

FEBURARY 23, 2006, PUBLIC HEARING

BEFORE THE FEDERAL RAILROAD ADMINISTRATION

IN BNSF RAILWAY COMPANY

PETITION FOR EXEMPTION FROM COMPLIANCE

DOT DMS DOCKET NO. FRA-2003-15432

TESTIMONY OF

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
DIVISION**



Good afternoon. My name is Rick Inclima. I am the Director of Safety for the Brotherhood of Maintenance of Way Employees Division of the Teamster's Rail Conference. BMWED is a railroad labor organization representing approximately 40,000 Roadway Workers who build, construct, inspect and maintain railroad tracks, bridges, building and related infrastructure throughout the United States.

Our testimony here today will be short and to the point. BMWED strongly and unequivocally supports the testimony jointly presented by the BLET and UTU in this public hearing, as well as their written comments submitted to the docket in this matter.

BMWED is opposed to the granting of this waiver request to expand the existing waiver to an additional 329 miles on BNSF's Fort Worth and Red Rock Subdivisions primarily because of the adverse safety impact the waiver, with its stated goal of one-person train operations, will have on the safety of Roadway Workers.

ETMS is not a true PTC system. It does not meet the third core feature of PTC, namely the protection of Roadway Workers operating within the limits of their authority. This is of grave concern to BMWED given BNSF's intent to reduce already overburdened train crews from 2 or 3 person operations, to single person operations.

The Roadway Worker Accident Review Team has identified at least 9 train incursions into Roadway Worker working limits that resulted in a reportable event due to meeting the equipment damage threshold, an injury, or a roadway worker fatality between 1998 and 2005. An untold number of undocumented train incursions that did not meet the reportable damage threshold, or result in an injury or death to a roadway worker, have also occurred during the measurement period.

The important point here is that these incursions, both reported and non-reported, occurred under conditions that had at least 2 crew members in the cab of the locomotive. This means that even with the safety redundancy of having 2 crew members to assure compliance with train orders and identify the locations where working limits have been established, trains have and continue to get into working limits established by authority for the protection of Roadway Workers. Given the operational burdens placed on 2 person crews, it is miraculous that even more catastrophic incursions do not occur.

This is a tribute to the skills, dedication, and teamwork of today's operating crews and points to the important safety redundancy inherent to 2 person crews.

This waiver request by BNSF is not really about ETMS. The ETMS waiver is being used by the entire industry as a deception to gain tact FRA approval for one-person train operations. The waiver in question explicitly seeks removal of the second crew member, the important second set of eyes and ears, from the cab of the locomotive. If allowed, it will remove the vitally important safety function that is fulfilled by the second person in the locomotive cab. Under BNSF's waiver request, the safety burden of complying with a stack of train orders and the precise locations of work limits will be forced solely upon a lone locomotive engineer who is simultaneously responsible for the safe handling and operation of the train, observing the road ahead, reading and reacting to signal indications, traversing road crossings at grade, reacting to on-board displays, sounding the horn for rail employees and trespassers on or about the track, and communicating with the train dispatcher/control operator and Roadway Workers in Charge.

Yet, the BNSF ETMS system does not enforce automatic stop before incursion into Roadway Worker work limits. Therefore, from the perspective of Roadway Workers, safe train operations necessitate a minimum of 2 person crews for the safety of Roadway Workers in addition to the detailed and valid safety concerns articulated by the BLET and the UTU.

BMWED supports the testimony of the BLET and the UTU, and their sound public and railroad safety rationale for requesting denial of this waiver. In addition to the reasons stated by the BLET and UTU, BMWED wants to emphasize that a 50% reduction in train crew personnel without any technological safety redundancy to enforce automatic train stop for the protection of Roadway Workers operating within the limits of their authority puts the lives of 40,000 Roadway Workers at risk and should not be allowed.

Thank you.