

BMWED

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION
Of The International Brotherhood Of Teamsters

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MIDWEST SYSTEM FEDERATION RATIFIES AGREEMENTS

BMWED Members Reach Agreements on both the Soo Line and the LS&I Railroads

The Brotherhood of Maintenance of Way Employees, Midwest System Federation membership finalized ratification of its Tentative Agreements with both the Soo Line Railroad and the Lake Superior & Ishpeming Railroad.

On April 24, 2009, at the close of the business day, the vote was counted and the Soo Line Agreement was ratified by an overwhelming margin. There was a 79% ballot return with 84% of those voting in favor of the Agreement. BMWED members at LS&I also ratified their agreement.

The Soo tentative Agreement was reached on Wednesday, March 18, 2009 after a framework for a settlement had been reached on February 20, 2009.

"I am very gratified with the fact that we had such a positive response from our members," said Midwest System Federation General Chairman Mark Wimmer. "The last fifty months of bargaining has been a long hard road for us to get to this point. Our members at Soo have been very patient and at least 84% of them think we got it right."

The new deal with Soo will provide for current and retroactive wage increases of 17% over the life of the contract. In addition all rates of pay will be adjusted upward by 95 cents in June 2009 and a special wage adjustment to all rates will take place in June as well. Effective as soon as possible after July 1, 2009 the BMWED members at Soo will be transferred under the National Health and Welfare Plan. The agreement also provides for a number of rules changes and binding arbitration on a remaining four issues.

After four years of bargaining, agreement was also finally reached with LS&I and ratified by the members. The new agreement, which is scheduled to expire at the end of 2009 also provides for general wage increases (including retroactive) of 17% over the five year period. This will mean an accumulative increase averaging 18.3% over the five year period. The agreement was also changed to include the members at LS&I under coverage that is virtually identical to that of the National Health



Midwest System Federation General Chairman Mark Wimmer, left, reviews new contract with Assistant General Chairman Gene Bell.

and Welfare Plan but administered by a local third party administrator.

"I have to thank all of our members at both the Soo Line and the LS&I for supporting each other and their bargaining unit throughout the tedious process," offered General Chairman

Mark Wimmer. "I know at times it was very frustrating but we stuck together and got the job done."

Approximately 500 of the Midwest System Federation members will be affected by the new deals reached with Soo Line and LS&I Railroad.

BMWED TO CONDUCT SURVEY OF TRACK INSPECTORS

Survey Data to Document "Real World" Inspection Challenges

The BMWED will soon be mailing a survey form for the purpose of documenting the daily challenges and obstacles confronting track inspectors. The survey is intended to provide BMWED track inspectors with an independent and anonymous means to document the "real world" challenges and pressures they face in performing quality and thorough track inspections under part 213.7 of the Track Safety Standards.

"Data derived from our survey will allow us to bring the views and perspectives of BMWED track inspectors directly to lawmakers and decision makers on Capitol Hill and at the Federal Railroad Administration (FRA)," said President Freddie Simpson. "This is particularly important given the fact that FRA will be

conducting their own independent evaluation of track inspection under a mandate contained in the Rail Safety Improvement Act (RSIA) of 2008. As president, I believe strongly that it is in the best interest of our track inspectors for BMWED to directly and independently solicit their views so that we can represent those views in future legislation or rulemaking by the Congress and/or FRA."

"Our highly skilled and dedicated track inspectors are routinely used as scapegoats to be blamed every time there is a derailment or track caused accident," said BMWED Director of Safety Rick Inclima. "Both BMWED and the Congress recognize the importance of quality track inspections to the safety of

railroad operations, and the BMWED survey will be used as a means to identify problems and improve conditions under which visual track inspections are conducted."

As background, the RSIA requires the Secretary of Transportation, by Oct. 2010, to transmit to both the House and the Senate "a report containing the results of a study to determine whether—

- (1) the required intervals of track inspections for each class of track should be amended;
- (2) track remedial action should be amended;
- (3) different track inspection and repair priorities or methods should be required; and
- (4) the speed at which railroad track inspection vehicles operate and

the scope of the territory they generally cover allow for proper inspection of the track and whether such speed and appropriate scope should be regulated by the Secretary."

FRA has been charged by the Secretary to fulfill the RSIA mandate and issue a report to Congress. FRA will likely contract with a third party polling firm to conduct interviews and/or surveys with a limited number of track inspectors in response to the RSIA mandate. While it is unclear at this time exactly what questions the FRA will ask track inspectors or what the Congress will do with the FRA report, it is clear that BMWED must be positioned to influence a positive outcome for our track inspectors and rail safety.

See **Survey** on Page 11



Benefit Rate Increase for Railroad Unemployment and Sickness Benefits

The maximum daily benefit rate payable for claims under the Railroad Unemployment Insurance Act increases to \$64 from \$61 in the new benefit year, which begins July 1, 2009. Benefits are normally paid for the number of days of unemployment or sickness over four in 14-day registration periods, so maximum benefits for biweekly claims will total \$640.

During the first 14-day claim period in a benefit year, benefits are payable for each day of unemployment or sickness in excess of seven, rather than four, which, in effect, provides a one-week waiting period. Initial sickness claims must also begin with four consecutive days of sickness. However, only one waiting period is required during any period of continuing unemployment or sickness, even if that period continues into a subsequent benefit year. Claimants already on the rolls will, therefore, normally not be required to serve another waiting period because of the onset of the new benefit year.

To qualify for normal railroad unemployment or sickness benefits in the benefit year beginning July 1, 2009,

an employee must have had railroad earnings of at least \$3,200 in calendar year 2008, not counting more than \$1,280 for any month. Those who were first employed in the rail industry in 2008 must also have at least five months of creditable railroad service in 2008.

Under certain conditions, employees with 10 or more years of service who do not qualify in the new benefit year on the basis of their 2008 earnings may still be able to receive benefits after June 30, 2009. Ten-year employees who received normal benefits in the benefit year ending June 30, 2009, might still be eligible for extended benefits, and ten-year employees may be eligible for accelerated benefits if they have rail earnings of at least \$3,325 in 2009, not counting earnings of more than \$1,330 a month.

Application forms for unemployment and sickness benefits may be obtained from railroad employers, railroad labor organizations, any Railroad Retirement Board (RRB) office, or the agency's Web site at www.rrb.gov. Also, as an alternative to applying for unemployment benefits through the

mail, unemployment claimants can instead file applications online. Likewise, subsequent biweekly claims for unemployment benefits may be filed online rather than through the mail and employees can also access information about their individual railroad unemployment insurance account statements online. These account statements provide a summary of the unemployment and sickness benefits paid under the Railroad Unemployment Insurance Act to rail employees.

To access these online services, employees must first establish an RRB Internet Services account. For security purposes, first time users must apply for a Password Request Code, which they will receive by mail in about 10 business days. To do this, employees should click on "Benefit Online Services" and select "request a PRC." Once employees establish their online accounts, they will be able to file their applications and biweekly claims for unemployment benefits as well as conduct

other business with the RRB over the Internet. Employees are encouraged to initiate an online account while still employed so the account is established if they ever need to use these or other select RRB Internet services. Employees who have already established online accounts do not need to do so again. Although claimants cannot currently file applications or biweekly claims for railroad sickness benefits over the Internet, the RRB is planning to add the online filing of sickness claims in the future.

Claimants with questions about unemployment or sickness benefits should contact an RRB office by calling toll free at 1-877-772-5772. Claimants can also find the address of the RRB office serving their area and get information about their claims and benefit payments by calling this toll-free number. Most RRB offices are open to the public from 9:00 a.m. to 3:30 p.m., Monday through Friday, except on Federal holidays. Field office locations can also be found by visiting www.rrb.gov.

BMWED Division JOURNAL CONTENTS

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Reduced Federal Income Tax Withholding for Many RRB Annuitants

The Railroad Retirement Board (RRB) has adjusted the railroad retirement benefits of almost 130,000 beneficiaries to apply the new Federal income tax withholding rate as required under the American Recovery and Reinvestment Act of 2009 (Recovery Act).

The Internal Revenue Service (IRS) revised the income tax withholding rates and tables that are used to calculate Federal income taxes for United States citizens based on tax cuts in the Recovery Act.

The RRB implemented the new tax tables beginning with monthly payments received on April 1, 2009. The new rates apply to withholding from the non-social security equivalent benefit (NSSEB) portion of tier 1, tier 2, vested dual benefits, and supplemental annuity payments. The revised tax tables will remain in use for the remainder of 2009.

In the absence of a request not to withhold Federal income tax or to withhold tax at specific amounts, the RRB will withhold taxes only if the combined portions of the NSSEB portion of tier 1, tier 2, vested dual benefit, and supplemental annuity payments are equal to or greater than an annual threshold amount. In that case,

the RRB withholds taxes as if the annuitant were married and claiming 3 allowances. The annual threshold amount for 2009 had originally been set at \$1,584.51. The Recovery Act increased the 2009 threshold amount to \$2,230.51.

Form RRB W-4P, *Withholding Certificate For Railroad Retirement Payments*, is used by U.S. citizens or legal residents for U.S. tax purposes. Annuitants can use Form RRB W-4P to request:

- no Federal taxes be withheld from their railroad retirement payments,
- Federal taxes be withheld based on the marital status and the number of allowances they want to claim,
- an additional amount be withheld from their railroad retirement payments.

Annuitants who wish to adjust withholding from their NSSEB and tier 2 benefits, vested dual benefit, and supplemental annuity payments must complete Form RRB W-4P and send it to the RRB. An annuitant is **not** required to file Form RRB W-4P.

Annuitants who have questions regarding their tax liability should contact the nearest office of the IRS or visit their Web site at www.irs.gov.

RRB Issuing Statements of Service

Each year, the U.S. Railroad Retirement Board (RRB) prepares a "Certificate of Service Months and Compensation" (Form BA-6) for every railroad employee who received creditable railroad compensation in the previous calendar year. The forms will be mailed to employees by the RRB during the first half of June. While every effort has been made to compile and keep current the addresses of all active railroad employees, those for whom compensation was reported in 2008 but who have not received Form BA-6 by July 1, or need a replacement, should contact the nearest RRB field office.

Form BA-6 provides employees with a record of their railroad retirement service and compensation. While the form has no cash value, the information shown is used to determine whether an employee qualifies for benefits and the amount of those benefits.

It is important that employees review their Form BA-6 to see whether their own records of service months and creditable compensation agree with the figures shown on the form. In checking the 2008 compensation total, employees should be aware that only annual earnings up to \$102,000 were creditable for railroad retirement purposes in that year, and that \$102,000 is the maximum amount shown on the form. To assist employees in reviewing their service credits, the form also shows service credited on a month-by-month basis for 2007, 2006, and 2005, when the creditable compensation maximums were \$97,500, \$94,200, and \$90,000, respectively. In addition, the form identifies the employers reporting the employee's 2008 service and compensation.

Besides the months of service reported by employers, Form BA-6 shows the number of any additional service months deemed by the RRB. Deemed service months may be credited under certain conditions for an employee who did not work in all 12 months of the year, but had creditable tier II earnings exceeding monthly prorations of the creditable tier II earnings maximum for the year. However, the total of reported and deemed service months may never exceed 12 in a calendar year; and no service months, reported or deemed, can be credited after retirement, severance, resignation, discharge, or death.

Form BA-6 also shows the number of months of verified military service creditable as service under the Railroad Retirement Act, if the service was previously reported to the RRB. Employees are encouraged to submit proofs of age and/or military service in advance of their actual retirement.

Filing these proofs with the RRB in advance will streamline the benefit application process and prevent payment delays.

For employees who received separation or severance payments, the section of the form designated "Taxable Amount" shows the amounts of any separation allowance or severance payments that were subject to railroad retirement tier II taxes. This information is shown on the form because a lump sum, approximating part or all of the tier II taxes deducted from such payments made after 1984 which did not provide additional tier II credits, may be payable by the RRB upon retirement to qualified employees or to survivors if the employee dies before retirement. The amount of an allowance included in an employee's regular compensation is shown under "Compensation Amount."

Form BA-6 also shows, in the section designated "Employee Contributions," the cumulative amount of tier II railroad retirement payroll taxes paid by the employee over and above tier I social security equivalent payroll taxes. While the RRB does not collect or maintain payroll tax information, the agency computes this amount from its compensation records in order to advise retired employees of their payroll tax contributions for Federal income tax purposes.

Employees should check their name, address, birth date and sex shown at the top of the form. The social security number box has been removed from the form, although the last 4 digits of the social security number are still displayed above the employee's name. If only the first five letters of the employee's surname are shown or his or her birth date shows as 99- 9999, and the sex code shows as U(nknown), it means the RRB is verifying his or her social security number with the Social Security Administration. Otherwise, if the personal identifying information is incorrect or incomplete (generally cases where the employee's surname has more than 10 letters and the form shows only the first 10 letters) or the address is not correct, the employee should contact an RRB field office. The field office can then correct the RRB's records. This is important in order to prevent identity or security-related problems that could arise if the employee wants to use certain Internet services available on the RRB's Web site at www.rrb.gov.

Employees may view their railroad retirement service and compensation records, get estimates of their future annuities, apply for, as well as claim, railroad unemployment benefits, and access their individual railroad unem-

ployment insurance account statements through the RRB's Web site. To use these additional online services, an employee must first establish an RRB Internet Services account. For security purposes, first time users must apply for a Password Request Code, which they will receive by mail in about 10 business days. To do this, employees should click on "Benefit Online Services" and select "request a PRC."

Employees can also request that printouts of their individual railroad retirement records of service months and compensation be mailed to them. A PIN/Password is not required to use this service. It can be accessed simply by visiting www.rrb.gov, clicking on "Benefit Online Services" and selecting the "Request Service & Compensation History" option.

If the employee's name was incomplete on Form BA-6, and he or she has not yet contacted an RRB field office to correct it, the employee should enter his or her first and middle initials and his or her sur-

name **just as it appears on the Form BA-6 or a previously furnished printout of service and compensation**, along with the other requested information.

Any other discrepancies in Form BA-6 should be reported promptly in writing to: Protest Unit-CESC, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092. The employee must include his or her social security number in the letter. Form BA-6 also explains what other documentation and information should be provided. The law limits to four years the period during which corrections can be made.

For most employees, the address of the RRB office serving their area is provided on the form along with the RRB's nationwide toll-free number (1-877-772-5772). Most RRB offices are open to the public from 9:00 a.m. to 3:30 p.m., Monday through Friday, except on Federal holidays.

To view sample Form BA-6, click on or type the address shown below: <http://www.rrb.gov/pdf/opa/pr0905.pdf>

Union Plus Financial Help Available to Tackle Hospital Health Care Costs

As hospital costs soar and health insurance coverage tightens, more American families than ever before are being thrown into a financial tailspin. Unexpected health care costs are the number one cause of bankruptcy with 1.5 million American families losing their homes every year due to unaffordable medical costs.

Passing comprehensive health care reform is essential, but for immediate financial relief, Union Plus is providing \$1,000 Hospital Care Grants to help union families who are saddled with steep hospital bills. The grant money, which never needs to be repaid, helps union families get a handle on household bills and gain some much-needed peace of mind.

Union member Kristan McArthur, of Dallas, GA, says the \$1,000 grant she received helped her cope with the emotional and financial stress she suffered following surgery to repair a crushed ankle-bone.

"The Union Plus Grant helped me a lot," McArthur says. "There was a lot of pressure on me to pay off the hospital bills, but how could I do that when I wasn't even able to work? I still had to pay for

prescriptions, food, and other household expenses. It was such a big relief after I used the \$1,000 to pay off what I owed for the surgery."

The Hospital Care Grants are part of a new \$3 million safety net initiative introduced this year by Union Plus to assist union members facing financial hardship during the recession. Union SAFE provides a wide array of benefits, including financial counseling, college savings grants, disability assistance, and help aimed at fighting foreclosure.

Union members who have had a Union Plus Credit Card, Mortgage, or Insurance policy for one year and who face out-of-pocket hospital expenses (after insurance) that are at least 10% of household income for a hospitalization of the union member, spouse or dependent within the last 12 months are eligible to apply for grants.

The Hospital Care Grant is just one of the many ways that Union Plus is working to keep union members healthy – both physically and financially.

For more information and to apply for a Hospital Care Grant, visit www.UnionPlus.org/HospitalGrant.



Freddie N. Simpson

PRESIDENT'S PERSPECTIVE

On April 16, 2009, President Obama held a press conference in Washington, D.C. to announce his vision to build a network of high-speed rail corridors across America. This vision, coupled with \$8 billion in funds earmarked for intercity passenger rail and high speed passenger rail in the American Recovery & Reinvestment Act of 2009 ("ARRA"), is the first major government investment for building a passenger rail transportation network in the U.S. since the creation of Amtrak over 30 years ago. The plan's near-term goal is to establish 100-600 mile corridors connecting U.S. cities and communities. Ten

existing freight rail routes have been identified under the plan as suitable candidates for high-speed rail development. The longer-term vision of the Obama plan is to identify other routes, perhaps brand new lines or corridors, for the development of true high-speed rail similar to those operating in Europe and Japan.

Initial funding for this strategic plan to develop high-speed passenger rail will begin with the \$8 billion already authorized under the ARRA. This investment will be augmented by an additional \$1 billion per year for passenger rail in the President's proposed budgets for fiscal years 2010 through 2014. President Obama acknowledged these funds are just a "down payment" to the long-term goal of establishing a high-speed passenger rail network. These funds for developing new high-speed rail corridors are in addition to the \$1.3 billion appropriated to Amtrak under the ARRA for improving existing service and security and bringing Amtrak's Northeast Corridor between Washington, D.C. and Boston, MA into a state of good repair.

The strategic plan announced by the White House calls for the rebuilding of existing rail infrastructure to support new high-speed passenger rail service at speeds initially targeted for 90 MPH and increasing to 110 MPH as infrastructure and train control systems are upgraded and improved. Higher speed rail will come with time and a long-term investment. The way I see this strategic plan, it has the potential to be a win-win for all involved by finally placing high-speed rail transportation on par with other modes as part of a balanced transportation network. Freight railroads will benefit from significant government investment in railroad infrastructure to upgrade existing tracks and increase capacity to support high-speed rail. Railroad workers, including members of the BMWED, will realize expanded work opportunities rebuilding and maintaining the infrastructure that will support expanded high-speed service. The American public will benefit from increased mobility, reduced congestion on our highways and at our airports, and a reduction in destructive greenhouse emissions. And our nation will be provided additional options for safe, fast, and reliable transportation that will reduce pollution and our dependence on foreign oil.

The beauty of train travel is that it has the potential to transport people directly

into the hearts of cities and towns where people can engage in business, commerce and leisure. President Obama said, "Imagine boarding a train in the center of a city. No racing to an airport and across a terminal, no delays, no sitting on the tarmac, no lost luggage, no taking off your shoes. Imagine whisking through towns at speeds over 100 MPH, walking only a few steps to public transportation, and ending up just blocks from your destination. Now, all of you know this is not some fanciful, pie-in-the-sky vision of the future. It is happening right now. It's been happening for decades. The problem is, it's been happening elsewhere, not here" in America.

I wholeheartedly agree with President Obama and his vision for a balanced transportation system that includes expanding the vast potential of high-speed rail. It is long overdue. For the past eight years, we have had a president who loathed federal investment in passenger rail and made yearly attempts to kill off Amtrak, America's only national passenger railroad. But now we are poised to move high-speed passenger rail into the mainstream. Passenger rail is no longer a dirty word, and BMWED intends to play a key role in making the President's vision for high-speed passenger rail a reality. BMWED members have the skills, knowledge, and ability to perform the track work necessary to safely support a network of high-speed rail corridors nationwide. For years, BMWED members in Amtrak's Northeast Corridor have been maintaining the tracks and related infrastructure that support train speeds of up to 150 MPH.

However, we are also aware that we will have to fight to gain our full share of this new construction and maintenance work and I pledge to you that BMWED will do everything necessary to assure a substantial portion of this work accrues to BMWED members. Our Brotherhood will remain active on Capitol Hill to lobby for a significant share of new construction and the maintenance of these high-speed passenger corridors. We will sit down with the freight railroads in order to protect our members' rights to perform this work safely and efficiently. And we will work with the White House and the Federal Railroad Administration to help direct stimulus funds to those corridors which have the greatest potential for success in establishing high-speed passenger rail and creating and maintaining jobs for our membership.

Message from Teamsters General President Jim Hoffa



Cross Border Battle

On March 16, the Mexican government announced that they will apply tariffs to 90 U.S. agricultural and industrial products from 40 states. This was done in direct retaliation to the wise decision of Congress and the Obama administration to terminate the North American Trade Agreement's (NAFTA) truck pilot program begun by the Bush administration.

The Teamsters have remained on the forefront of the fight against cross-border trucking with Mexico because we know firsthand how unsafe they would make U.S. highways. We said

all along that the program should be halted until the numerous safety, security, environmental and driver-training issues were resolved. More than 15 years have gone by since NAFTA was passed, and still Mexico has failed to meet their end of the bargain – something the press seems to be missing.

Congress Halts Program

National publications are reporting about the Mexican tariffs, but many of the news pieces are missing the point. Few are actually talking about why Congress moved to halt the program. Instead, the publications are slanted

toward the big-business concerns of potential trade wars with our Mexican neighbors.

Instead of applying tariffs to the U.S. exports, the Mexican government should consider better training for their drivers. They should consider that their drivers should not be driven to the point of exhaustion (there are no hours-of-service regulations for Mexican drivers). The Mexican government should consider sending their drivers in cleaner, safer trucks, not trucks with bald tires and emitting dirty diesel fumes into the air.

See **Hoffa** on Page 11





SECRETARY-TREASURER'S REPORT



Perry K. Geller, Sr.

Many of us within the railroad industry have personally known someone who has been killed in an on-the-job accident or heard the sad story about a friend of a friend whose life was cut short under such tragic circumstances. Sometimes the story makes the local news, but most of the time the news of these tragic events is simply whispered to the grieving family with no public mention and no public memorial. Those whose lives have been lost in workplace accidents are men and women just like us; people dedicated to their jobs and to the welfare and prosperity of their families.

While we all intend on making it home from work each evening, we understand all too well that tragedy can strike without warning and lives can be lost on the job. It happens nearly 6,000 times per year in workplaces across the United States. Tragically, twelve railroad workers have already lost their lives in on-the-job accidents during the first 5 months of 2009. And for each workplace death, there are undoubtedly many more close calls which by sheer luck or divine providence had not resulted in a tragedy. Just think about how many close calls you've personally been involved in or witnessed during your career. This is the stark and harsh reality that railroad employees live with every single day.

Faced with this reality, we are committed to doing everything possible to improve the safety of rail workers and all workers in all workplaces throughout the United States. We are also committed to honoring the memory of those killed on the job by helping to establish a fitting memorial to the victims of unsafe workplaces, work practices, operating rules, and management directives.

The National Labor College (NLC) in Silver Spring, MD will soon be the proud home of the only national monument dedicated to workers killed on the job. This new, national memorial will be a fitting and lasting tribute to all workers who have met their untimely demise, including all those BMWED members whose lives have been lost in on-the-job accidents since our founding in 1887. The memorial will also serve as a constant reminder to us that fighting for workplace safety and health is the most important thing we can do for ourselves, our families and our coworkers. I can think of no better place to erect this memorial than on the peaceful grounds of the National Labor College where thousands of BMWED members and other unionists have studied and learned about labor/management relations, work-

place safety and health, collective bargaining, and organized labor.

Most of the workers' national memorial will be constructed of simple bricks which will be replaced over time, one-by-one, with those engraved with the names of fallen workers. For a contribution of \$125.00, a brick can be purchased in the name a fallen Brother or Sister who died on the job or from work-related dangers. Several bricks have already been purchased for fallen rail workers by contributions donated by rail union members attending the Railworkers' Hazmat Training seminars held on the NLC campus several times each year. Each memorial brick bears the name of a fallen worker, the date of death and the name of their union or occupation. Any member, Lodge, or System Federation/Division wishing to dedicate an individual brick for a fallen Brother or Sister can go to http://www.nlc.edu/wmd_brick_form.pdf. The college will keep track of the location of each memorial brick, and publish a directory of the names.

Running through the monument will be numerous granite benches, each engraved with a special memorial message from supporting unions and organizations. I am proud to announce that the BMWED, with the full support of the National Division Officers, has purchased one of these granite benches as a prominent and lasting tribute to members of the BMWED who have paid the ultimate price. The BMWED bench will be inscribed with the following words:

"Dedicated to the memory and honor of BMWED members who lost their lives in the line of duty building and maintaining our nation's railroads."

Much of the labor for constructing the memorial will be donated by union craftsmen. And all the work from quarrying the stone, to firing and engraving the bricks, to transporting the materials to the site of the memorial, will be done by union members. As I write this column, I can't help but

wish that the hands and the mortarboards of masons and bricklayers will be idled as soon as the memorial is completed and that no other bricks will need to be laid.

Unfortunately, history tells us that this memorial will never quite be completed. The worker's memorial will

remain a living, breathing work in progress, dedicated to the honor and memory of those whose lives are lost and to the coworkers, friends, and loved ones they leave behind.

In honor of those who have perished in the line of duty: Stay strong, stay safe, and stay united.

A Vice President Speaks

It's that time again and we are gearing up for another battle at the National bargaining table. It seems we are no sooner through the last round and it is time for the next. Questionnaires have been sent out to the membership with more to follow, meetings are being conducted to discuss the pending Section 6 Notice (bargaining demands), discussions are being conducted between the different rail crafts and everyone is looking toward the next round of bargaining.



Obviously, proper preparation is key to a successful effort but the most important ingredient is the feedback and input received from our rank and file members. It is important that each member take the time to respond to questionnaires, attend union meetings and voice opinions, or just write or make a phone call to their local representative. Having lived through a number of contracts and having been involved in the bargaining, I know how important it is to stay in touch with our members throughout the process. It is just as important that our members understand the contract bargaining process and be aware of how it works.

Those of us who have been around long enough to have gone through a couple of national agreements have some idea of what to expect as we go

through the process, (this is not to say that any of the past contract bargaining campaigns have been just alike). However, many of our members have not been through an entire round of bargaining under the RLA. We have a large number of new members with varying backgrounds. Some have had union experiences in other work places, some have not. Most likely, very few are familiar with the Railway Labor Act or how it works. Most people not familiar with the RLA tend to think that rail bargaining is like traditional contract bargaining and are not aware that railroad and airline employees are covered under a completely different law. The simplest explanation of the RLA is that it was enacted in 1926 to provide stability in the industry. And unlike the National Labor Relations Act (NLRB) it takes a much more involved approach in the way the parties conduct collective bargaining. We are educated about these issues at Union Meetings, as well as our concerns being addressed.

My years as a BMWED member and union representative has taught me some important lessons. For example, I know that participation and high turn-out at local lodge meetings translates into a more informed membership, as well as a more informed union representative. The rank and file are the eyes and ears of this Brotherhood and it is important for the representative to hear from the members.

See **Vice President** on Page 11



AROUND THE BROTHERHOOD

BMWED Officers Meet in Kansas City

On April 15, 2009, President Simpson invited all of the BMWED General Chairmen and National Division Officers to a meeting in Kansas, Missouri. The purpose of the meeting was to discuss the important issues that the BMWED will face in the coming months as preparations are made to prepare, assemble and serve Sections 6 Notices (bargaining demands).

BMWED Officers came away from these discussions with a better grasp on the approach the Brotherhood will follow during the next several months during the on-going preparations.



Unified System Division General Chairman Wayne Morrow discusses a point with Assistant to the President Steve Powers during a break at the Kansas City meeting.

Congressman Oberstar Receives BMWED D.R.I.V.E. Pin

Northeast Regional Legislative Coordinator Jeffrey Bainter recently met with Congressman James Oberstar and presented him with a BMWED D.R.I.V.E. Pin. He, along with BMWED Director of Government Affairs Leon Fenhaus and Southeast Regional Legislative Coordinator Mark McCarty discussed the Employee Free Choice Act and the American Recovery and Reinvestment Act with Oberstar.

Congressman Oberstar, the Chairman of the Committee on Transportation and Infrastructure, is the longest serving Congressman in Minnesota history. Congressman Oberstar has been in Congress since 1974 and is in his 17th term, representing the 8th District of Minnesota.



Jeff Bainter with Congressman James Oberstar.

IBT Rail Conference Meets

The Teamster Unity Conference was held in Las Vegas, Nevada over a period of seven days beginning May 1, 2009. Members of the IBT Rail Conference decided to take advantage of the opportunity and met while the conference was in session.

Members of the Rail Conference, which includes representatives from the BMWED, BLET and IBT International, met May 4th to continue moving the Rail Conference agenda forward in the interest of the general membership of the IBT Rail Conference.



Left to right: BMWED Southeast Region Vice President Randy Cook, BMWED and IBT Rail Conference Secretary-Treasurer Perry Geller, BMWED Western Region Vice President Dave Tanner.

Unified System Division Executive Committee Meet

The Unified System Division held its annual Executive Committee Meeting May 18 – 21, 2009 in San Diego, California. The purpose of the meeting was to allow the Executive Committee to review expenditures and the operations of the System for the previous year and to participate in its future direction.

The committee members heard from a number of guest speakers and were provided with a general overview of the operations of the System.



Unified System Division Executive Committee, Officers and Staff.

See **Brotherhood** on Page 10

Railroad Retirement Board Information Related to the American Recovery and Reinvestment Act of 2009

Special Extended Unemployment Benefits FAQ

1. Who will receive the special extended unemployment benefits?

Railroad workers who previously were not eligible for extended unemployment benefits because they did not have 10 years of railroad service (120 cumulative service months) may be eligible for up to 65 days within an extended period consisting of 7 consecutive 2-week registration periods.

And

Railroad workers who were previously eligible for extended unemployment benefits of up to 65 days may now be eligible for extended benefits of up to 130 days within an extended period consisting of 13 consecutive 2-week registration periods.

2. I have 8 years of railroad service and I ran out of my normal unemployment benefits on January 15, 2009. Am I eligible to receive the special extended unemployment benefits?

Yes, you would be eligible to receive up to 65 days within an extended period consisting of 7 consecutive 2-week registration periods. Your extended benefit period would begin on January 16, 2009, and benefits would be payable provided that you were still unemployed and ready, willing and able to work.

3. I have 20 years of railroad service and I exhausted my extended unemployment benefits on February 27, 2009. Am I eligible to receive the special extended unemployment benefits?

Yes, you would be eligible to receive an additional 65 days within an extended period consisting of a total of 13 consecutive 2-week registration periods. Your extended benefit period would last an additional 7 consecutive 2-week registration periods past February 27. Benefits would be payable provided that you were still unemployed and ready, willing and able to work.

4. What effect will the new law have on sickness benefits?

The extended unemployment benefit provisions of the American Recovery and Reinvestment Act apply only to unemployment benefits. No additional extended sickness benefits are payable. If you have less than 10 years of service, you are still not eligible for extended sickness benefits. If you have 10 or more years of service, you are still eligible to receive up to 65 days within an extended sickness benefit period consisting of 7 consecutive 2-week registration periods.

5. What must I do to receive my special extended unemployment benefits?

The Railroad Retirement Board (RRB) will mail notices to eligible employees who previously exhausted their rights to normal or extended unemployment benefits. The notice will provide them information about their extended unemployment benefit period beginning and ending dates. The RRB will also mail claim forms for days in the extended period. If you do not receive a notice and you believe you are eligible for these added benefits, you can contact your local RRB office as outlined below.

6. When will my special extended unemployment benefit period begin?

In general, your special extended unemployment benefit period will begin the day after you exhausted any normal or regular extended unemployment benefits.

7. What is the latest date that a special extended benefit period can begin?

Special extended unemployment benefit periods can begin no later than December 31, 2009.

8. When will my special extended unemployment benefits end?

Special extended unemployment benefits are being paid from the appropriation of \$20 million provided by the American Recovery and Reinvestment Act. Payment of special unemployment benefits will stop at the end of a person's extended unemployment benefit period or when the \$20 million has been spent – whichever comes first.

9. I returned to work and am now unemployed again. Can my special extended unemployment period beginning date be changed?

It depends. Extended benefit periods are frozen periods once they are established. If you exhausted normal benefits and did not receive any extended unemployment benefits, we can change the beginning date of your special extended unemployment benefit period. If, however, you already received some extended unemployment benefits but are now eligible for the additional 65 days, your extended benefit period beginning date can't be changed. Instead, we will change the ending date of your extended period to allow for the payment of any additional days you may be entitled to.

10. How can I file my claims?

Upon receipt of the unemployment claims, you may file your claims by mailing them to your local RRB office or by ***filling them over the Internet*** at ***www.rrb.gov***. You will need to establish a PIN/password to file your claims over the Internet.

11. What is the fastest way to get my benefits?

Filing your claims over the Internet and signing up for direct deposit help ensure faster delivery of your claims and benefit payments. You should ***establish a PIN/password account*** at ***www.rrb.gov*** now so that you can file your claims over the Internet once you receive notice that your extended period has been established.

In addition, ***please notify your local RRB office if you have moved or if your bank account information has changed***. You may ***contact your local RRB office*** to sign up for direct deposit, make changes to your existing direct deposit information and update your address.

12. When will you start paying these special benefits?

Benefits paid under the Railroad Unemployment Insurance Act are financed from taxes paid by railroad employers. However, these special extended unemployment benefits are being paid specifically from a \$20 million appropriation provided under the Recovery Act legislation. Many of our automated systems need to be changed to allow for this exception. We have started work on these changes and will keep you updated on our progress online at ***www.rrb.gov***, and through announcements available by calling us toll-free at 1-877-772-5772 (1-877-RRB-5RRB).

13. What if I exhaust all of my normal, regular extended and/or special extended unemployment benefits?

A new benefit year begins July 1, 2009. You may receive unemployment benefits beginning July 1 or later if your railroad earnings were at least \$3,200 in calendar year 2008, counting no more than \$1,280 a month. You can obtain an application for benefits at your local RRB office or ***file an application*** over the Internet at ***www.rrb.gov***. Applications are also available through railroad employers and many labor organizations. If you file for unemployment benefits, your application must be received within 30 days of the first day for which you want to claim benefits, or you may lose benefits.

14. Will the special extended unemployment benefits I receive because of the Recovery Act count as income for federal income tax purposes?

Yes. Under current law, all unemployment benefits are subject to taxation. We will report the amount of the special extended benefits you receive because of the Recovery Act on the Form 1099-G you receive in January, along with all other railroad unemployment benefits paid to you during the previous year. Under another provision of the Recovery Act, however, there will be no federal income tax on the first \$2,400 of unemployment benefits paid to you in 2009. This special rule applies only to unemployment benefits paid to you in 2009.

15. How do I get more information?

Please call your local RRB office toll-free at 1-877-772-5772 (1-877-RRB-5RRB), or check our website at ***www.rrb.gov*** for further information.

Posas Brothers Can Cook

If you've ever been to Texas you know that just behind football and baseball, barbecuing is the next biggest sport. Smoking meat is not just a pastime in Texas, according to the Posas family - it's an art. The reigning 3 time World Champion cooking king of BBQ, Eddie Posas, resides in LaGrange, Texas. Eddie the eldest and his brothers, David, Joe and Pete have been competing in cooking competition for nearly three decades as the "This Is It Cooking Team".

Eddie Posas, along with his brothers, won the Fayette County, "Area Go Texan Cook-off" three years in a row and each time qualified them for the world championship. They started cooking in 1982 and in 1984 Eddie's team won the world championship at the "Houston Livestock Show and Rodeo World Championship Barbeque Cook-off" competing against 185 entries. They returned in 1985 to the World Champion Cook-Off and won the title of Reserve Grand Champion which was second place in competition against 215 other entries. In February 2009 Eddie, Pete and Joe, with each having their own cooking teams in tow, cooked at the World Championship in Houston TX., and together won Second Runner Up Brisket and Sixth overall out of 513 entries. Eddie competes in three or four cook-offs a year, mostly in central Texas and continues to win competi-

tion in a number of categories.

Judging the meat is based on aroma, appearance, texture, taste, and presentation of the meat. Each cooking team rubs the meat with their own special spices and with their own marinade and baste the meat during the cooking process with a special sauce or "mop". And, the flavor may depend on whether they use oak, hickory, pecan or mesquite wood chips.

Eddie's cooking talents were featured in a television show that was shot in Austin, Texas during the 2003 "Star of Texas Show and Rodeo BBQ Cook-Off", after Eddie won First Place Brisket and Second Place Chicken and third place in Ribs. This Cook-Off is a 50 team, *invitational only* cook-off which means that you have to place 1st, 2nd, or 3rd at a cook-off to be invited. This feature is still occasionally aired on The Food Network Channel. At this same competition in March 2009, Eddie won First Place Brisket, Second Place Chicken and 9th place ribs.

Both Eddie and Pete, better known as "Tootie", took prizes at the recent Lee County "Charcoal Challenge" in May 2009 of this year. One Hundred cooking teams participated in the event. Eddie won first place for best pit and Pete won first place for best chicken. Pete also was crowned "Area Go Texan Champion" which will qualify him for the world champi-



Eddie Posas on the left and Pete on the right.

onship event in 2010, held each year in Houston, Texas.

Two of the Posas brothers, Eddie and Pete, have been long time BMWED members and railroaders while brother David worked for Southern Pacific Railroad for two years before changing careers.

Eddie Posas started work in the track department at Southern Pacific Railroad (now Union Pacific) on March 11, 1974 as a Machine Operator Helper. He was promoted to Lead Machine Operator and spent a number of years training other BMWED members on the operation and maintenance of roadway equipment. Eddie then moved to the bridge department and after a period as an Assistant and then a Pile Driver Engineer became Lead Pile Driver Engineer and spent the remainder of his railroad career training Pile Driver Operators.

Eddie, a member of Local Lodge 1338 of the Southern Pacific Atlantic Federation, was first elected to the position of Local Lodge District Chairman in 1988 until being elected the BMWED's Texas State Legislative Director. He held that position for seven years. In 1996 he was elected as Second Vice Chairman followed by his election to the position of First

Vice Chairman in 1998 and then Assistant General Chairman in 2000.

Eddie retired from his position with the BMWED in April of 2005 due to disability and continues to reside in LaGrange, Texas with his wife Jo Helen. Eddie has one daughter Michelle married to Mike Koeth and two grand children a boy 5, Mike Jr. and a girl, Ema 8 weeks old. Eddie's grandson Mike has already won a couple of trophies at cook-offs, so beware a new cooker is coming and some day may be a railroader as well.

Pete "Tootie" Posas began his railroad career as a Machine Operator for Southern Pacific Railroad on July 9, 1979 and still holds that position on a Union Pacific Southern District Switch Gang. Pete, also is a member of Local Lodge 1338, held the position of Local Lodge Vice President from 1996 until 2008.

When Pete is not on the road, hunting or fishing, he resides in Giddings, Texas with his wife Wanona, sons Pete Jr. and Joshua, and his daughter Lindsey. Pete has one grandson, Logan.

Anyone interested in visiting Eddie Posas' website can contact him at www.myspace.com/this_is_it_bbqteam

ADMINISTRATIVE ACCOUNTANT

National Division Headquarters is seeking applicants for the position of administrative accountant. Candidates should have a degree in Accounting or Finance, with a minimum of 3-5 years experience. Excellent Microsoft Excel, Word, Quicken and various accounting software experience a must. Ideal candidate will excel in their attention to detail and accuracy, be a self-motivated, independent and well organized person able to multi-task.

Duties will include:

- Maintain bookkeeping and accounting records for 401K, pension and investments.
- Various general accounting tasks as required.
- Assist the Executive Assistant to the Secretary-Treasurer and Controller with projects and assignments as requested.
- Maintain personnel files, oversee "new hire process" and update human resource related forms as needed.
- Provide administrative support for the Secretary-Treasurer, Executive Assistant to the Secretary-Treasurer and Controller.
- Help to create and maintain new accounting policies and procedures manual.
- Maintain confidentiality.

If you are energetic, self-confident, motivated and well-organized, we would like to hear from you as soon as possible. Benefit package includes health, dental and optical insurance. Salary is commensurate with experience.

Please send resume to:

Job Opening, BMWED
20300 Civic Center Dr., Suite 320
Southfield, MI. 48076-4169

Centenarians

"Happy Birthday" wishes to the following BMWED retiree who recently celebrated his 100th birthday:

George H. Dickson

A New Concord, Ohio resident, Brother Dickson celebrated his 100th birthday on April 6, 2009. He last worked for the Baltimore & Ohio Railway Company as a Trackman.

The BMWED extends its sincere best wishes. Happy Birthday!

Danger Zone — The Potential to Foul

The BMWED Department of Safety has received numerous calls and emails from concerned BMWED members and officers regarding the conflicting messages being sent to the field by certain railroad managements regarding “the potential to foul” a track. Some railroads do not adequately address the clear and present danger surrounding the “potential to foul.” And members on at least one railroad, the BNSF, have advised that their carrier has or soon will remove current references to the “potential to foul” in its Roadway Worker Protection (RWP) training and related documents. BMWED believes that ignoring or minimizing the substantial dangers associated with the “potential to foul” is both a foolish and dangerous mistake which threatens the lives of BMWED members.

As you are undoubtedly aware, the Federal Railroad Administration (FRA) is solely responsible for interpreting and enforcing its regulations; however, BMWED does have a very strong opinion concerning references to the “potential to foul” under the Roadway Worker Protection regulations.

The RWP regulations do not specifically define what constitutes the “potential to foul.” The regulation does, however, define fouling a track under 49 CFR, Part 214.7 *Definitions* as follows:

“Fouling a track means the placement of an individual or an item of equipment in such proximity to

a track that the individual or equipment could be struck by a moving train or on-track equipment, or in any case is within four feet of the field side of the near running rail.” (Emphasis added)

The FRA definition of fouling a track is inclusive of any “individual or item of equipment in such proximity to a track that the individual or equipment could be struck...” In the opinion of BMWED, the term “in such proximity” is a clear recognition of the “potential” to foul.

The FRA definition of fouling a track unequivocally confirms that the area “within four feet of the field side of the near running rail” is within the fouling space and persons or equipment positioned within that four foot fouling envelope will be struck by a passing train or on-track equipment. However, it is the opinion of the BMWED that the definition of fouling a track also includes the area immediately beyond the four foot fouling envelope where individuals or equipment in such proximity to a track could be struck. Individuals and equipment positioned outside the four foot measurement but “in such proximity to a track that they could be struck” must therefore be protected.

It is clear to BMWED that the definition of fouling a track is not strictly limited to the area within four feet of the near running rail. If that were the case, the definition would simply read “Fouling a track means the placement

of an individual or equipment within four feet of the field side of the near running rail.” But it does not state that. The definition clearly recognizes that persons or equipment located beyond the four foot measurement but otherwise positioned “in such proximity” to a track could also be struck by a train or on-track equipment under certain conditions.

Turning to another FRA definition, the definition of Roadway Worker makes specific reference to “the potential” to foul under 49 CFR, Part 214.7 *Definitions*:

“Roadway Worker means any employee of a railroad, or of a contractor to a railroad, whose duties include inspection, construction, maintenance or repair of railroad track, bridges, roadway, signal and communication systems, electric traction systems, roadway facilities or roadway maintenance machinery on or near the track or with the potential of fouling a track, and flagmen and watchmen/lookouts as defined in the section.”(Emphasis added)

It is clear that the definition of Roadway Worker includes employees or contractors on or near the track or with the potential to foul a track. It is the opinion of BMWED that the term “potential to foul” was left purposely ambiguous under the regulation to provide Roadway Workers in the field the ability to make case-by-case determinations regarding the potential to foul based upon specific conditions

present at the worksite and the nature of the work being performed. All Roadway Workers-In-Charge (RWIC) and every Roadway Worker are strongly encouraged to err on the side of safety every time and any time the “potential” to foul a track is determined to exist.

Here is one scenario: A boom truck parks five feet from the near running rail. Under the FRA definition of “fouling a track,” the truck is positioned outside the four foot measurement and is theoretically in the clear, even though it would not be unreasonable for the involved workers to determine that the truck or the workers are positioned in such proximity to a track that they could be struck. Now let’s say that the boom truck operator is going to off-load a rail from the boom truck. The operator does not anticipate the rail or the boom moving into the four foot fouling envelope, but the potential to foul clearly exists because the equipment and the materials being handled are positioned “in such proximity to a track” that they could be struck. Under this scenario, the boom truck operator or RWIC must establish on-track safety protection because the potential to foul exists.

Here is another common scenario: A backhoe is digging a trench parallel to the track and is positioned 5 feet from the near running rail. The backhoe is theoretically “in the clear” but certainly has the potential to foul because it is positioned “in such proximity to a track.” See **Danger Zone** on Page 11

What Is The Railway Labor Act and How Does It Work

This Fall, the Union will begin bargaining with the country’s major railroads as well as the nation’s rail passenger railroad – Amtrak. All of this bargaining will be subject to the Railway Labor Act, the federal law which governs labor relations in the rail and airline industries.

The Railway Labor Act is the country’s oldest labor law, first passed in 1926 and substantially amended in 1934, the Act is unique in that the 1926 version was the product of an agreement between labor and management enacted into law by Congress. The Railway Labor Act followed several very unsuccessful attempts to govern railroad labor relations, the last of which, the Transportation Act of 1920, led to the Shopmen’s Strike of 1922, a two-year losing struggle which took the shopcraft unions a generation to restore their position within the industry.

Under the Railway Labor Act, agreements do not expire. Instead, agreements generally run for a period of years; the “moratorium” period where the parties agree they can’t seek to change the agreements. After

the moratorium period expires, the agreements can be amended, but otherwise remain in effect as previously agreed to until changes are agreed upon. This is the “status quo” you often hear about. This November, the Union will be able to serve written notices on the railroads, and the railroads in turn on the Union, seeking modifications to the agreements. These notices are required by Section 6 of the Act and the notices are commonly called “Section 6 notices.”

After the parties serve Section 6 notices, they begin the bargaining processes set forth in the Act. During that period, the parties must maintain the “status quo”, which means the Union cannot strike and the Railroad cannot change terms in the agreement or lock out employees. If the parties cannot reach agreement, either party may terminate conferences. Once this termination is announced, either party has ten days to invoke the services of the National Mediation Board, an independent federal agency, to assist the parties in continuing bargaining. If the Board becomes involved, the parties are

obligated to maintain the *status quo*, however, if the ten days pass without Board intervention, the Union and Railroad can exercise self help. Self help after termination of conferences happens very rarely as the party who received the notice of termination of conferences almost always seeks the Board’s intervention.

Once the Board assumes jurisdiction, it is granted extreme latitude in its handling of the parties during mediation. The parties may remain in mediation for an extended period. For example, BMWED was in mediation with Amtrak for over seven years before a new contract was executed in early 2008. However, at some point, if the parties cannot reach agreement and the Board determines it cannot get the parties to an agreement, the Board will proffer binding interest arbitration as a means of ending the dispute. Interest arbitration is a process where a third party issues a decision which imposes a new agreement on the parties. Under the Railway Labor Act, interest arbitration is voluntary, if one party refuses to arbitrate, the parties enter a 30 day “cooling off peri-

od”, after which they can exercise self help.

At the end of the 30 day cooling off period, the President has discretion to appoint an Emergency Board to investigate the dispute and provide a recommendation to settle the dispute. During the time the Emergency Board investigates the dispute and for another 30 day cooling off period following issuance of the Board’s report, the parties must maintain the *status quo*. While the Emergency Board report is not binding on the parties, Congress often uses the recommendation to legislate a resolution to the dispute, if the parties engage in self help following the end of the 30 day cooling off period. A very good example of such action is Congress’s imposition of the PEB 219 recommendations upon the Union in 1991.

The point of this discussion is to let you know that bargaining under the Railway Labor Act can take many months to complete. Indeed, in 1969, the Supreme Court characterized these bargaining processes as “purposefully long and drawn out” and

See **Labor Act** on Page 11

ROLL OF HONOR

60 year

M E R I T A W A R D S

LODGE NAME	MEMBER SYSTEM	NUMBER	SINCE
C. B. Hedges	BURL	0798	1947
Ralph Johnson	PENN	3063	1937
Steve C. Martinez	ICGF	0469	1952
Walter A. Pfefferte	BURL	0798	1947
Cecil A. Schmidt	BURL	0798	1941
Milton L. Spangler	BURL	0798	1941
James A. St Clair	BURL	0798	1943

50 year

M E R I T A W A R D S

LODGE NAME	MEMBER SYSTEM	NUMBER	SINCE
Ronald Roewer	USD-NW	2853	1959
Ray S. St Clair	BURL	0798	1956
John J. Yates	BURL	0798	1955

40 year

M E R I T A W A R D S

LODGE NAME	MEMBER SYSTEM	NUMBER	SINCE
Kenneth A. Bridgeman	BURL	1832	1967
Myrvle L. Duvall	AF-SE	1064	1968
James Lawrence	BURL	0798	1962
Cornelio Montoya Jr	USD-W	0918	1966
Kenneth W. Rainey	ICGF	0469	1963
Manuel Zavala	ICGF	0469	1968

30 year

M E R I T A W A R D S

LODGE NAME	MEMBER SYSTEM	NUMBER	SINCE
Kevin Adams	PENN	3063	1977
Gale D. Adwell	BURL	0798	1970
Juan T. Alcantar	ICGF	0469	1976
Jose R. Alvarez	ICGF	0469	1977
Luis O. Alvarez	ICGF	0469	1977
Dave A. Anders	BURL	0798	1973
Dave A. Anders	BURL	0798	1973
Harold J. Arnold Jr	BURL	0798	1978
Martin A. Arteaga	BURL	0798	1976
David C. Ashby	BURL	1832	1977
David K. Ashenfelter	AF-SE	1064	1977
Paul E. Barker	AF-SE	1064	1974
George N. Bell	PENN	3063	1975
Louis R. Below	PACFED	0914	1977
John T. Bokoskie	USD-W	0899	1979
Dana D. Booth	AF-SE	1064	1975
Harold W. Boyce	AF-SE	1064	1970
Francis J. Brown	PENN	3063	1974
Lionel W. Brown	USD-W	0899	1978
William J. Buckland	CRSF	0201	1976
J. J. Burciaga	BURL	0798	1973
Paul E. Burse	USD-W	0216	1979
Roy Byers	USD-W	0686	1978
Roger G. Carter	BURL	0798	1976
Joseph E. Castaldi	PENN	3063	1976
Gregg A. Clay	BURL	0798	1974

Steven G. Clewell	BURL	0798	1977
John Coffman	AF-SE	1064	1977
Dennis L. Cohagan	BURL	0798	1975
Eric D. Corriell	USD-W	0216	1978
Tommy E. Davis	AF-SE	1064	1977
Miguel Diaz	ICGF	0469	1979
Joseph Ellul	ICGF	0469	1979
John E. Feuerer	PENN	3063	1975
Dwight L. Foutch	BURL	0798	1975
Rodger W. Freeman	BURL	0798	1973
Amos Fulford	ICGF	0469	1979
Donald E. Furrow	BURL	0798	1973
Robyn L. Gerdes	BURL	0798	1977
Ward G. Grade Jr	BURL	1832	1977
Jeffrey Griffin	PENN	3063	1974
Michael J. Hagarty	PENN	3063	1975
Michael J. Hagarty	PENN	3063	1975
Mark S. Hartman	BURL	0798	1976
James F. Hays	BURL	0798	1976
Pedro G. Herrera	BURL	0798	1976
Matthew S. Hooker	CRSF	1980	2007
John J. Hopkins	PENN	3063	1974
Dale R. Hopping	BURL	0798	1976
Ernest R. Hulstrom	BURL	0798	1978
Saul R. Interial	BURL	0798	1976
Marshall L. Jackson	BURL	0798	1977
Roger H. Johnson	PENN	3063	1977
Stephen G. Johnson	BURL	0798	1976
Lynn N. Jones	ICGF	0469	1978
David R. Keever	BURL	0798	1977
Lester L. Lafferty	AF-SE	1064	1979
Gregg M. Lannholm	BURL	0798	1979
Daniel J. Lauer	PENN	3063	1974
Carmon K. Loui	BURL	0798	1975
Arthur G. Mac Bain	PENN	3063	1976
Patrick R. Mac Neill	PENN	3063	1976
Roger L. Mc Dermott	USD-W	0899	1979
Bobby G. Mc Elhenney	ICGF	0616	1978
Dennis L. Mc Kee	BURL	0798	1976
Michael A. Medina	BURL	0798	1976
Alfredo Melesio	ICGF	0469	1970
Abraham G. Mendoza	BURL	0798	1975
Carl E. Miller	PENN	3063	1975
Steven E. Miller	BURL	0798	1976
Saul Z. Montoya	ICGF	0469	1977
Hayward L. Moore	PENN	3063	1976
Howard C. Muchow	BURL	0798	1976
Robert L. Myers	BURL	0798	1975
Stephen W. Nelson	BURL	0798	1973
Alberto H. Nevarez	BURL	0798	1975
William D. Oehlert	BURL	0798	1975
Johnny Oeth III	BURL	0798	1977
Michael A. Paris	BURL	1832	1977
Jeffrey R. Pearce	BURL	0798	1978
Leland W. Pendergrass	BURL	0798	1974
Dallas L. Peterson	BURL	0798	1972
John J. Petroski	USD-W	0686	1979
Tim P. Petty	ICGF	0469	1971
Gary E. Pherigo	BURL	0798	1976
Dewey R. Prescott	BURL	0798	1974
Karl Prince	ICGF	0469	1980
Antonio A. Puentes	ICGF	0469	1973
Hilario U. Quiroga	ICGF	0469	1977
Arturo T. Ramirez	BURL	0798	1976
Ramon T. Ramirez	BURL	0798	1978
Robert D. Reams	BURL	0798	1978
Terry W. Renwick	BURL	0798	1976
Transito Reyes	ICGF	0469	1975
James D. Reynolds	BURL	0798	1976
Mark W. Roberts	USD-W	1020	1979
Victor Rodriguez	BURL	0798	1976
David D. Rogers	BURL	1832	1977
Trinidad Rojas	ICGF	0469	1977
Robert Romo	BURL	0798	1975
Robert D. Rorick	PENN	3063	1975
Alvin L. Rushing	BURL	0798	1977
Michael W. Rushing	USD-W	0686	1979
David A. Sabo	PENN	3063	1975
Robert D. Showalter	BURL	0798	1974
John H. Smith	ICGF	0469	1979
Charles G. Stevenson	ICGF	0469	1978
Nieves G. Tovar	ICGF	0469	1978
Carl S. Turner	BURL	0798	1976
James W. Wells	BURL	0798	1977
Keith L. Williams	USD-W	0899	1978
Thomas H. Wilson	BURL	0798	1972
Kirk A. Wunderlich	PENN	3063	1976
Benny R. Wylie	USD-W	0686	1978

20 year

M E R I T A W A R D S

LODGE NAME	MEMBER SYSTEM	NUMBER	SINCE
Miguel M. Aguilera	ICGF	0469	1980
Lorenzo T. Alcantar	ICGF	0469	1982
William J. Barcus	ICGF	0469	1988
Roger F. Beckman	AF-SE	1064	1981
Cornell Burton	ICGF	0469	1979
David R. Butler	ICGF	0469	1980
Ricardo C. Canchola	PACFED	0227	1984

Artemio Cervantes	ICGF	0469	1987
Anthony Chorak	ICGF	0469	1989
Curtis R. Clary	AF-SE	1064	1981
Eldon D. Cunningham	BURL	0798	1980
Kenneth R. Dearing	ICGF	0469	1982
Okey C. Delaney III	AF-SE	1064	1982
Sheldon W. Engle	ICGF	0469	1981
Kenneth Ford	ICGF	0469	1981
Le Roy R. Frank	ICGF	0469	1988
Donald S. Galligan	ICGF	0469	1989
Michael O. Gillette	BURL	0798	1980
Jose J. Jauregui	ICGF	0469	1988
Juventino Lara	ICGF	0469	1987
Daniel C. Linstrout	ICGF	0469	1987
Jorge C. Ortiz	ICGF	0469	1988
Manuel M. Palacios	ICGF	0469	1987
Guillermo Palomo	ICGF	0469	1988
Abel L. Pantoja	ICGF	0469	1982
Miguel Perez	ICGF	0469	1987
Donald J. Petrie	ICGF	0469	1989
Juan J. Rivera	ICGF	0469	1981
Juan M. Rosales	ICGF	0469	1987
Randy A. Rutledge	BURL	0798	1983
Frank Smith	ICGF	0469	1988
William V. Szendzial	ICGF	0469	1988
Fidel G. Tejeda	ICGF	0469	1988
Rick C. Van Meter	ICGF	0469	1986
Thomas E. Young	ICGF	0469	1988
Richard D. Younge	BURL	0798	1981

Scott A. Bradley	BURL	1832	1998
James F. Breckenridge	BURL	0798	1990
Douglas L. Bryant	ICGF	0469	1992
John L. Byrnes	BURL	0798	1995
Rodger L. Coon	BURL	0798	1992
John C. Cromer	BURL	0798	1995
Anthony M. Cruciani	ICGF	0469	1995
Scott R. Curley	BURL	0798	1996
Martin W. Devito	ICGF	0469	1995
Daniel Estrada	ICGF	0469	1996
Michael A. Folden	USD-W	0134	1998
Seth K. Frazier	USD-W	0941	1998
Robert M. Freeny	ICGF	0469	1992
Nelson Guitron	ICGF	0469	1997
Larry C. Harper	ICGF	0469	1992
Robert J. Hoerner	ICGF	0469	1995
Maurice Jackson	C&E	0063	1997
Nathan L. Johnson	BURL	0798	1993
Delbert L. Jones	ICGF	0469	1998
Kurt A. Kroner	ICGF	0469	1989
Marty B. Lopez	USD-W	1216	1998
Brian L. Lowery	BURL	0798	1992
David J. Mahoney	BURL	0798	1994
Jose Medina	ICGF	0469	1996
Lester L. Miller	BURL	0798	1990
Hector A. Munoz	ICGF	0469	1995
Kecia D. Pugh	BURL	0798	1993
Bradley W. Ralston	BURL	0798	1994
Scott D. Ralston	BURL	0798	1990
Jose L. Ramirez	ICGF	0469	1993
Darin A. Ringo	ICGF	0469	1995
Griffin Ringo	ICGF	0469	1992
Phillip J. Rodriguez	ICGF	0469	1990
Martin W. Seiboldt	BURL	0798	1990
Derek C. Shoemaker	C&E	1003	1998
James E. Smith Jr	BURL	0798	1990
Todd N. Sorensen	PACFED	1834	1998
Leonard E. Stockdale	BURL	0798	1996
Gary E. Tinsley	ICGF	0469	1998
Carlos Torres	ICGF	0469	1992
Michael C. Ward	BURL	0798	1990
Mark D. White	C&E	0041	1998
Ted E. Wisniewski	ICGF	0469	1996
Roland G. Yelm	BURL	0798	1990

10 year

M E R I T A W A R D S

LODGE NAME	MEMBER SYSTEM	NUMBER	SINCE
Carlos P. Andrews	USD-W	1216	1998
Doug W. Bertelsen	BURL	0798	1990

AROUND THE BROTHERHOOD

Continued from Page 6

BMWED Members Attend Hazardous Material Training

BMWED Members from around the country attended the Railworkers' Hazardous Material Training Program offered at the National Labor College in Silver Springs, Maryland April 26 - May 1, 2009. The course is funded by a federal grant from the National Institute of Environmental Health Sciences (NIEHS) in partnership with the National Labor College and eight rail unions.



Row 1-(L-R) Bill Fletcher, Randall Schreck, Bob Jordan, Jackson Powell.
Row 2- Michael Lowery, BJ Griego, Bob Alley.
Row 3- Michael Schori, David Person, Roger Snider.

LOCAL LODGES SEND US YOUR PICTURES

If your local lodge has a special event, or you would just like to see your local lodge members in the *Journal*, send us a picture with a brief description of the meeting or event. The details should include your name, telephone number, local lodge number and system federation.

The picture along with the details may be sent by email or U. S. Mail to the following:

Rbrassell1@aol.com

Or,

BMWED Journal
c/o Randall Brassell
242 West Main Street, #394
Hendersonville, TN 37075

SURVEY Continued from Page 1

The Brotherhood anticipates mailing out the track inspector's survey questionnaire with a postage paid return envelope to all BMWED-represented track inspectors in July. BMWED will not ask respondents to identify themselves by name or location, absolutely assuring the anonymity of all respondents.

"It is vitally important to our craft and our track inspectors that we have the BMWED survey results in hand prior to the commencement of any FRA rule-making proceedings," said President Simpson. "The survey data will be used by BMWED to document the daily challenges, pressures and obstacles confronting track inspectors in an effort to improve the conditions under which track inspections are performed. I encourage every track inspector to fill out the survey and return it so that we can present "real world" views before the Congress and the Federal Railroad Administration in advance of anticipated legislative and/or regulatory action regarding track inspection."

Hoffa

Continued from Page 4

Serious Safety Concerns

Sen. Byron Dorgan (D-ND) issued a statement after the Mexican truck announcement on tariffs, saying, "Congress shut down the pilot Mexican trucking program over serious safety concerns, and no trade agreement should obligate us to compromise our highway safety."

I could not agree more.

We stand with Congress for voting to ban unsafe Mexican trucks as part of the omnibus fiscal year 2009 appropriations bill. There is no doubt that while the Mexican government boldly applies their tariffs, they would be far better off raising their safety standards and meeting their obligations under NAFTA. In fact, a NAFTA panel ruled in 2001 that the U.S. can keep the border closed because Mexico does not meet safety standards.

James P. Hoffa
Teamsters General President

A Vice President Speaks

Continued from Page 5

This round of negotiations will have an impact on our working conditions for years to come. I encourage each and every member to get involved in the process and stay involved. Attend local lodge meetings and stay informed. We can make this the most successful bargaining round ever if we stay informed and stick together. A Union is members united together for the betterment of the group. We all need to be involved in OUR Union.

David D. Tanner
Vice President, Western Region

Labor Act Continued from Page 9

designed to pressure the parties into settling the dispute, because self-help is pushed so far into the future that it makes more sense to make a deal than to hold out months or years for the potential right to strike or lock out employees.

While one may argue the pros and cons of the RLA and whether it is a fair process for the rail unions, the BMWED has successfully improved the lives of its members and their families consistently for more than a century, including the last 83 years under the RLA.

Legislative Issues

Continued from Page 12

the \$8 billion in grant funds provided by the American Recovery and Reinvestment Act. BMWED representatives were scheduled to attend six (6) of the workshops.

Employee Free Choice Act

In March 2009, the Employee Free Choice Act (*S 560, HR 1409*) was introduced. This legislation would amend the National Labor Relations Act to establish an efficient system to enable employees to form calls, join or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during the organizing efforts, and for other purposes.

Although there have been significant setbacks, sponsors of the pro-labor Employee Free Choice Act would make it easier to form unions by allowing workers to organize by majority sign-up, instead of being limited by their employers to secret-ballot elections. The effort to find more support for the Employee Free Choice Act has not been easy with the lines drawn — Democrats vs. Republicans. Opponents have already spent tens of millions of dollars and are prepared to spend millions more opposing the Employee Free Choice Act.

At the end of March, BMWED Regional Directors Jeff Bainter and Mark McCarthy actively worked on Capitol Hill and met with personnel from Senator Mitch McConnell, U.S. House Reps. Brett Guthrie, Mark Schauer, John Boccieri, and André Carson's offices. Regional Directors Bainter and McCarty discussed the BMWED's position with regards to EFCA and other BMWED issues.

As of April 2009, the Employee Free Choice Act was placed on hold pending action to be brought up in committee after the Memorial Day break.

Change of Address Request

Please remember to notify your Federation office with any change of address or telephone number.

Danger Zone — The Potential to Foul Continued from Page 9

imity that it could be struck," especially if the digging bucket got hooked on a large root or boulder that shifted the backhoe towards the track. In this scenario, on-track safety protection must be established because the potential to foul exists.

In the end, the "potential to foul" really comes down to a judgment call by the Roadway Workers performing the work. Under the law, management cannot make the judgment from some front office or mandate that on-track safety protection not be established. Establishing on-track safety is the responsibility and sole purview of the Roadway Worker-In-Charge (RWIC) and only one RWIC shall have control over working limits on any one segment of track.

If management tries to dictate that your crew must work without protection because you are located 4'-6" from the near running rail, the RWIC and/or the crew members have an absolute and lawfully protected right to initiate a good faith challenge based upon "the potential to foul," and to remain clear of the track until the challenge is resolved. Of course, if the RWIC fails to provide a roadway work group with on-track safety protection because the work being performed is 4'-6" from the near running rail, then it is the responsibility of members of the work group to initiate a good faith challenge and remain

clear of the track until the challenge is resolved.

FRA inspectors are expected to use their best judgment regarding "proximity" and the "potential to foul." What constitutes proximity and potential is not a hard and fast rule, but rather is a judgment call that must be based upon the conditions present at the jobsite and the nature of the work being performed. Members could be written up by FRA, or charged by railroad management, even if they are located outside the four foot measurement if it is determined that the potential to foul exists. More importantly, Roadway Workers positioned "in such proximity to a track" where the "potential to foul" exists are at a substantial risk of being struck and killed by passing trains or equipment.

BMWED strongly advises members to adhere to the spirit and intent of the RWP regulation and not get hung up on the four foot measurement. Members should establish on-track safety protection anytime and every time the potential to foul exists. When in doubt, members are strongly advised to follow the guidance provided in the company safety rule book: "When in doubt, the safest course of action shall be taken."

For further information or clarification, members may contact Rick Inclima, BMWED Director of Safety, at RickI@bmwewash.org.

Words of Wisdom

"If maintenance of way employees wish to have their burdens made lighter and their lives made brighter - if they wish to have their many grievances properly adjusted - the remedy lies within themselves. Whining will not help them. Prayers and petitions will be alike in vain. The *only* source of relief is *organization*. The *only* remedy is *united, persistent action*. Such action can only be had where the men engaged in it are possessed of three sterling traits of character, to wit: *courage, fidelity* and *fortitude* - courage to undertake, fidelity to continue, and fortitude to endure without murmuring the trials and deprivations incident to all great movements for the establishment of better conditions, higher ideals and greater liberties for the mass of mankind."

- John T. Wilson
The Calcium Light - published 1901

DEATH BENEFITS

Report of Claims Paid during Mar. thru Apr., 2009

NAME	LODGE NUMBER	SYSTEM	NAME	LODGE NUMBER	SYSTEM
APONTE-DIAZ	1664	NPW&LE	GEORGE J. NERSEAL	0272	BURNOR
VINCENT J. BURKE	0961	BURL	ALFRED MONDAY	0376	AF
JOHN R. CANTERBURY	1832	BURL	EDWARD P. MORRISSETTE	1490	MIDW
DAVID CREAMER	0637	ICGF	JOHN L. PALMER	0017	ICGF
JOSEPH G. DAIL	0563	AF	ANGELO POLIGNANO	2775	CRSF
THOMAS DENNIS	0711	PENN	ROY SODERBERG	0144	BURNOR
PEDRO C. GALLOSA	1862	PAC FED	DOUGLAS TABOR	1657	CRSF
FLOYD T. GUNTER	0309	BURNOR	ALVIN J. WALTERS	0036	MIDW
EDGAR E. HENDRICKS	0239	USD	GEORGE H. WHITE	1092	BURNOR
MELVIN E. HENRY	1058	AF			
JAMES E. HEWITT	0874	USD			
WILLIAM D. JONES	1426	BURNOR			
JENARD M. LUNA	1082	MT&PLS			
WILLIE R. MABRY	1600	FRISCO			
			PAID MARCH 1, 2009 TO APRIL 30, 2009	\$	11,500.00
			AMOUNT PREVIOUSLY PAID		\$45,238,307.75
			TOTAL AMOUNT PAID TO DATE		\$45,249,807.75
			NUMBER OF CLAIMS PAID - 23		



BMWED Legislative Issues – 110th Congress

Railroad Anti-Trust Enforcement Act

The "Railroad Antitrust Enforcement Act of 2009" (S 146), sponsored by Senator Herb Kohl, D-Wis., was approved 14-0 by the Senate Judiciary Committee on March 5, 2009. Five Republicans voted "present," including Senator Arlen Specter (PA). At that time, Specter said he had some concerns but would not hold up the bill.

This legislation would strip the antitrust exemptions applicable to rail carriers under the Interstate Commerce Commission Termination Act and would permit legal challenges in federal court for shippers who allege they are overcharged because they are captive to one railroad or shippers who argue that "paper barriers" involved in a line sale illegally raise the cost of their shipments. Furthermore, Justice Department antitrust lawyers would be able to regulate railroad mergers and rate changes.

Supporters of this legislation say railroads have used the exemption to unfairly raise rates. Because of mergers, four Class I railroads provide 90 percent of rail transportation, which leaves many areas with service from only one railroad. Therefore, many shippers have little or no choice but to pay the railroad's rate.

This bill is part of the "re-regulation" the railroads have been complaining

about and have been asking Rail Labor, including the BMWED and BLET for support in opposing S. 146. On Friday, May 29, 2009, the BMWED-IBT sent letters to all the U.S. Senators urging them to vote against cloture on debate when and if such a motion is made on the bill. President Simpson states in this letter, "The problem with the Bill is that it completely reverses current national rail transportation policy and its proposed solution to these disputes will create more uncertainty and harm than the purported evils that it intends to fix."

On June 2, 2009, the Senate is scheduled to take a cloture vote on a motion to proceed to consideration of the bill. Sixty (60) votes are required to limit debate and proceed to consideration of the legislation. In the event a vote on the merits of S.146 does occur, BMWED has requested the Senators to vote "no." BMWED has made this request in

support of actions of Senator John Rockefeller (D-WV) and Senator Frank Lautenberg (D-NJ) who are working on a comprehensive review of rail regulatory legislation. Their process will include all stakeholders in that arena: the railroads, railroad employees, shippers and the general public and attempt to fashion legislation that is acceptable to all groups and is in the public interest.



Director of Government Affairs,
Leon Fenhaus

Amtrak FY 2010 and High-Speed Rail

Although it may look like the fiscal 2010 Transportation Department's proposed budget may have similar spending levels than the previous years' spending levels, it does not, as the proposed levels are only placeholders until President Obama finalizes plans to reauthorize those surface transportation programs that are set to expire on September 30, 2009.

The President's budget request would allow for \$36.1 billion from the

general fund to be available for high-way programs. However, this would only apply if a surface transportation bill is not passed this year.

Currently, the same trust fund pays both highway and mass transit accounts; however, it is barely supporting its current programs. The American Association of State Highway and Transportation believes this is not the way to go and would prefer passenger rail to have its own account.

Congressional Quarterly reported that the most notable increase in the proposed budget is \$6.2 billion for a high-speed rail program. Of that total, \$5.2 billion would come from the stimulus package and \$1 billion is proposed new spending.

Rail advocates are encouraged by support from the White House that reverses President George W. Bush's administration opposition to funding Amtrak and passenger rail.

The FRA's proposed budget would increase by 71 percent from the fiscal 2008 level. Part of that proposed increase is attributed to the Obama administration's support of Amtrak, in addition to the high-speed rail proposal.

At press time, the FRA was conducting a series of **High-Speed and Intercity Passenger Rail Workshops** in seven (7) major cities across the county to seek input on the Interim Guidance FRA is required to issue for

See **Legislative** on Page 11



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