

UNION PACIFIC RAILROAD COMPANY

BRIGITTE HUNSAKER, Manager  
Engineer Certification & Licensing

SLCC - Science & Industry Building  
Union Pacific Railroad Company  
4600 South Redwood Road  
Salt Lake City, Utah 04120  
Phone: (801) 595-3843  
Phone: (801) 595-3846  
Phone: (801) 595-3847  
Fax: (801) 595-3882  
Lata: 1421118  
Lata: 1794997



April 20, 2001

Ms. Janice M. Richardson, Acting Docket Clerk  
U. S. Department of Transportation  
Federal Railroad Administration  
400 Seventh Street S. W.  
Washington, D. C. 20590

Dear Ms. Richardson:

RE: FRA Docket Number EQAL-2001-24, Petition submitted on by and on behalf of  
Engineer William R. Slone, II.

In accordance with 49 CFR Part 240.405, Union Pacific Railroad submits the  
following information it considers pertinent to the petition. A copy is being provided to Mr.  
Gil Gore, General Chairman BLE.

While we will address all of the petitioner's statements, the consideration for  
decertification must be that Engineer Slone, while working as engineer on train MTUFW-  
17 on October 19, 2000 operated his train into a segment of main track without authority  
or permission.

Procedural Issues:

***Petitioner has 120 days from receipt of notification of certificate revocation  
to present its appeal to the Locomotive Engineer Review Board. Engineer Slone  
was notified on November 11, 2000 of his certificate revocation. Appeal was  
received by the LERB on March 13, 2001 as indicated by the date receipt stamp.  
This is the 123rd day and therefore, outside the 120 day filing time.***

Petitioner alleges that the hearing was not conducted in a fair and impartial manner  
because the carrier failed to produce essential witnesses. The carrier provided the tapes  
of the conversations of the requested witnesses, which were transcribed, and provided 46  
pages of testimony, which was entered into the transcript.

Substantive Issues:

Petitioner states six issues as errors in the revocation of Engineer Slone's  
certificate.

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Issue #1 Petitioner alleges that the track warrant procedure, currently in place is flawed.

An error in communication could have occurred, with the conductor asking for some authority to leave Sweetwater, gives the dispatcher the impression that they had the track warrant to clear up at Sweetwater. (Transcript page 47). The track warrant they had did *not* move the train from MP 447.8. (Transcript page 18)

Issue #2 Petitioner argues that the event did not have *potential* effect on rail safety.

The operative word here is "*potential*". This carrier views this situation as what *could* have happened, rather than what did happen. What happened was that Engineer Slone occupied a portion of main track without authority or permission. The crew was able to communicate with the other trains having authority on that segment of main track. As stated in petitioner's appeal on page 5, paragraph 3, the actions were immediate, indicating to this office that they felt a presence of potential danger which could have compromised rail safety. When viewing what actually transpired, the very real possibility of a potential collision existed.

Issue #3 Petitioner argues that Engineer Slone and his conductor were not properly trained and that he had only been back to work as an engineer for a short period of time prior to the incident.

Engineer Slone is an engineer with 27 years of experience. He was on a leave of absence for union work as a BLE General Chairman for approximately 20 months and returned to work as an engineer on August 14, 2000. Upon completion of his certification requirements, Engineer Slone was given 16 days of student trips to re-familiarize himself with the territory and to bring his train handling skills up to the acceptable level. He was evaluated by DSLE Manager of Operating Practices, Charles Airhart on August 30, 2000 and it was determined that Engineer Slone was ready to resume his engineer responsibilities. During this 16 day period, Engineer Slone contacted this office on more than one occasion, asking why it was taking so long for him to be recertified and requalified. With 27 years of engineer experience, Engineer Slone should be fully aware that he knows and decides when he is OK'd on a territory. If Engineer Slone believed he was not properly trained or qualified, he had the obligation to notify the carrier and request a pilot. The qualifying on a territory is accomplished by making familiarization trips, which he did, and then marking up on that territory, after clear communication with his manager.

Issue #4 Petitioner alleges that the conductor was not properly trained as far as the track warrant process and proper procedure when working with the engineer.

Although this office does not see this issue as a debate in the instant case, the same applies to the conductor as does the engineer. If the conductor believed that he was not properly qualified to perform his duties, he had an obligation to inform the carrier as well as discuss his concerns with the engineer. This did not happen and the carrier can only

assume that the conductor was qualified to perform his duties.

On page 3 of Petitioner's appeal, he states that the conductor knew certain processes of retrieving track warrants that he was not aware of, particularly the DJ function. This would indicate some form of knowledge of the process. In regard to the proper procedure, the rule that requires a job briefing is in effect on the Union Pacific. This job briefing rule is the responsibility of both the engineer and conductor. See copy of rule 70.3 Job Briefing, attached. Additionally, there is a certain amount of accountability on the part of the engineer to work with the conductor. Both engineer and conductor are equally responsible for the safe movement of the train.

Petitioner further argues that the conductor took the track warrant from the printer, said "Come on, we've got one to leave on" to Engineer Slone and left the depot without giving him a copy. This again, displays indifference and negligence on the part of Engineer Slone. It is evident that there was confusion by both Engineer Slone and the conductor. Again, there was no discussion about what the track warrant contained, and Engineer Slone never asked for a copy of the track warrant, nor did he ask to see it.

Issue #5      This issue was addressed above under Procedural Issues.

Issue #6      Petitioner alleges that Union Pacific failed to comply with proper notification of the alleged charges.

This is in reference to the notice of hearing wherein it states the incident date was October 18th, 2000 rather than the correct date of October 19th, 2000. This was due to a typographical error and did not cause petitioner any difficulty in preparing a defense. On page 15 of the transcript, the defense was asked if they needed additional time to prepare for the hearing, and they chose to proceed without additional time.

#### Closing Statement:

Throughout the investigation Engineer Slone stated that he sensed something was wrong but continued to act. He had the option to stop the movement until all was clear. Engineer Slone must assume responsibility for the movement, it was his choice. (See transcript pages 22 and 52). The rules violated were 6.3 and 14.1 (transcript page 25, and copies attached). On page 57 of the transcript, Engineer Slone was asked if he had a track warrant to leave MP 447.8, to which he replied, "No we did not." Further testimony on page 57 when Engineer Slone was asked if his train occupied the main track at Sweetwater without authority, he replied, "Yes." Further validation that Engineer Slone did not have authority for his movement is attested to by his testimony on pages 67 and 68 of the transcript.

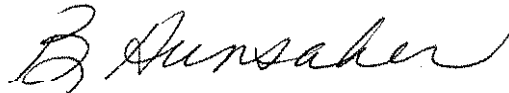
It is apparent that Engineer Slone's negligence in complying with the rules led to this revocation incident. Petitioner would like the LERB to believe that the track warrant process is flawed, even though it is used on a daily basis without incident. Petitioner

further places blame on the conductor, rather than look at the facts as to how this incident occurred. It is painfully clear that Engineer Slone elected to take a passive role, rather than participate in an adequate job briefing as required by the rules. Had a proper job briefing taken place and had Engineer Slone stopped his movement when he was uncertain, this incident would not have occurred.

Union Pacific rules are clear, that when in doubt, take the safe course. The safe course in the instance would have been to stop the movement, get clarification about the track warrant and what authority they had, communicate with the proper people to make sure they had authority to move before initiating movement. None of these things occurred, hence the result was the incident and actions of Engineer Slone that petitioner is trying to defend.

Based on the obvious facts, and Engineer Slone's own testimony, Union Pacific Railroad acted responsibly when it revoked Engineer Slone's certificate for one month when he operated his train into a segment of main track with authority or permission. Nothing in Petitioner's appeal or the investigation transcript warrants reversal of Union Pacific's decision.

Sincerely,



B. Hunsaker, Manager  
Engineer Certification & Licensing

cc: Mr. Gil Gore,  
General Chairman, BLE  
1448 MacArthur Avenue  
Harvey, LA 70058

Attachments



# UNION PACIFIC RAILROAD OPERATING RULES FOURTH EDITION EFFECTIVE SUNDAY APRIL 2, 2000

## 6.3 Main Track Authorization

Do not occupy main tracks unless authorized by one of the following:

- Rule 6.13 (Yard Limits)
- Rule 6.14 (Restricted Limits)
- Rule 6.15 (Block-Register-Territory)
- Rule 9.14 (Movement with the Current of Traffic)
- Rule 9.14.2 (Controlled Block System CBS)
- Rule 9.15 (Track Permits)
- Rule 10.1 (Authority to Enter CTC)
- Rule 14.1 (Authority to Enter TWC)
- Rule 14.6 (Movement Against the Current of Traffic)
- Rule 15.3 (Authorizing Movement Against the Current of Traffic)
- Rule 16.1 (Authority to Enter DTC)
- At manual interlockings, verbal authority from the control operator or a controlled signal that indicates proceed
- Special instructions or general order

When unable to obtain authority and it is necessary to foul or occupy a main track, protection must be provided in both directions as outlined under Rule 9.17.1 (Signal Protection in ABS by Lining Switch).

Written authorities that are no longer in effect must be retained until the end of tour of duty, unless otherwise instructed by the train dispatcher.

### JOINT AUTHORITY

When a train receives Track and Time, Track Warrant, Track Permit, or DTC authority joint with an employee, the train must not occupy the joint limits until:

- Permission is received to enter the joint limits from the employees listed on the authority.
- or
- Advice is received from the train dispatcher that the employees have reported clear of the limits.

System Special Instructions Effective 0001 Sunday April 2 2000

SSI Item 10-A. 6.3 Main Track Authorization

Add a new bullet reading:

- Rule 9.14.2 Controlled Block System (CBS)

General Order No. 15 April 3, 2001

Rule 6.3 (Main Track Authorization)

ADD the following paragraph:

**JOINT AUTHORITY**

When a train receives track and time, track warrant, track permit, or DTC authority joint with an

employee, the train must not occupy the joint limits until:

- Permission is received to enter the joint limits from the employees listed on the authority.
- or
- Advice is received from the train dispatcher that the employees have reported clear of the limits.

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# UNION PACIFIC RAILROAD OPERATING RULES FOURTH EDITION EFFECTIVE SUNDAY APRIL 2, 2000

## 14.1 Authority to Enter TWC Limits

Where designated by the timetable, a track warrant will authorize main track use under the direction of the train dispatcher or as prescribed by Rule 6.13 (Yard Limits) or 6.14 (Restricted Limits). Track warrant instructions must be followed where yard limits or restricted limits are in effect.



# **UNION PACIFIC RAILROAD OPERATING RULES FOURTH EDITION EFFECTIVE SUNDAY APRIL 2, 2000**

## **14.13 Mechanical Transmission of Track Warrants**

Repetition is not required when track warrants are transmitted mechanically. The OK time will be given when the track warrant is issued. The space for the name of the copying employee may be left blank.

Track warrants that restrict the authority or movement of a train must not be transmitted mechanically, unless the train being restricted will not leave the point without receiving the track warrant.



# UNION PACIFIC RAILROAD

**Safety Rules Effective October 25, 1998**

## **70.3 Job Briefing**

Use the Job Briefing process:

- Before work begins, when all persons, including employees and contractors, are present.
- After work begins, if person(s) arrive who missed the original job briefing.
- When changes occur to the work plan or conditions change.

Each work plan must consider hazards, assign specific responsibilities, and explain those assignments.