE jurisdiction, Mr. Young and his General
22 Committee of Adjustment is the only party that can negotiate changes in
23 collective bargaining agreements with the Union Pacific for locomotive
24 engineers.

25 HEARING OFFICER MANSFIELD: Do you accept that stipulation?

1 MR. ROSS: Yes, I will.

2 HEARING OFFICER MANSFIELD: The stipulation is received.

3 [BLE Exhibit No. 20 was received into
4 evidence.]

5 BY MR. ROSS:

6 Q Would you turn to tab A -- binder 2, tab A --

7 HEARING OFFICER MANSFIELD: 3-A?

8 MR. ROSS: 3-A. Could we please mark that BLE Exhibit --

9 HEARING OFFICER MANSFIELD: 21.

10 MR. ROSS: 21.

11 [BLE Exhibit No. 21-A was marked for
12 identification.]

13 BY MR. ROSS:

14 Q Is this the guaranteed Engineer's Extra Board agreement that
15 was bargained locally between your General Committee and the Union
16 Pacific?

17 A Yes, it is.

18 Q And what is the date of that agreement?

19 A July 1, 1996.

20 Q Could you briefly explain for the record the purpose of this
21 agreement and how it affects the daily life of locomotive engineers?

22 A I guess historically you'd have to understand that Extra
23 Boards are very sporadic. They fluctuate depending on the business
24 levels as traffic moves up or down. Sometimes it was seasonal. We got
25 to a point where the parties felt that it was in everyone's best

1 interest to have an agreement for Extra Boards that stabilized the
2 earnings of the engineers and has the potential for giving them some
3 quality-of-life aspects when business is slow. I think that's --

4 MR. ROSS: I'd like to move into evidence Exhibit 21.

5 HEARING OFFICER MANSFIELD: Any objection?

6 MR. MILLER: No objection.

7 HEARING OFFICER MANSFIELD: BLE Exhibit 21 is received.

8 [BLE Exhibit No. 21-A was received into
9 evidence.]

10 MR. MOORE: This is the Eastern District one?

11 MR. ROSS: That's correct.

12 BY MR. ROSS:

13 Q Would you please turn to tab B?

14 MR. ROSS: Why don't we make that 21-A, if we may, because
15 the next two can come in as 21-B and 21-C.

16 HEARING OFFICER MANSFIELD: Okay.

17 MR. ROSS: And 21-B would be the agreement behind tab B.
18 That's the next in line in that binder. And 21-C would be tab C, which
19 would follow B.

20 BY MR. ROSS:

21 Q Is BLE Exhibit 21-B, Mr. Young, the relief and staging
22 service agreement that you were referring to in your testimony?

23 A Yes, it is.

24 Q And what was the date of that agreement?

25 A It's August 26, 1998.

1 Q And briefly could you explain the purpose of that agreement
2 and how it affects the day-to-day lives of working locomotive engineers.

3 A This agreement provided for relief of crews and trains that
4 allowed the carrier to operate a train for relief service through a
5 terminal to take it to one side or the other of a terminal where such
6 train could be staged. It allowed to get the crews who had expired
7 under the hours-of-service law to get off and get to their objective
8 terminal in a timely manner where they could obtain their rest. It also
9 provided for regular assigned schedule days as well as regular rest
10 days, regular start times for engineers, and -- which is very uncommon
11 for a road engineer. That was a major step for us, we thought. And it
12 also provided for customer service and moving their trains in an
13 expedited manner.

14 MR. ROSS: At this time we would like to move into evidence
15 BLE Exhibit 21-B.

16 HEARING OFFICER MANSFIELD: Any objection?

17 MR. MILLER: No objections.

18 HEARING OFFICER MANSFIELD: BLE Exhibit 21-B is received.

19 [BLE Exhibit No. 21-B was received into
20 evidence.]

21 BY MR. ROSS:

22 Q And moving now to BLE Exhibit 21-C, is that the personal
23 leave agreement that you had reference to in your testimony?

24 A Yes, it is.

25 Q And what is the date of that agreement?

1 A I believe this is dated October 25, 1996.

2 HEARING OFFICER MANSFIELD: Is it the letter of
3 understanding then?

4 THE WITNESS: Yes, it's the letter of understanding.

5 BY MR. ROSS:

6 Q It's the letter of understanding?

7 A Right.

8 Q Okay. And what's the date of it?

9 A It's dated October 25, 1996.

10 Q And could you briefly explain the purpose of the agreement,
11 and as you did with the other two, how it affects the --

12 A This was the result of --

13 Q Well, hang on, the day-to-day working life of the engineer.
14 Now you can answer.

15 A Okay. This was the result of the -- of a national movement,
16 article 6, of the 1996 national agreement, where we negotiated personal
17 leave days, and this agreement on the property allowed us to administer
18 the personal leave days on the property between us and the carrier. And
19 the bottom line is it provides for compensated time off for road
20 engineers, and it was in lieu of holiday pay for a road engineer. At
21 least that's my understanding.

22 MR. ROSS: We would move into evidence BLE Exhibit 21-C.

23 HEARING OFFICER MANSFIELD: Any objection?

24 MR. MILLER: No objection.

25 HEARING OFFICER MANSFIELD: BLE Exhibit 21-C is received

1 into evidence.

2 [BLE Exhibit No. 21-C was received into
3 evidence.]

4 BY MR. ROSS:

5 Q Mr. Young, in addition to negotiating agreements, you
6 indicated that you had the duty and responsibility as general chairman
7 to interpret and enforce those agreements. Am I right as to my
8 paraphrasing of your testimony?

9 A Yes, that is correct.

10 Q How often are you required to interpret and enforce your
11 collective bargaining agreement?

12 A Oh, very often.

13 Q And what do you mean by very often?

14 A Daily.

15 Q Okay. Now what are the types of disputed issues that arise
16 daily?

17 A Time claims, penalty payments, arbitraries, seniority,
18 discipline. That's an example of some of the issues.

19 Q Okay. And what is the process to dispose of or resolve
20 those time claims or penalties or disciplinary actions?

21 A Claims are filed by members. The carrier will either pay
22 them or deny them. If they're denied, they're handed -- they're given
23 then in the process to a local chairman, local committee, who will
24 process them at the local level between -- at the local level. And
25 failing to find resolution, it will be forwarded to the general level,

1 which is my office, for further handling of the carrier.

2 Q Is any other union involved in that process with you?

3 A No.

4 Q How are those time claims and disputes resolved?

5 A They are sometimes resolved locally on the property.

6 Sometimes with the local chairman. Or at the general level between
7 myself and the designated highest officer for the carrier. Failing to
8 find resolution, they can be progressed up to arbitration for final and
9 binding decisions.

10 Q Let's turn to another subject. On your property, that means
11 the area covered by your General Committee, would you briefly describe
12 for us the process that takes place for a promotion of individuals into
13 the craft of locomotive engineers?

14 A The carrier would post applications for promotion. The
15 employees will call in or put in their bids or applications for those
16 vacancies voluntarily. They will be chosen in seniority order, from
17 what I understand, all things being equal, and then promoted -- go to
18 the training classes, do on the job training, classroom, on operating
19 rules and so forth until such a time as they successfully complete, when
20 they are then put on the engineers' seniority roster.

21 Q Where did you say these applicants come from? What craft or
22 what pool?

23 A They come from the ranks of train service and that has been
24 the way it's been done since 1985 anyway.

25 Q Now how is this process that you just described different

1 from the process that was in effect when you hired out as a fireman to
2 become a locomotive engineer?

3 A Well, it's different in that the source of supply was open
4 to most any employee, at least when I hired out. Now it seems to be
5 limited to just train service employees.

6 Q Well, was promotion mandatory at that time for a fireman?

7 A When I started? Yes.

8 Q And if the fireman failed promotion, what happened?

9 A He forfeited his seniority.

10 Q Now when you become an engineer, you obtain a seniority
11 date, is that right?

12 A Yes.

13 Q And what happens with that seniority date? Are you placed
14 on a roster?

15 A Yes, you are placed on the engineers' seniority roster for
16 that particular district that you are on.

17 Q How many seniority rosters do you have on the Union Pacific
18 within the General Committee that you chair?

19 A We have many.

20 Q Is that right?

21 A Yes.

22 Q Are these rosters separate from the rosters for train
23 services employees, like for conductors?

24 A Yes.

25 Q They are separate?

1 A Separate rosters.

2 Q Is that true throughout the entire district that we are
3 talking about?

4 A Yes.

5 Q Now is the type of seniority that is used by the engineers
6 the same or similar to the type of seniority rosters put together by the
7 conductors and trainmen?

8 Any differences?

9 A There are differences. Our seniority for engineers on my
10 territory is point seniority and trainmen generally have some zone or
11 regional type of seniority.

12 Q Are they generally -- do their seniority rosters cover the
13 same geographical area that your engineers' seniority rosters do?

14 A Generally they are expanded territories, from what I can
15 recall here.

16 Q So there are differences sometimes in the geographical
17 areas?

18 A Oh, yes.

19 Q By expanded, what do you mean? That theirs are wider or
20 larger?

21 A Larger. They have larger territories.

22 Q What is the purpose of an engineer's seniority date?

23 A It establishes a date for them to use for engineer
24 assignments, bidding on jobs, vacation scheduling as an engineer, those
25 type of issues.

1 Q Now what did you mean by point seniority when you referred
2 to that system that the engineers' rosters are put together on?

3 A In my territory it is point or district seniority. We only
4 hold seniority over one select piece of territory, not larger
5 territories.

6 Q What does zone mean to you, a zone seniority?

7 A Zone seniority is larger, expanded, regional, geographically
8 regional, a lot larger.

9 HEARING OFFICER MANSFIELD: Can I jump in for a second, just
10 so I am sure I understand.

11 MR. ROSS: Sure.

12 HEARING OFFICER MANSFIELD: Would zone seniority, could it
13 include a number of points? Is that --

14 THE WITNESS: Yes.

15 HEARING OFFICER MANSFIELD: Would that be accurate?

16 THE WITNESS: Right.

17 HEARING OFFICER MANSFIELD: Okay.

18 BY MR. ROSS:

19 Q Since -- strike that.

20 At what point did engineers receive transfer of the
21 seniority, at what time, can you recollect?

22 A I --

23 Q Was there a period of time that engineers didn't have train
24 seniority?

25 A Oh, yes.

1 Q When was that?

2 A I don't think I have train seniority now.

3 Q Oh, is that right? Do some engineers have train service
4 seniority?

5 A Oh, yes.

6 Q Who are those engineers?

7 A Those are those employees who were hired after -- was it
8 November 1 of 1985 hold dual seniority.

9 Q Okay. Now assuming that an individual was one of those dual
10 seniority people that you are talking about, but I gather you mean hold
11 seniority both as an engineer and a trainman, is that right?

12 A Yes.

13 BY MR. ROSS:

14 Q If he is working as an engineer, can he exercise his train
15 service seniority?

16 A No.

17 Q Why is that?

18 A The BLE agreements preclude that from happening, as well as
19 UTU agreements I believe preclude that from happening.

20 Q Can train service employees -- when can train service
21 employees exercise their engineer seniority if they have it?

22 A Could you repeat that question?

23 Q Yes. Let's say I am working as a train -- I am a conductor.
24 That is one of the crafts covered by train service, right?

25 A Yes.

1 Q Okay -- and let's say that I am a conductor who also has a
2 certificate as an engineer.

3 A Yes.

4 Q And I am presently working as a conductor.

5 A Okay.

6 Q When could I bid upon or exercise my seniority for an
7 engineer position?

8 A Only at that time when you have been added to the engineer's
9 working list.

10 Q And who adds that individual to the engineer's working list?

11 A Probably a combination of BLE and the carrier, depending on
12 traffic -- do we need to add assignments, those type of things.

13 Q Is that what they call adjusting the Engineers Extra Board?

14 A Adjusting boards.

15 Q Okay. And if the individual is not on that Extra Board or
16 what have you, even though he has trained -- he has engineer seniority,
17 he can't bid on an engineer's job. Is that right?

18 A That's correct.

19 Q Are you as general chairman aware on your property as to the
20 ebb-and-flow conditions that are taking place?

21 A Yes.

22 Q How do you keep abreast of that?

23 A Oh, I guess just word of mouth and talking to the local
24 chairmen -- my local chairmen as things happen and traffic increases or
25 decreases. We have some sense about those things.

1 Q Is that information also available to you by computer?

2 A Probably.

3 [Laughter.]

4 Q Do you have access to the computer system of the Union
5 Pacific for that purpose?

6 A Yes.

7 [Laughter.]

8 HEARING OFFICER MANSFIELD: This might be an unfruitful
9 area.

10 BY MR. ROSS:

11 Q Based upon that information that you'd see, what's the
12 situation on your property as to the ebb and flow? Is there a lot of
13 ebb and flow, or is there -- is it minimal?

14 A You know, I just really couldn't say definitively on that.

15 Q Okay. You stated that you have participated in the
16 negotiations of the implementing agreements arising out of the UP-SP
17 merger. Is that right?

18 A Yes.

19 Q And which hubs did you participate in the negotiations?

20 A Salt Lake City hub, the Denver hub, the Salina hub, and the
21 Kansas City hub.

22 Q At those negotiations attended by you, were representatives
23 of any other organization present?

24 A No.

25 Q And did those implementing agreements cover any craft other

1 than the locomotive engineers?

2 HEARING OFFICER MANSFIELD: I'm going to stop you, because
3 we have a stipulation on this. I think we've already received a
4 stipulation from Mr. Miller --

5 MR. ROSS: I don't know whether it covered implementing
6 agreements.

7 HEARING OFFICER MANSFIELD: I thought it was all agreements.

8 MR. ROSS: All agreements?

9 MR. MILLER: All agreements for any locomotive engineer on
10 the property of the Union Pacific may only be negotiated by Mr. Young's
11 General Committee within his geographical area.

12 MR. ROSS: Okay. But at the implementing agreements there
13 were more than just Mr. Young there, because they took other general
14 chairmen.

15 MR. MILLER: Okay. Only a BLE General Chairman on the
16 property of Union Pacific may negotiate with respect to locomotive
17 engineers.

18 MR. COHEN: Would you give us one moment?

19 Q As to --

20 HEARING OFFICER MANSFIELD: You can proceed.

21 BY MR. ROSS:

22 Q As to those implementing agreements, what subjects did they
23 cover?

24 A They covered rates of pay, working conditions, rules,
25 protective allowances, relocation benefits, those type of issues.

1 Q Was seniority also the subject of those agreements?

2 A Oh, yes.

3 Q Was the seniority that you referred to, point seniority,
4 carried over into those agreements?

5 A Well, we created new seniority in those hubs.

6 Q And does that seniority system pertain just to engineers?

7 A Yes.

8 Q Okay, and what type of seniority was used within the hubs
9 that we are talking about?

10 A Well, for the locomotive engineers in those hubs it varied
11 from hub to hub and it depended upon really a lot of geography, types of
12 runs, things like that.

13 Q Was that seniority negotiated for the purpose of being
14 compatible with the seniority of train service employees?

15 A Well, no, not by us. We didn't negotiate in accordance with
16 what --

17 THE REPORTER: In accordance with what?

18 HEARING OFFICER MANSFIELD: He has to finish his answer.

19 THE WITNESS: I have got to think what I said here. Just a
20 minute.

21 We didn't negotiate in coordination with the UTU was doing
22 with their seniority.

23 Is that what you asked, I think?

24 Q Well, to your knowledge, is your seniority system in those
25 hubs the same or similar to those that the UTU used when they reached

1 implementing agreements?

2 A I think it's a little different in each hub.

3 Q Okay.

4 A For both sides.

5 MR. ROSS: I tender the witness.

6 HEARING OFFICER MANSFIELD: Cross examination.

7 CROSS EXAMINATION

8 BY MR. MILLER:

9 Q Mr. Young, we know each other, so this should go fairly
10 quickly.

11 Does the carrier have the sole right to regulate the
12 engineers' extra board?

13 A The sole right? Well, maybe. Is that a qualified maybe?

14 Q It is not a trick question, but all right, let's move on.

15 When the engineers' extra board is increased -- that is,
16 when the number of employees that are appearing or will appear on the
17 engineers' extra board is increased, my understanding is that the people
18 who serve to increase the engineers' extra board are FRA certified
19 engineers that are then serving as conductors. Is that right?

20 A Yes.

21 Q Okay, and does the time that an individual employee spends
22 in train service count for his or her qualification toward personal
23 leave days under your agreement when they are engineers?

24 A Yes, I believe it does.

25 Q Okay. Exhibit 21-B, not that I am going to ask you to look

1 at it, that was you described as the RSS agreement, the Relief Service
2 and Staging of Trains Agreement, that you negotiated late '97 and early
3 '98 with the Union Pacific, do you recall that?

4 A Yes.

5 Q Do you know that UTU General Chairman Arthur Martin
6 negotiated a similar agreement with the carrier to permit that relief
7 and staging to take place?

8 A I understand that they negotiated one for the craft that
9 they represent.

10 Q Yes, that is what I mean. In other words, there was an RSS
11 agreement for train service employees negotiated by UTU as well,
12 correct?

13 A Yes.

14 Q Okay, and in recent months have you and UTU General Chairman
15 Arthur Martin negotiated with the Union Pacific Railroad regarding crew
16 scheduling and fatigue of crews?

17 A There's been a couple of joint meetings. I don't know that
18 I -- I don't know they are exactly negotiating sessions, but there's
19 been a couple of joint meetings on that specific issue.

20 MR. MILLER: I tender the witness.

21 HEARING OFFICER MANSFIELD: Any redirect?

22 REDIRECT EXAMINATION

23 BY MR. ROSS:

24 Q I asked Mr. Young several questions and forgot to direct the
25 attention of everybody to the documents that he was referring to, and

1 with Mr. Miller's permission, if he would look at Binder Exhibit --
2 Binder IV, roman numeral IV -- Tab D --

3 HEARING OFFICER MANSFIELD: Tab 2-D.

4 MR. ROSS: Yes. Is that right? 2-C and 2-D -- minus the
5 letter.

6 MR. COHEN: Have you got it in front of you? Do you see
7 where it starts?

8 HEARING OFFICER MANSFIELD: Yes, I see where you are
9 starting.

10 MR. MILLER: Okay. He had testified as to the notices.

11 MR. COHEN: The applications, the applicants' response to
12 the notices --

13 MR. ROSS: -- and while I asked the question I forgot to
14 direct his attention to what he was talking about.

15 HEARING OFFICER MANSFIELD: Are these notices from your
16 region?

17 THE WITNESS: I would have to look at it.

18 MR. MOORE: Harold, is it this stuff?

19 MR. ROSS: Yes.

20 HEARING OFFICER MANSFIELD: Yes.

21 MR. MOORE: Minus the first page.

22 MR. ROSS: Minus the first page.

23 THE WITNESS: Oh, yes. Yes, it is. Yes.

24 MR. COHEN: Tell her which ones they are -- tell the Hearing
25 Officer.

1 THE WITNESS: The first one -- you are looking at --

2 HEARING OFFICER MANSFIELD: Kansas --

3 THE WITNESS: Kansas City.

4 The second one is Denver, Colorado. The next one with a
5 list of names are the applicants.

6 HEARING OFFICER MANSFIELD: Actually, can you go back to the
7 page before? It looks to me like it is Omaha, Nebraska -- oh, on the
8 Denver hub, I see.

9 THE WITNESS: Right.

10 HEARING OFFICER MANSFIELD: Okay, very good.

11 THE WITNESS: The next one with a list of names is for North
12 Platte, Nebraska Third Seniority District.

13 HEARING OFFICER MANSFIELD: While we are going through this,
14 do you want to mark these?

15 MR. ROSS: Yes, please.

16 HEARING OFFICER MANSFIELD: Okay, are these -- are we on 22?

17 MR. ROSS: Yes.

18 HEARING OFFICER MANSFIELD: So that would be 22-A, B and C?

19 MR. ROSS: That's correct.

20 HEARING OFFICER MANSFIELD: And is the first page something
21 that you intend to put in evidence later or are you --

22 MR. ROSS: We are going to -- George, I think we are
23 deleting that, aren't we?

24 MR. COHEN: What's that?

25 MR. ROSS: The letter.

1 HEARING OFFICER MANSFIELD: Are you deleting that letter?

2 MR. COHEN: We don't need the letter.

3 MR. ROSS: No, we need the letter, and so it would be 22-A,
4 B, and C.

5 HEARING OFFICER MANSFIELD: Okay, and what about under Tab
6 D? Are those also --

7 MR. ROSS: Yes. Would you please look at those? Can we
8 continue --

9 HEARING OFFICER MANSFIELD: Yes.

10 MR. ROSS: -- just marking them 22 --

11 HEARING OFFICER MANSFIELD: Yes, we can continue.

12 THE WITNESS: I've got to get my glasses out. Excuse me,
13 sorry.

14 [Pause.]

15 THE WITNESS: No, this is not me.

16 HEARING OFFICER MANSFIELD: These aren't his.

17 THE WITNESS: This is not me.

18 MR. ROSS: It's just the first three, 22 A through C.

19 Clint, do you have any objection to those? Can we stipulate to their
20 entry?

21 MR. MILLER: We can stipulate. I have no objection.

22 Whenever you have figured out what they are, we'll put them in.

23 HEARING OFFICER MANSFIELD: It is 22-A, B, and C, which are
24 the three documents after Tab C and without objection those are admitted
25 into evidence.

1 [BLE Exhibit Nos. 22-A, 22-B, and 22-C
2 were received into evidence.]

3 MR. ROSS: Thank you. That's it.

4 MR. MILLER: You are not going to put this one? D?

5 HEARING OFFICER MANSFIELD: D is not his area.

6 MR. MILLER: Oh, he is not in that area.

7 HEARING OFFICER MANSFIELD: Any further questions of this
8 witness?

9 [No response.]

10 HEARING OFFICER MANSFIELD: Mr. Young, you are excused.

11 MR. COHEN: Madam Hearing Officer, we have one one-minute
12 item before we leave this afternoon, with your permission.

13 I made the quite remarkable mistake of saying that Michael
14 Barzytis could be released, but he is still here in the room and one
15 particular item has come to our attention that I would like to have him
16 come back on the witness stand for I am going to say a maximum of four
17 questions of Mr. Barzytis.

18 HEARING OFFICER MANSFIELD: Is that like one question per
19 minute?

20 MR. COHEN: No.

21 [Laughter.]

22 MR. COHEN: In one moment.

23 [Laughter.]

24 MR. COHEN: I think it would be helpful actually.

25 HEARING OFFICER MANSFIELD: Okay. I think this makes sense,

1 Mr. Barzytis -- Mr. Barzytis, would you please take the witness stand?

2 HEARING OFFICER MANSFIELD: Okay. You are still under oath.

3 THE WITNESS: Yes, ma'am.

4 BY MR. COHEN:

5 Q Mr. Barzytis, at an earlier point in your testimony, we were
6 looking at the total number of engineers and train service employees who
7 were on the working list as of the preponderance check period, and we
8 had had an exchange, and we had an average of approximately 22,700
9 employees in total. Do you remember that, sir?

10 A Yes, sir.

11 Q And we were discussing a possible speculation as to how many
12 starts in the aggregate all of those 22,700 employees actually made
13 during the 91-day preponderance pay period. Do you remember that, sir?

14 A Yes, sir.

15 Q Am I correct in understanding that actually your office has
16 available the answer to that question?

17 A Yes, sir.

18 Q Okay. Could I ask you to provide that to us as whatever
19 time period you could do?

20 A I can do it right now.

21 Q All right, would you be kind enough to.

22 A The total number of starts that we calculated over the
23 91-day period from January 5 to April 1 was 1,204,435.

24 Q Thank you very much.

25 HEARING OFFICER MANSFIELD: Can you say that number again,

1 please?

2 THE WITNESS: 1,204,435.

3 BY MR. COHEN:

4 Q I have one last question. With respect to UP Exhibit 2-A,
5 that composite number of 390 individuals who made 530 moves during that
6 same period, do you recall that, sir?

7 A Yes.

8 Q Do you have available the actual names of those individuals
9 so we might cross-check them against the emergency -- the list of
10 emergency individuals? Is that list of names available?

11 A Yes, it is.

12 Q Okay. Would you be kind enough to make that available to
13 us?

14 A Yes, we can.

15 Q Okay.

16 MR. MOORE: Just a second, please.

17 MS. COUNCIL: Is this what you are talking about?

18 THE WITNESS: Yes.

19 MR. COHEN: I don't mean this moment, I just meant --

20 MR. MOORE: Yes, I just wanted to make sure that there
21 wasn't any problem with the response.

22 HEARING OFFICER MANSFIELD: All right, let's -- if it is
23 available and can be made available, we will make it a Union Pacific
24 exhibit and put it in.

25 MR. COHEN: Thank you very much.

1 HEARING OFFICER MANSFIELD: Is that it? Any cross?

2 MR. MILLER: I have no questions.

3 HEARING OFFICER MANSFIELD: You are excused for the third
4 time.

5 [Laughter.]

6 [Witness excused.]

7 HEARING OFFICER MANSFIELD: Okay. We're still on the
8 record. I'm assuming you don't have any quick witnesses.

9 MR. COHEN: That's correct.

10 HEARING OFFICER MANSFIELD: All right. I think we should
11 adjourn for today. We will resume the hearing at 9 a.m. tomorrow
12 morning.

13 [Whereupon, at 6:19 p.m., the hearing was recessed, to
14 reconvene at 9:00 a.m., Friday, July 9, 1999.]

15

16

17

18

19

20

21

22

23

24

25