

Transportation Union

16 Killip
Imperial Dr.
Valla, WA 99362



Hooper
In 50

Mr. Jeffery Sindt
Secretary and Treasurer
Local 1505 - UTU
7555 W. Sunrise St.
Rathdrum, ID 83858



united transportation union (c&t)

GENERAL COMMITTEE OF ADJUSTMENT



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GENERAL CHAIRMAN

J. J. STULL
VICE GEN. CHAIRMAN

L. D. MCKILLIP
SECRETARY

March 20, 1985

UTU FILES: *13,366 - 13,366a - *13,367 -
*13,402 - *13,505 - 13,515 -
13,763 - 13,816 - 13,880 -
13,897 - 13,940 - 13,988 - 14,025
"HOOPER JUNCTION" CLAIMS

DISPOSITION OF CLAIM: WITHDRAWN WOP

To Local Chairman L. D. McKillip

Dear Sir and Brother:

Reporting Disposition of the appealed claims of: See second page.

These claims were submitted to General Chairman, J. H. Watson and L. L. Nelson, on the dates specified in each file for said claim and were progressed in their entirety to the position of appeal to a Public Law Board.

DISPOSITION OF CLAIM:

In each of the instant claims, claimants holding seniority on the Fourth Seniority District were handling trains in Interdivisional Service between Spokane, WA., and Hinkle, OR. At Hooper Junction, an intermediate point where the Connell Branch (5th District) connects with the mainline pass, they were required to pick up and/or set out cars on the low-line pass. Claimants contended that they were being used off their seniority district when required to utilize the low-line pass, a siding on the Branch connecting with the mainline pass.

It was the Carrier's position that, since the work was performed within the station limits of Hooper Junction, it is nothing more than a pick up and/or set out at an intermediate point. Rule 18(b) would have no application particularly in view of the fact that the service performed at Hooper Junction was an integral part of their assignment and further, by reason of the fact that interdivisional and inter-seniority district rights are conferred upon road crews running between Hinkle and Spokane under the terms and conditions of the Interdivisional Service Agreement of July 20, 1972. These facts and conditions were set forth during conference held Portland, Oregon, in the Carrier's offices, on November 5, 1980 with the undersigned and F. D. Tuffley, UTU Vice President, in attendance.

Then, again in conference on January 11, 1984, held at Portland, OR., in the Carrier's offices with the undersigned and UTU Vice President, J. L. Thornton, present these claims* were reviewed as Case No. 11 on the docket of Public Law Board No. 2899 and at that time withdrawn without prejudice to either party in lieu of the facts that claimants contended that they were being used off their seniority district when required to utilize the low-line pass, a siding on the branch line connecting with the mainline pass. Other claims referenced hereinabove, were held in abeyance pending resolution of Case No. 11 and are hereby also withdrawn without prejudice to the position of either party. We still believe the issue is correct, the Carrier is exceeding the limits of the Interdivisional Service Agreement, but the location of these claims is wrong and we could lose much more than we are willing to concede before a Public Law Board.

ODB-3998, 1468 C-38(c) 13,505. Claim Cdr L. M. Galloway, Bkm J. W. Jenkins & E. H. Jones for 100 mile penalty day account used off seniority district to Hooper Junction Aug 26, '78

ODB-3943, 1468 C-38(b) 13,402. Claim Cdr G. W. Adams, Bkm R. L. Carter, R. A. Alder for 100 miles April 16, '78, account used off seniority district to Hooper.

ODB-3908, 1468 C-38, 13,366. Claim Cdr G. W. Adams, Bkm K. G. Degon, R. L. Carter for 100 mile penalty day account used off seniority district each date Sept. 4, 17, 29, Oct 1, '77, Hooper Jct., to Hooper and return.

ODB-3909, 1468 C-38(a) 13,367. Claim Cdr W. J. Phillips, Bkm G. I. Dawes, L. R. Lane, et al, for 100 mile penalty day each date Nov 28, Dec 3, 10 & 22, '77, account used off seniority district, Hooper Jct to Hooper and return.

ODB-4171, 1468 C 38(e) 13,366a. Claim Cdr R. L. Carter & crew for penalty yard days Oct 18, Nov 17, '79, when used off their seniority district account required to set out and/or pick up cars at Hooper Jct.

ODB-4006, 1468 C-38 13,515. Claim Cdr G. W. Adams, Bkm R. L. Carter & C. D. O'Donnell for 100 mile penalty day account used off their seniority district Nov 9, '78, Hooper Jct.

ODB-4241, 1468 C 38(f) 13,763. Claim Cdr E. D. Smith & Crew for penalty yard day May 2, '80 account used off their seniority district at Hooper Jct.

ODB-4290, 1468 C38(g) 13,816. Claims Cdrs E. M. Foust; July 7-11; L. R. Lane, Aug 22; R. L. Cosgrove, Aug 10; G. W. Adams, Aug 23; E. D. Smith, Sept 10, 15, 19, 22 & Oct 1, '80, for penalty yard days when used off their seniority district to set out or pick up cars at Hooper Junction.

ODB-4346, 1468 C-38(f) 13,880. Claims Cdrs R. L. Cosgrove, E. D. Smith, G. W. Adams, R. K. Zitterkopf for penalty days pay various dates Oct, Nov, Dec, '80, account used off their seniority district at Hooper Jct.

ODB-4364, 1468 C-38(j) 13,897. Claims Cdrs E. M. Foust, E. D. Smith, R. L. Cosgrove, and their crews for penalty 100 miles each date Dec 22, '80; Jan 2, 12, 13, 16, '81, account used off their seniority district at Hooper Jct.

ODB-4398, 1468 C-38(k) 13,940. Claims Cdrs R. L. Cosgrove, E. M. Foust and their crews for penalty days pay each date Mar 5, 6, '81, account used off their seniority district, Hooper Jct.

ODB-4434, 1468 C-38(l) 13,988. Claims Cdrs R. L. Cosgrove, June 5; E. D. Smith, June 6, July 4; G. W. Adams, Aug 13, '81, for penalty 100 miles account used off their seniority district, Hooper Jct.

ODB-4466, 1468 C-38(m) 14,025. Claims Cdrs E. M. Foust, Sept 12, 24 and E. D. Smith, Sept 14, '81, and their crews for penalty 100 miles account used off their seniority district on each date, Hooper Jct.

You may consider these claims closed in their entirety.

Fraternally yours,



L. L. Nelson, General Chairman, UTU (C&T)

LLN:hlg

cc: Claimants

MEMORANDUM AGREEMENT

ODB-3998
ODB-3943
ODB-3908
ODB-3909
cy: ODB-4181

In conference held at Portland, Oregon on January 11, 1984, the parties reviewed Case 11 on the docket of Public Law Board No. 2899 reading as follows:

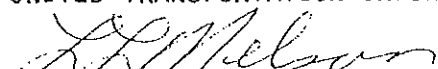
- 11 a) ODB-3998, 1468-13,505. Claim of Conductor L M Gallo-way, Brakemen J W Jenkins and E H Jones for 100-mile penalty day account used off seniority district to Hooper Junction, August 26, 1978.
- b) ODB-3943, 1468-13,402. Claim of Conductor G W Adams, Brakemen R L Carter, R A Alder for 100 miles April 16 1978 account used off seniority district to Hooper.
- c) ODB-3908, 1468-13,366. Claim of Conductor G W Adams, Brakemen K G Degon, R L Carter for 100-mile penalty day account used off seniority district each date September 4, 17, 29, October 1, 1977, Hooper Junction to Hooper and return.
- d) ODB-3909, 1468-13,367. Claim of Conductor W J Phil-Tips, Brakemen G I Dawes, L R Lane, et al, for 100-mile penalty day each date November 28, December 3, 10 and 22, 1977 account used off seniority district, Hooper Junction to Hooper and return.

In each case, claimants holding seniority on the Fourth Seniority District were handling trains in interdivisional service between Spokane, Washington and Hinkle, Oregon. At Hooper Junction, an intermediate point where the Connell Branch (Fifth District) connects with the mainline pass, they were required to pick up and/or set out cars on the low line pass. Claimants contended that they were being used off their seniority district when required to utilize the low line pass, a siding on the branch line connecting with the mainline pass.

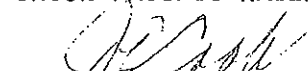
The claims were withdrawn without prejudice to the position of either party and are thereby removed from the docket of Public Law Board 2899.

Dated at Portland, Oregon this 27th day of January, 1984.


UNITED TRANSPORTATION UNION:


General Chairman, UTU C&T

UNION PACIFIC RAILROAD COMPANY:


Director of Labor Relations, NWD

APPROVED:


Vice President, U T U



UNION PACIFIC RAILROAD COMPANY

Department of Labor Relations
1515 S. W. 5th Avenue
Portland, Oregon 97201

March 14, 1983

ODF-2641

Mr. L. D. McKillip
Local Chairman, UTU E
45 W. Imperial
Walla Walla, WA 99362

Dear Mr. McKillip:


This refers to the following letters of appeal concerning the use of Fourth District interdivisional crews to make pick ups or set outs at Hooper Junction and/or Hooper:

<u>Date of Appeal</u>	<u>Organzn File</u>	<u>Carrier Reply</u>
Dec. 14, 1978	1468-E 6(c)	Dec. 26, 1978
Feb. 02, 1979	1468-E 6(d)	Mar. 01, 1979
Jan. 03, 1980	1468-E 6(e)	Mar. 25, 1980
Sep. 26, 1980	1468-E 6(f)	Oct. 29, 1980
Nov. 05, 1980	1468-E 6(g)	Jan. 29, 1981
Jan. 12, 1981	1468-E 6(h)	Feb. 25, 1981
Mar. 17, 1981	1468-E 6(i)	June 10, 1981
May 27, 1981	1468-E 6(j)	June 11, 1981
Sep. 01, 1981	1468-E 6(k)	Nov. 05, 1981
June 21, 1982	1468-E 6(l)	Sep. 15, 1982
July 21, 1982	1468-E 6(m)	Oct. 15, 1982

As we agreed in our correspondence, all of the claims encompassed by the above-listed appeals were to be settled in accordance with the findings of Public Law Board No. 2816 in Cases Nos. 4(a) and 4(b) which involved identical appeals originally covered by your files 1468-E 6, and E 6(a, b and c).

Attached is a copy of Award No. 3 of PLB 2816 which denied the claims in Cases 4(a and b). In view of this, and in accordance with our understandings, the claims listed are likewise denied and settled and I am therefore closing my files.

Yours truly,


 Manager Labor Relations

CRW:bv

PUBLIC LAW BOARD NO. 2816

Award No. 3

Case No. 4 a and 4 b
Organization File 1468-4-78
Carrier File ODF-2641
ODF-2659

Parties United Transportation Union - E
to and

Dispute Union Pacific Railroad Company
(Northwestern District)

Statement

of Claim: Claim of Engineer E. A. Helliker et al for 100 miles
account used off of their seniority district
while in interdivisional service between Hinkle,
Oregon and Spokane, Washington.

Findings: The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated May 19, 1980, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

Claimants, on dates of claim, were handling trains in interdivisional service between Hinkle, Oregon and Spokane, Washington with their home terminal at Hinkle.

Claimants are Fourth Seniority District crews. The claims made are for service performed in connection with interdivisional service while in the Fifth Seniority District.

Interdivisional service was established by Agreement, dated July 20, 1972. Prior thereto, Fourth Seniority District crews handled trains between Hinkle, Oregon and Ayer, Washington. The Fifth Seniority District crews handled trains between Ayer, Washington and Spokane, Washington. Said crews were required to pick up and/or set out cars at Hooper Junction where the Connell Branch (Fifth District) connects with the main line and which is a point common to both lines. No yard crews are employed there.

When the Main Line Pass is filled, interdivisional crews are then required to utilize the Low Line Pass, the Rocks Spur and/or other tracks in order to accomplish their set outs or pick ups. However, when and/or if the Main Line Pass is filled to capacity, with either a pick up or set out, access to the Connell Branch is cut off. Said Branch to main line is not actually connected to the main line but rather with the Main Line Pass. It was alleged that the move to Hooper Junction, in the vast majority of the cases, involved the "Main Line Pass" and the "Low Line Pass" and, on the average, consumed about 45 minutes time with the distance travelled being approximately one mile round trip. Since Hooper Junction is an intermediate point on the main line, no additional miles or hours were allowed.

Said interdivisional crews are, on occasion, also required to pick up and/or set out cars for customers at Hooper about a mile onto the Connell Branch primarily at a grain elevator on the spur track for whom prompt pick up and deliveries are a must.

When performing this service complained of, the interdivisional crews claim and are allowed additional time or mileage under BLE Rule 22 reading:

"Additional Trips, Intermediate Points

Engineers required to make trips in addition to their assignment from an intermediate point will be allowed miles or hours, whichever is greater, for the intermediate trip, but such miles or hours will not be used in computing time on the assignment, provided that if continuous time or mileage for the entire service performed will provide greater compensation, continuous time or mileage will be allowed."

The Fourth Seniority District Claimants, in addition to the above payments, have filed the instant claims for 100 miles on each date of claim contending that they were being used off their seniority district, not only at Hooper, but also at Hooper Junction. They argue that the Interdivisional Agreement covered only service on the main line between Hinkle and Spokane. Therefore, such claims are proper under BLE Rule 23 reading:

"Used Off Seniority District

When engineers are used off their assignment from an intermediate point onto another seniority district, they will be allowed a minimum of 100 miles therefor at the rate and under the rules governing the class of service performed on the extra trip, but such miles or hours will not be used in computing time on the assignment."

The instant claims are found to be without merit. The Board finds no contractual restrictions of the service complained of herein within the framework of the Interdivisional Agreement dated July 20, 1972, as amended. Each Fourth Seniority District crew operating in interdivisional service thereunder, between Spokane at Hinkle, upon arrival at Hooper Junction, an intermediate point, were simply required to pick up and/or set out cars on trackage there known as the "Low Line Pass."

To contend, as here, that Fourth Seniority District crews were operating outside their seniority district is to infer that such crews were operating in divisional service. However, such is contrary to the facts. Said crews were engaged in permitted interdivisional service and not divisional service. When service is performed under the aegis of said 1972 Interdivisional Runs Agreement, absent any specific restrictions therein, the work that may be performed by one seniority district crew thereunder can equally be performed by the other seniority district crew involved. This is particularly so when, as here, the work is allocated to both seniority districts and is described therein as "such service will be manned by Fourth and Fifth Seniority District Engineers."

For the Board to sustain the instant claims would in effect be adding restrictive language to the Agreement. The Board has no authority to do.

It is to be noted that Rule 23 was not included in said Interdivisional Agreement. This claim cannot stand as a lever for accomplishment thereof.

The issue raised is not new. It is not a case of first impression. Similar issues were denied on this property by Award No. 15 of SBA No. 291 (Gilden) and Award No. 3 of PLB No. 2096 (Seidenberg) as well as by many First Division Awards such as Award No. 17222 (Judge Stone) wherein it was held:

"The committee bases its claim on the contention that in the operation of interdivisional runs 'the engineers and firemen of a foreign seniority district cannot perform switching on the home seniority district other than that necessary to pick up or set out cars destined to or coming from the foreign seniority district' for the reason they have no seniority on the home district.

This interdivisional run was established in accordance with the rules of the engineers' and firemen's schedules providing that the assignments thereon shall be made on the basis of percentage of miles run on each division. There is no limitation in the schedules appearing which limits the work to be performed by such crew on its territory. Except where it has been limited by agreement, management must have the right to determine such matters as the need of the service may require. The division of assignments on the agreed percentage basis protects fairly both seniority districts when the crews are given like service without regard to the district from which they come. It has been so held repeatedly on this Division." (underscoring supplied)

In Award No. 12005 (Rudolph) in part held:

"Rule 3 K recognizes the right of management to operate trains over more than one division or district. The Division or district rights of men on the different divisions or districts over which such trains are operated are recognized by the Rule, and these rights are protected by the provision that 'each division or district will furnish its proportion of crews, these crews to be confined to percentage tracks.' To now restrict the work of these crews as employees contend it should be restricted would simply be adding to the Rule or writing a new rule, which is not within the jurisdiction of this Division."

These claims will likewise be denied.

Award: Claims denied.

H. G. Kenyon - Dissenting *J. E. Cook*
H. G. Kenyon, Employee Member J. E. Cook, Carrier Member

Arthur T. Van Wart
Arthur T. Van Wart, Chairman
and Neutral Member

Issued January 12, 1983.