"united transportation union

CALIFORNIA STATE LEGISLATIVE BOARD

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4-3-08	UTU File No. 5-223/84
Mr. A. L. Settje Regional Administrator Federal Railroad Administration 801 "I" Street, Suite 466 Sacramento, California 95814	OTOTAL NO.
Dear Mr. Settje:	
RE: Hours of SER PRACTICES of	VICE VIOLATION, UNSAFE OPERATING UC TO CARRIER ORDERING CREWS TO FA
	nt portion of a communication I recently received from my
□ Union Pacific Railroad Co □ Amtrak at □ Burlington Northern Santa □ Other at └०८०००००००००००००००००००००००००००००००००००	Fe Railway Company at
The enclosed communication coroutlined and explained in the encl	ncerns an unsafe condition, captioned above, which is fully losed document. This matter has been brought to the attention ier for correction and no action towards a remedy has been
Please investigate this matter, ap incidents of this type do not occur the outcome of your investigation	plying appropriate penalties against the carrier to see that in the future. I further request that I be advised in writing as to of this matter.
I shall await your written reply to to the sincerely deposit of the sin	his matter.
JPJ/Iw enclosure compilira.lim	
P.S. Name and telephone num M.R. RAY CARO	ber of contact person is: 2(A: (805) 407-5494
CC : Richard Reyes	5, 4R#84

A very unsafe, dangerous and illegal operating practice is taking place on the Metrolink service in Southern California.

It develops that the Metrolink operating crews are being ordered, by Carrier operating manager Tom McDonald, to falsify records to indicate a different arrival time at certain locations than what the actual arrival times of certain trains truly are.

Mr. McDonald is instructing crews that have late arrival times of between six (6) to ten (10) minutes at certain locations, to falsify their records to indicate no more than five (5) minutes of late arrival.

This is a violation of the Hours of Service Act, by requiring employees to falsify their time on and off duty. This practice is also an extremely unsafe operating practice by endangering the safety of both passenger and crews on these trains.

REQUEST YOUR EARLY ATTENTION TO THIS MATTER TO ALOW FOR AN INVESTIGATION OF THIS ILLEGAL, UNSAFE AND DANGEROUS OPERATING PRACTICE TO HAVE IT PUT TO AN END AS SOON AS POSSIBLE..



U.S. Department of Transportation

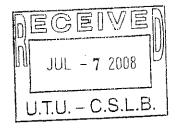
Federal Railroad Administration

JUL - 2 200

Mr. James P. Jones
Director
California State Legislature Board
United Transportation Union
1005 12th Street, Suite 4
Sacramento, California 95814-3941

Region VII

801 I Street, Suite 466 Sacramento, CA 95814-2559



FRA File Number: H08-SCAX-7-00059

Dear Mr. Jones:

This is in response to your letter dated April 3, 2008, which referenced your file number 5-223/84. Specifically, you expressed concern over allegations that hours of service violations are occurring, on Metrolink, due to managers ordering crews to falsify reports.

The Federal Railroad Administration (FRA) has completed its investigation into your concern. As you know, Federal Hours of Service regulations are addressed in 49 CFR 228. In particular, 49 CFR 228.7 specifically defines what constitutes hours of duty, in addition to 49 CFR 228.11 providing a description of the hours of duty records that each railroad is required to maintain.

In conducting a review of Connex records, our investigating inspector determined that Connex has two separate reports that conductors are required to fill out. The first, a delay report, is not a Federal form for the purposes of hours of service reporting, but is used to measure on-time performance. (This form was referenced in your April 3 correspondence as the basis for the alleged hours of service violations.) The second form required is an actual "hours of service form" that indicates total time on duty; time consumed by various functions, such as deadhead service, etc. Our FRA inspector found the second form to be in order and found no instances where crews had reported excess service. Therefore, no violation of Federal regulations was found to have occurred.

It is my understanding that our investigating inspector communicated his findings to both the United Transportation Union's contact person, named in you April 3 correspondence, and to you via telephone. Thank you for the opportunity of addressing the concerns of both you and your members in the interest of railroad safety.

Sineckely.

Alvin L. Settje

Regional Administrator

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Mr. Joseph H. Boardman, Administrator Federal Railroad Administration 1200 New Jersey Avenue, S.E. Washington, D.C. 20590 July 28, 2008

VIA FAX AND U.S. MAIL

Dear Mr. Boardman:

RE: FRA File Number H08-SCAX-7-00059, of Region 7, and Close-Out Letter dated July 2, 2008

This communication is a request for reconsideration by your agency of the conclusion of your agency (Region 7) in the close-out letter to this instant matter dated July 2, 2008, by Mr. Alvin L. Settje, Regional Administrator (copy enclosed). I am also enclosing a copy of the pertinent portion of my original submission to Mr. Settje's office in this matter.

There are two (2) documents in play in this situation. The first document was referred to by Mr. Settje in the third full paragraph of his July 2, 2008 letter as a document "used to measure on time performance." The second document is defined by Mr. Settje as "an actual "hours of service form" that indicates total time on duty; time consumed by various functions, such as deadhead service, etc." It is the first document that the carrier is instructing the train crews to falsify by ordering the changing of arrival time at certain locations. What Mr. Settje has overlooked is the fact that falsified information is taken from the first form and used to complete the second document, thereby falsifying the hours of service form; hence an hours of service violation.

Once the carrier ordered the falsification of the first document, any information taken from that falsified document is fruit from the poisoned tree. Once that false information is transferred to the hours of service document, then the hours of service document is falsified.

With the above and enclosed information in mind, I would request that your office reconsider the decision of Mr. Settje, and have your agency move forward on a hours of service violation of the carrier in question.

I shall await your response to this matter.

James (J.P.) Jones, Director

California Legislative Board