



Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters

Freddie N. Simpson
President

Dave D. Joynt
Secretary-Treasurer

July 17, 2019

Mr. Michael Rush
Senior Vice President Safety and Operations
Association of American Railroads
425 3rd Street SW, Suite 1000
Washington, DC 20024

Dear Mr. Rush:

BMWED and the railroad companies represented by the AAR share the common need to provide our members, their employees, with the safest workplace possible. This goal is embedded in the Preamble to the BMWED Bylaws: "The objectives of the Brotherhood are... 4) to alleviate distress and suffering caused by sickness and disability among our members." The same aspiration is foundational to industry safety rules.

Similar interests are also reflected in numerous federal statutes and regulations. Several of these regulations specifically encourage and even require collaboration and cooperation between BMWED and railroad companies to identify and mitigate, or if possible, eliminate, health and safety hazards associated with the workplace.

Over the years, BMWED representatives have anecdotally noted reports of adverse health and safety outcomes among our members. But action cannot be predicated on mere anecdotal reports. Seeking clarity, BMWED embarked on a mission to establish objective scientific metrics concerning the health and safety status of our members and retirees. Beginning in 2015, BMWED engaged a team of highly-credentialed researchers to design, direct and author a Maintenance-of-Way (MOW) Health and Safety research study. The purpose of this effort was to identify potential safety and health risks, if any, impacting MOW workers.

We are confident that our research study is mirrored in similar efforts conducted by AAR and its various member railroads.

In our respective roles, labor and industry are mutually bound by common purpose, moral obligation, and legal requirements to understand and address potential health and safety hazards in the railroad work environment. We are also obligated to collaborate and cooperate by statutory and regulatory incentive. Our statutory mandate begins with the Rail Safety Improvement Act (RSIA) of 2008, which requires the development of railroad-specific risk reduction programs that systematically evaluate safety risks on railroad transportation systems. The same mandate requires management of those risks to reduce railroad accidents, incidents, injuries, and fatalities. The Federal Railroad Administration (FRA) has promulgated additional regulations (49 CFR Parts 270 and 271) to implement the requirements of the Act for passenger and freight railroads, respectively.

Section 20156(g)(1) of the RSIA states, "Each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall consult with, employ good faith and use its best efforts to reach agreement with, all of its directly affected employees, including any non-profit employee labor organization representing a class or craft of directly affected employees of the railroad carrier, on the contents of the safety risk reduction program."

We anticipate that your member railroad companies have made efforts to identify and analyze workplace risks and trends in preparation for Section 20156(g)(1) discussions with BMWED and other non-profit employee labor organizations. BMWED's research study represents a comparable effort to identify and analyze workplace risks and trends for the purpose of reducing the number and rates of railroad accidents, incidents, injuries, and fatalities. While this research study was not designed to identify direct causal relationships between individuals and their working conditions and exposures, the correlations are strong enough that occupational causes remain suspect unless they can be empirically ruled out. Our joint collaboration and cooperation can only help in promoting our shared health and safety interests.

Consistent with our adherence to the spirit of Section 20156(g)(1) in jointly collaborating and agreeing upon safety risk reduction program content, BMWED is sharing electronic copies of the three (3) *Full Occupational Health and Safety Reports (including tables)* with you and ask that you distribute them to your various member railroads. As previously advised, and as is customary in the realm of research, manuscripts have been prepared by the authors for submission to peer review journals. Therefore, it is possible that further refinements of the studies will be forthcoming at the conclusion of the peer review process.

I have cc'ed the railroad CEO's who originally received a paper copy of our 2018 Summary Report, so they are aware of our transmission of the full reports to AAR. We trust that you and your member railroads will in turn share the results of any AAR/carrier-initiated studies or risk analysis, whether made pursuant to Section 20156(c) or otherwise. Transparency is in our mutual Interest and in the interest of all MOW employees, regardless of employer, affiliation, or rail transportation sector.

Of course, we are mutually aware of the complicated inter-relationships between various statutory provisions and collective bargaining agreements. We remain mindful of concurrent legal rights and obligations under existing collective bargaining agreements to which we remain bound, irrespective of FRA safety programs. Our joint efforts should not and cannot be used by either party to unilaterally circumvent or alter agreed upon rates of pay, rules or working conditions embodied in a CBA. I am confident that we can jointly collaborate to improve safety and reduce risk while respecting our mutual rights and obligations under the RLA.

Mutual good faith efforts to reach agreement on the contents of a risk reduction program are mandated by both statute and regulation. However, whether mandated by law or not, understanding and mitigating risks affecting the men and women who build, inspect, maintain and repair tracks, bridges and related railroad infrastructure is absolutely the right thing to do. To this end, BMWED looks forward to engaging in serious, productive risk reduction

consultations concerning how our mutual research efforts can best be utilized to identify hazards, mitigate risks, and improve railroad and employee safety throughout the industry.

Sincerely,

A handwritten signature in black ink, appearing to read "F. N. Seng". The signature is fluid and cursive, with a large initial "F" and a stylized "N".

President

Cc: National Division Officers and General Chairpersons
Mr. Richard Anderson, Amtrak President and CEO
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