

**U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL RAILROAD ADMINISTRATION  
Washington, D.C. 20590**

Locomotive Engineer Review Board

Decision Concerning  
Union Pacific Railroad Company's  
Revocation of Mr. R. S. Steele's  
Locomotive Engineer Certification

**FRA Docket Number EQAL 2012-06**

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**Decision**

The Locomotive Engineer Review Board (Board) of the Federal Railroad Administration (FRA) has reviewed the decision of Union Pacific Railroad Company (UP) to revoke Mr. R. S. Steele's (Petitioner) locomotive engineer certification (certification) in accordance with the provisions of Title 49, Part 240 of the Code of Federal Regulations (49 C.F.R. Part 240). The Board hereby determines that UP's decision to revoke Petitioner's certification was proper for the reasons stated below.

**Background**

On October 7, 2011, while operating Train QWVNP-06, Petitioner allegedly exceeded the maximum authorized speed by more than 10 miles per hour (mph) and failed to comply with the speed restriction in place near the area of Milepost (MP) 536 on the Laramie Subdivision near Buford, Wyoming. See Pet. at 1. On arrival at Cheyenne, Wyoming, a Manager of Operating Practices (MOP) performed a random download of the lead locomotive's event recorder. See Tr. at 25. The MOP discovered Petitioner exceeded the maximum authorized speed by more than 10 mph between MP 536 and MP 532.56 for a period of 3 minutes and 17 seconds. North Platte Timetable Special Instruction (SI-12) required operation at 25 mph per the tonnage restriction between MP 536 and MP 511. See Tr. Ex. 12.

UP charged Petitioner with a violation of 49 C.F.R. § 240.117(e)(2) -"Failure to adhere to limitations concerning train speed when the speed at which the train was operated exceeds the maximum authorized limit by at least 10 miles per hour." An investigation and hearing was held on November 4, 2011, and UP notified Petitioner of the revocation of his certification by a letter dated November 14, 2011. See Resp. at 2; Pet. Ex. A.

**Petitioner's Assertions**

The United Transportation Union (UTU) filed a petition with FRA on behalf of Petitioner, requesting that the Board review UP's decision to revoke Petitioner's certification. The petition

was received on January 31, 2012 and was timely filed. The petition asserts that the revocation was improper for the following reasons.

Because Petitioner used the air brakes and dynamic braking in several locations prior to the alleged incident, he had a reasonable expectation about how the train would react. See Pet. at 3. It should also be noted that Petitioner had extensive experience operating over this territory throughout his 33-year railroad career. See Tr. at 8, 79. However, the train did not respond as expected and Petitioner exercised safe train handling to slow the train speed within a reasonable amount of time and distance for the tonnage and terrain he was operating over.

### **UP's Response**

Pursuant to 49 C.F.R. § 240.405(b) and (c), a copy of the petition was sent to UP on February 1, 2012 and the railroad was afforded an opportunity to comment. UP submitted a timely response to Petitioner's assertions by letter dated March 23, 2012 as follows:

Petitioner alleges that the train did not handle as expected based upon the handling of the train at locations prior to the incident at Milepost 536. See Resp. at 2. UP submits that the evidentiary record establishes that Petitioner failed to control his train in compliance with the speed restriction. The event recorder shows that the Petitioner failed to start braking early enough to bring his train within the parameters of the required speed as stated in North Platte Timetable Special Instructions for the territory. The transcript shows that Petitioner handled his train differently at several locations than he did when approaching Milepost 536, indicating that Petitioner was aware of the implications of braking early enough to bring his train to a controllable speed. See Pet. at 5-6; Tr. at 87-91.

### **Board's Determination**

Based on its review of the record, the Board has determined that:

- (1) On October 7, 2011, at approximately 12:40 pm, Petitioner served as a locomotive engineer of Train QWVNP-06 and exceeded the maximum authorized speed by more than 10 mph near the area of MP 536 on the Laramie Subdivision near Buford, Wyoming. See Tr. at 15; Resp. at 2.
- (2) The train crew consisted of Petitioner and a conductor. The train was 6,081 feet long, hauling 98 cars of soda ash, and weighed 13,467 tons. See pet. at 1; Tr. at 38; Tr. Ex. 17, 19.
- (3) Upon arrival in Cheyenne, Wyoming, a UP MOP performed a random download of Petitioner's train. See Tr. at 15, 25, 35; Resp. at 1. The purpose of the download was to read the tapes from the train and conduct a test on the MOP's employees. See Tr. at 25.

- (4) The MOP determined that the train's speed exceeded the maximum authorized speed greater than 10 mph for more than two miles near MP 536. See Tr. at 25, 29; Resp. at 2.
- (5) In the Laramie Subdivision, between MP 536 and MP 511, a train with over 132 tons per operative brake and between 250 to 500 tons per dynamic brake axle has a speed restriction of 25 mph. See Tr. at 26; Tr. Ex. 12. Petitioner's train had 138 tons per operative brake and 459 tons per dynamic brake axle. See Tr. at 32; Tr. Ex. 17.
- (6) Around MP 540, the conductor warned Petitioner of the 25 mph speed restriction beginning at MP 536. See Tr. at 44, 71; Tr. Ex. 25.
- (7) As the train approached MP 536, the engineer was operating the train at 41 mph. See Tr. at 74; Tr. Ex. 13.
- (8) As the train traveled eastbound, the train proceeded past MP 536 at 41 mph and, at MP 532.56, reached a speed of 25 mph. See Tr. at 26, Tr. Ex. 13-15.
- (9) On October 11, 2011, Petitioner's certificate was suspended and he was removed from service pending a formal investigation. See Tr. Ex. 1.

### **Analysis of the Petition**

In reviewing a petition of revocation, the Board will consider whether substantial evidence exists to support the railroad's factual findings in its decision for revocation under FRA's regulations. See 49 C.F.R. § 240.405(f), 58 Fed. Reg. 18982, 19001 (Apr. 9, 1993). Petitioner's assertion involves a substantive factual issue. Petitioner argues that the train did not respond as intended and that he exercised safe train handling to slow the train within a reasonable amount of time.

The Board finds that Petitioner's assertion lacks merit. UP presented sufficient evidence to prove that Petitioner operated a train in excess of 10 mph violating SI-12, which required a tonnage restriction of 25 mph. The event recorder shows that between MP 536 and MP 532.56, the train exceeded the 25 mph speed restriction. See Tr. at 26. Petitioner does not refute the fact that he operated train QWVNR-06 in excess of 10 mph over the speed restriction between MP 536 and MP 532.56. See Tr. at 91-92. Petitioner had been warned and job briefed by his conductor about the speed restriction several times prior to reaching the restricted area. See Tr. at 25, 44, 71, 81-82, 95, 97-98; Tr. Ex. 25. Throughout Petitioner's 33-year railroad career, he had made at least 100 trips over the territory and was very familiar with the terrain. See Tr. at 8, 45, 79, 82.

Petitioner failed to take appropriate braking actions to slow the train to 25 mph at MP 536. See Tr. at 28, 45-46, 56. The event recorder shows that as Petitioner approached MP 536, the train's speed began to accelerate. See Tr. Ex. 15. Petitioner engaged the maximum dynamic brakes slightly before reaching the speed restricted area, and did not apply air brakes until after clearing MP 536. See Resp. at 3; Tr. at 28, 56, 58; Tr. Ex. 15. Prior to and after the incident, Petitioner

handled the train differently than he did at MP 536 by using a combination of dynamic braking and air, while pacing the train to slow it down, demonstrating that he understood the importance of utilizing more than one method of braking to slow down and stop the train. See Resp. at 6; Tr. at 87-90.

**Conclusion**

Based on the finding noted above, the Board hereby denies the petition in accordance with the provisions of 49 C.F.R. Part 240.

Issued in Chicago, IL on JUL 18 2012.



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Richard M. McCord  
Chairman,  
Locomotive Engineer Review Board

**SERVICE LIST EQAL 2012-06**

A copy of the Locomotive Engineer Review Board decision in this matter has been sent by certified mail and return receipt requested to each person shown below.

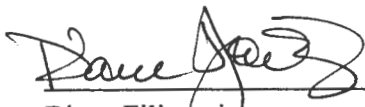
**SENT CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. R. S. Steele  
849 Oakhurst Dr.  
Cheyenne, WY 82009

Mr. Tyler L. Thompson  
Local Chairman  
United Transportation Union  
6429 Main St.  
Cheyenne, WY 82009

Ms. Rebecca Hernandez  
Manager, Certification & Licensing  
Union Pacific Railroad  
1400 Douglas St, MS 1080  
Omaha, NE 68179

Mr. Cecil Copeland  
General Director, Operating  
Union Pacific Railroad  
1400 Douglas St, MS 1080  
Omaha, NE 68179

  
\_\_\_\_\_  
Diane Filipowicz

Administrative Assistant

**JUL 18 2012**

\_\_\_\_\_  
Date

enc: Post LERB Memo  
cc: FRA DOCKET EQAL 2012-06

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. R. S. Steele  
849 Oakhurst Dr.  
Cheyenne, WY 82009

EQAL 2012-06

2. Article Number

(Transfer from service label)

7011 0470 0002 3685 9403

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

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X

 Agent Addressee

B. Received by (Printed Name)

C. Date of Delivery

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1. Article Addressed to:

Mr. Tyler L. Thompson  
Local Chairman  
United Transportation Union  
6429 Main St.  
Cheyenne, WY 82009

EQAL 2012-06

2. Article Number

(Transfer from service label)

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1. Article Addressed to:

Ms. Rebecca Hernandez  
Manager, Certification & Licensing  
Union Pacific Railroad  
1400 Douglas St, MS 1080  
Omaha, NE 68179

EQAL 2012-06

2. Article Number

(Transfer from service label)

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4. Restricted Delivery? (Extra Fee)

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Cecil Copeland  
General Director, Operating  
Union Pacific Railroad  
1400 Douglas St, MS 1080  
Omaha, NE 68179

*EQAL 2012-06*

2. Article Number  
(Transfer from service label)

7011 0470 0002 3685 9434

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Agent

Addressee

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If YES, enter delivery address below:  No

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