



Norfolk Southern Corporation  
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S. M. Goodspeed  
Assistant Director  
Labor Relations  
(757) 629-2452

September 10, 2012

AG-MW-02

Mr. T. R. McCoy, Jr., General Chairman  
Brotherhood of Maintenance of Way Employees  
9300 Runyon Road  
Catlettsburg, Kentucky 41129

Dear Mr. McCoy:

This refers to our discussions concerning the use of contractor-owned and operated excavators on the Virginia Division and the assignment of BMWED-represented employees in connection with such use.

This will confirm that the Carrier may use contractor-owned excavators with contractor operators on the Virginia Division to perform Maintenance of Way tasks which are within the scope of the BMWED Agreement, without the usual notice required by Appendix F of the current agreement; provided, however, that such use is in accordance with the following terms and conditions:

1. When practical, one (1) Machine Operator position shall be advertised to work with each such excavator in accordance with Rule 8 of the agreement. Such position(s) shall be advertised at the location(s) where such tasks are being performed using such excavator(s).
2. The Machine Operator position(s) to be advertised in accordance with Paragraph 1 above shall accompany such excavator(s) whenever they are in use on the Division for Maintenance of Way tasks within the scope of the agreement, and shall not during such time be assigned to perform any other tasks which are not consistent with that assignment. However, it is expressly understood that when a contractor's excavator to which any such position is assigned is not performing such tasks, the Carrier may assign the occupant of such position to perform any other tasks in accordance with the agreement.
3. When it is not practical to advertise such Machine Operator positions in accordance with Paragraph 1 above, a BMWED-represented employee will be assigned to accompany each such excavator under the same terms described in Paragraph 2 above, in accordance with the following:
  - a. The senior Machine Operator(s) working on the Division where the contractor's excavator(s) is/are working shall have preference for the assignment(s), whether such assignments are made on regular assigned work days or rest days. If the senior Machine Operator refuses the work opportunity, preference shall be given for the work in accordance with Machine Operator seniority.

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- b. In the event that the senior Machine Operator identified in Paragraph (a) above does not refuse, but it is not operationally feasible on any day for the senior Machine Operator(s) on the Division to be released to such assignment(s), the Carrier shall make an assignment(s) on the basis of Machine Operator seniority.
  
- c. In cases where the assignment is made in accordance with Paragraph (b) above on any day to other than the senior Machine Operator(s) identified in Paragraph (a), the senior Machine Operator(s) otherwise entitled to preference in accordance with Paragraph (a) above shall be compensated for the difference in overtime, if any, between what is earned by such Machine Operator(s) assignments and that which is earned by the employee(s) assigned in accordance with Paragraph (b).


Please indicate your concurrence in this matter by signing in the space below and returning a copy of this letter to me for our records.

Very truly yours,



S. M. Goodspeed  
Assistant Director  
Labor Relations

I AGREE:

  
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T. R. McCoy, Jr.  
General Chairman, BMWED