



**Brotherhood of Locomotive Engineers & Trainmen**

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DON M. HAHS  
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***united transportation union***

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August 4, 2006

Docket Clerk  
DOT Central Docket Management Facility  
Room PL-401  
400 7th Street, SW (Plaza Level)  
Washington, DC 20590-0001

Re: Docket Number FRA-2006-23687

Dear Docket Clerk:

Attached hereto please find the Supplemental Comments of the Brotherhood of Locomotive Engineers and Trainmen and the United Transportation Union with respect to the above-referenced docket.

Respectfully submitted,

Don M. Hahs  
National President

Paul C. Thompson  
International President

attachment

**Federal Railroad Administration**

**in re**

**BNSF Railway Company  
Product Safety Plan  
DOT DMS Docket No. FRA-2006-23687**

**Supplemental Comments of  
Brotherhood of Locomotive Engineers and Trainmen  
and  
United Transportation Union**

The United Transportation Union (“UTU”) and the Brotherhood of Locomotive Engineers and Trainmen (“BLET”), a division of the Rail Conference of the International Brotherhood of Teamsters, are filing joint supplemental comments concerning the above-referenced docket. BLET and UTU are the duly recognized collective bargaining representatives, under the Railway Labor Act (45 U.S.C. §§ 151 *et seq.*), for approximately 20,000 operating craft employees and yardmasters employed by the BNSF Railway Company (“BNSF”), all of whom are directly affected by the subject matter of the docket. For the reasons set forth below, UTU and BLET submit that FRA should not approve the petition without, first, requiring the amendments and changes we detail herein.

Under cover letter dated May 12, 2006, BNSF filed its amended Product Safety Plan (“PSP”), comprised of 190 pages, concerning its Electronic Train Management System (“ETMS”). *See* FRA-2006-23687-9. On May 23, 2006, BNSF filed its 4-page classification of appendices to the PSP. *See* FRA-2006-23687-10. The redacted appendices that have been included in the public docket number over 1,800 pages. *See* FRA-2006-23687-11. To be certain,

BNSF has made substantial revisions — most notably the elimination of protocols for “engineer-only” operations — that we commend.

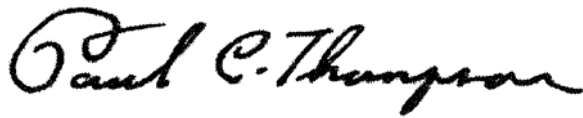
Nevertheless, we believe that the amended PSP as reflected in the public docket is insufficient to warrant approval by FRA. We previously submitted joint comments with respect to the original PSP that was published. *See* FRA-2006-23687-8. To the extent that various objections raised in those comments have not been addressed by BNSF in a satisfactory manner in the amended PSP, we restate and renew those objections.

We also note that FRA has recently communicated with BNSF with respect to the amended PSP on two occasions. On June 29, 2006, FRA provided an initial set of comments and concerns that raised the following points, among others: insufficient PSP pre-definition of incremental and predefined changes to ETMS; unsubstantiated assumptions concerning the level to which a locomotive engineer may rely on the technology; lack of clarity concerning what comprises the complete Operations and Maintenance Manual; failure to address training of contractor employees who install and maintain ETMS equipment; failure to adequately cross-reference the PSP in numerous instances; failure to adequately correlate PSP conditions with requirements set forth in application portions of BNSF’s Railroad Safety Program Plan (“RSPP”); failure to define which failure rate assumptions were developed from actual data and which were developed from estimates; numerous systems assumptions were of questionable, if not dubious, validity; and insufficient explanations and justifications concerning several key requirements of 49 CFR Part 236, Subpart H. *See* FRA-2006-23687-13. Further, FRA requested additional details with

respect to certain calculations, assumptions, standards and methods of compliance for approximately fifty other aspects of the PSP. Id.

On July 28, 2006, FRA again wrote BNSF, advising that its formal technical review of the PSP appendices had been completed. *See* FRA-2006-23687-14. FRA's review comment matrix includes over two hundred requests for correction, clarification, explanation or justification of statements and/or data contained in the appendices. In sum, FRA's technical review discloses over three hundred issues that must be resolved before favorable consideration can be given. We support FRA's work in this regard and look forward to BNSF's responses.

Our support for the use of positive train control is second-to-none, because our members suffer the most severe consequences in incidents that PTC can prevent. We continue to believe that a properly developed and implemented PTC system can greatly enhance safety in the railroad industry. That development process necessarily requires that meticulous design, testing and demonstration precede full-scale implementation. We appreciate the diligence shown by FRA in analyzing BNSF's PSP in every detail, and urge that FRA continue to demand strict adherence to the rigorous standards set forth in Part 236.



Paul C. Thompson  
International President  
United Transportation Union

Respectfully submitted,



Don M. Hahs  
National President  
Brotherhood of Locomotive  
Engineers and Trainmen