

**Vaughn A. McCarty**

2439 N.E. Loop 410  
Apt 1210  
San Antonio, Texas, 78217

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Home Phone 210-599-9706  
Email ALLAN18126@AOL

June 21, 2000

DOCKET CLERK  
Office of Chief Counsel  
Federal Railroad Administration  
1120 Vermont Avenue, NW  
Washington, DC 20590

Dear Sir:

I am a locomotive Engineer on the Union Pacific Railroad. I was decertified for thirty (30) days for passing a red signal without authority on March 12, 2000 in the Houston Terminal, in Houston Texas.

I protested the location of the signal and had a formal investigation (the proceedings of which are enclosed). The carrier held a consolidated hearing on March 27, 2000. I was notified of the decision to sustain the charges on April 5, 2000.

I am requesting a review of the Union Pacific's decision to deny my certification for the period of thirty days for the reasons which I will point out and which are backed by testimony given in the consolidated hearing .

First, the carrier's presiding officer of the hearing followed a procedure which was improper and was designed to confuse any person reading the transcript. He would not allow a opening statement to be made by my representative or me . The opening statement would serve as a road map as to prominent facts being brought out by testimony during the investigation. But the presiding officer would not allow such statements to be made (page 20-line1, lines 13 through 15).

Second, the signal's placement was improper. Mr. D.A. Bader (Director of Road Operations) testified that he and the FRA signal inspector (Mr. Bill Shoemate) agreed that the location was poor , at best (page 26-lines14&15). He then testified that the FRA signal inspector was writing the signal up as a defect for improper braking distance (page 26 -lines17 through 33).

Third, the signal 108 is set to be view for a train approaching Main Line 1 and not the creosote track (page 39 - line 39, page 49 - line18, page 54 - line32) . The signal is not apparent to a train coming out of the creosote track.

Fourth, mitigating circumstance which were not allowed to be introduced by the presiding officer of the hearing which prevented a fair and impartial hearing. I protested that the hearing being a consolidated hearing for FRA certification that I should be allowed such latitude but was denied (page 43 - line 36).

Therefore, I am requesting the Union Pacific's decision to decertify me as an Engineer for thirty days to be deemed as improper. The signal was improper, poorly placed, and the hearing flawed by procedure.

**Petitioner's name and address:**

Vaughn A. McCarty  
2439 NE Loop 410, #1210  
San Antonio, Texas 78217  
210-599-9706

**Railroad name and address:**

Union Pacific Railroad  
24125 Aldine Westfield Road  
Spring, Texas 77373-9015

Thank you

Vaughn A. McCarty

Enc: 1

UNION PACIFIC RAILROAD COMPANY  
OFFICE OF SUPERINTENDENT  
HOUSTON SERVICE UNIT

DATE: April 05, 2000

NUMBER: 0009023

TO: V. A. McCarty - SS#460-70-2903

OCCUPATION: Engineer

LOCATION: San Antonio, Texas

Dear Mr. McCarty:

Referring to Notice of Investigation and Hearing sent you on March 17, 2000.

After carefully considering the evidence adduced at the hearing held at San Antonio, Texas, on March 27, 2000, I find that the following charges against you have been sustained:

While you were employed as an engineer on the ILCHO-09, on March 12, 2000, you were responsible for passing a red signal w/out authority at Main Line 1, M.P. 358.4 on the Terminal Sub., at approximately 3:55 a.m., in violation of the System Special Instructions, Item 20, Rule 9.2.14.

Your record has this date been assessed with a thirty (30) days suspension which must be served. You are hereby suspended from service March 12, thru April 10, 2000.

In consideration of findings sustained at the hearing, you no longer meet the qualification requirements for the position of Locomotive Engineer, as specified by the Federal Railroad Administration in 49 CFR Part 240.

This decision is based on findings sustained at the hearing as they relate to 49 CFR 240.117, the applicable portion which reads: (E) A railroad shall consider violations of its operating rules and practices that involve: (1) Failure to control a locomotive or train in accordance with a signal indication that requires a complete stop before passing it.

As required by 49 CFR Part 240.307, Union Pacific Railroad is mandated to revoke your locomotive engineer certification. As provided in Part 240.117, the pertinent period of revocation imposed is one (1) month. (See attached Post Hearing Notification of Certificate Revocation).

It must be understood federal law requires separate findings as to the revocation required by 49 CFR Part 240 when hearings are consolidated with discipline or other hearings. This letter is provided to comply with that requirement.

  
Ray Perry, Gen. Supt.  
Houston Service Unit