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memo
NMB*

ADMINISTRATION TALKING POINTS
TO BE USED IN THE EVENT OF A STRIKE AT METRO-NORTH

1. THIS DISPUTE, IN ONE FORM OR ANOTHER, HAS BEEN ON-GOING FOR NEARLY TWO YEARS. IT IS TIME FOR THE PARTIES TO SETTLE THEIR DIFFERENCES AT THE BARGAINING TABLE AND TO DO SO IMMEDIATELY. REPRESENTATIVES FROM THE NATIONAL MEDIATION BOARD ARE ON SITE AND PREPARED TO HELP THE PARTIES WORK THROUGH THEIR REMAINING PROBLEMS.
2. CONSISTENT WITH THE PROVISIONS OF THE RAILWAY LABOR ACT, AND IN AN EFFORT TO BE RESPONSIVE TO LABOR, MANAGEMENT AND COMMUTERS, THE PRESIDENT APPOINTED TWO PRESIDENTIAL EMERGENCY BOARD'S DURING THE PAST YEAR. THEY ADDRESSED THE UNRESOLVED ISSUES AND MADE RECOMMENDATIONS FOR SETTLEMENT. NOT ALL PARTIES TO THE DISPUTE FOUND THOSE RECOMMENDATIONS ACCEPTABLE. IT IS OUR VIEW THAT THE RECOMMENDATIONS OF THE SECOND PEB COULD BE USED AS THE FRAMEWORK FOR A REMEDY.
3. IN ADDITION, IF IT IS THE JUDGEMENT OF NMB STAFF THAT THERE IS MORE THAT THE ADMINISTRATION CAN DO THAT WOULD BE HELPFUL, WE ARE PREPARED TO DO SO.
4. THE PRESIDENT HAS DONE ALL THAT HE IS PERMITTED TO DO BY LAW. IT IS NOW THE RESPONSIBILITY OF THE GOVERNOR TO MAKE A POSITIVE CONTRIBUTION TOWARDS ENDING THIS DISPUTE.

A.3. HISTORY OF THE DISPUTE

As of October 1994, little progress had been made at reaching agreement for the labor contract period January 1, 1992 through December 31, 1994. After a period of intensive negotiations and mediation conducted by the National Mediation Board, the parties entered into a novel agreement on October 25, 1994 to provide the means to resolve both the 1992 round and the subsequent round covering a new term January 1, 1995 through December 31, 1997.

This agreement provided the parties with a process to resolve their disputes for both the old and new contract terms and permitted Metro-North to shift its health care coverage to the New York State Government Employees Health Insurance Program (Empire Plan) effective January 1, 1995. The process structured by the parties required them to enter into expedited negotiations and mediation to resolve the 1992 round of bargaining as well as the "subsequent contract period". If intensive negotiations failed to result in agreement, the parties agreed that they would jointly request the National Mediation Board to proffer arbitration.

Over the course of the next few months, all of the Organizations, except the Maintenance of Way Employees (IBT), the Signalmen (BRS) and the Maintenance of Equipment Supervisors (ARSA) reached agreement with Metro-North for the period from January 1, 1992 through December 31, 1994. However, no agreements concerning the subsequent round commencing January 1, 1995 were reached by January 12, 1995, the parties' self-imposed deadline for settlement.

Pursuant to the parties' agreement, they each requested a proffer of arbitration. On January 12, 1995, the National Mediation Board offered each of the parties the opportunity to arbitrate their disputes. However, both Metro-North and the Organizations declined the proffer of arbitration. Accordingly, on January 23, 1995, the National Mediation Board released the parties from mediation and the statutory "status quo" period began to run.

On February 16, 1995, Metro-North requested that President Clinton create an emergency board (PEB) pursuant to Section 9A of the Railway Labor Act, which provides procedures for the resolution of bargaining impasses involving publicly funded and operated commuter authorities. PEB No. 226 was created on February 22, 1995, and a new status quo period was established. One of the labor organizations, TWU, and Metro-North reached agreement concerning the 1992 round after the PEB was created.

On April 21, 1995, PEB No. 226 issued its report. The National Mediation Board held the required public hearing on May 19, 1995, to hear the positions of the parties regarding PEB No. 226's recommendations for settlement. Neither of the parties accepted the PEB's recommendations. The required status quo period expired on June 22, 1995. On or after that date the labor organizations were free to strike and the

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carrier was free to implement its contract proposals. However, the parties mutually agreed to voluntarily extend the status quo through July 15.

The parties engaged in mediation with the NMB and without resort to self-help beyond their self-imposed July 15 deadline. On July 20, 1995, after reaching tentative agreements with five organizations, and making significant progress toward resolving the remaining disputes, Metro-North requested that President Clinton create a second Emergency Board to select final offers. ATDA also requested an Emergency Board on July 15, 1995. On July 31, 1995, the President created PEB No. 227 to make final offer selections. The parties were in a status quo period that would expire on November 28, 1995. All of the tentative agreements failed member ratification votes.

PEB No. 227 issued its recommendations to settle the disputes on September 29, 1995. The second PEB narrowed the gap between management and most of the unions. The PEB selected the offer of the unions in most cases over the carrier's offer.

After release of the second PEB report, the carrier re-engaged in negotiations with the operating craft unions and some of the non-operating craft unions. On November 21 tentative agreements were reached with the Brotherhood of Locomotive Engineers and the United Transportation Union. Renewed negotiations have started or are scheduled to start with a number of the remaining unions. On November 28, 1995, any of the unsigned unions remain free to take self-help.

THE WHITE HOUSE
WASHINGTON

DOT
Metro
North

June 13, 1995

PRIVILEGED AND CONFIDENTIAL

NOTE FOR: HAROLD ICKES
Deputy Chief of Staff for
Policy and Political
Affairs

DETERMINED TO BE AN ADMINISTRATIVE

MARKING INITIALS: NI DATE: 4/1/94

1024-0267-5

KITTY HIGGINS
Deputy Assistant to the
President for Cabinet
Affairs

DOUGLASS SOSNICK
Assistant to the President
and Director of Political
Affairs

FROM: MARVIN KRISLOV 
Associate Counsel to the
President

RE: Possible Emergency Board,
Metro-North Commuter
Railroad Dispute

FYI - we received this update
recently from the National Mediation
Board. We are vetting potential
candidates for this Board.

cc: Abner J. Mikva



NATIONAL MEDIATION BOARD
WASHINGTON, DC 20572

OFFICE OF THE CHAIRMAN
(202) 523-5024

MEMORANDUM

TO: Marvin Krislov, Esq.
Associate Counsel to the President

FROM: Ernest W. DuBester, Chairman E.D.
National Mediation Board

RE: Update on the labor dispute between Metro-North
Commuter Railroad and its labor organizations

DATE: June 7, 1995

On April 21, 1995, Emergency Board No. 226, in accordance with Section 9a of the Railway Labor Act, issued its report and recommendations. On May 19, 1995, I conducted a public hearing at which Metro-North Commuter Railroad and several labor organizations discussed their reasons for rejecting the recommendations of Emergency Board No. 226. Under the time limits provided by Section 9a of the Railway Labor Act, self-help, which could include a work stoppage, will be available commencing 12:01 a.m., EDT, June 22, 1995. The Board is currently working with the parties to seek a resolution to these disputes and avoid any work stoppage. However, the possibility that no settlement will be reached before June 22, 1995 is significant.

Under Section 9a(e) of the Railway Labor Act, 45 U.S.C. §159a, creation of a second emergency board, which would postpone self-help for 120 days from its creation, could be requested by any of several parties. Those parties include Metro-North and either the Governor of New York or the Governor of Connecticut. A request by the labor organizations would also postpone self-help, but only for those labor organizations which request the creation of a second emergency board. At present, it appears that neither Metro-North nor the Governors of either New York or Connecticut will request the creation of a second emergency board. There is some possibility that a few of the labor organizations will request a second emergency board. If that happens, the potential for self-help, including work stoppages, exists beginning on June 22 and again on October 21, 1995.

The Board is presently investigating the likelihood that such a situation will occur. Only the parties or the Governor of New York or Connecticut may invoke the procedures of Section 9a of

the Railway Labor Act. However, Section 10, which empowers the President to create an emergency board where the dispute "threaten[s] substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service," 45 U.S.C. §160, may provide an option to prevent or halt a work stoppage.

Every weekday, Metro North carries approximately 105,000 commuters between suburban communities in Westchester, Dutchess, Putnam, Orange and Rockland Counties in New York State and New Haven and Fairfield Counties in Connecticut. Its passenger service system operates over approximately 737 miles of track. Metro North uses its approximately 790 passenger cars and engines to carry passengers on an average of 575 weekday train trips. A work stoppage on Metro-North could affect the dispatch of all rail traffic, including Amtrak and any freight traffic which normally operates over its track.

Metro North employs approximately 5880 employees. Most of these employees are represented in 15 separate craft or classes (bargaining units) by approximately 12 labor organizations.

DOT -
Metro North

June 7, 1995

MEMORANDUM FOR HAROLD ICKES

FROM: JENNIFER O'CONNOR
SUBJECT: METRO-NORTH STRIKE

Deputy Secretary Mort Downey asked me to fill you in on a key issue that is heading our way:

METRO NORTH STRIKE

Metro-North, the commuter line which runs north of New York City into Westchester County, and also out into Connecticut towards New Haven, is on the verge of a strike. If it happens, it is likely to hit during the July 4th weekend.

Most of the time, railway labor disputes proceed through a lengthy process that takes up to 270 days. Part of the process is "emergency boards" in which mediators try to sort out a solution to which the parties can agree. The Metro-North dispute has had one emergency board already. Labor seems to agree with its recommendations, but management does not. Therefore, there would need to be another emergency board to slow the process down and avoid a strike. But a second emergency board can't happen unless management or the state or the unions request it.

In this case, management at Metro-North seems to plan to cut the process short by not asking for an emergency board. Mort believes Governors Pataki and Rowland have agreed they will not ask for such intervention either. And because there are twelve railway unions and the Teamsters involved, it is very difficult to get the unions together to agree to ask for an emergency board. (If only some of them agree to ask for an emergency board, then the others still have the opportunity to strike; if others strike, the rest of the unions will honor the strike. So an emergency board requested by unions is only effective if all unions agree to ask for it.)

If there is no request for an emergency board by June 23 or 24, management will be free to impose new conditions and the unions will be free to strike. But Mort believes that the unions won't strike so early. He thinks they will wait until Congress leaves for July 4 so that they cause the greatest disruption to the Hill possible. Mort believes Metro-North management may be taking this opportunity to create a crisis to encourage the Congress to

relieve it from federal labor law jurisdiction.

Mort is meeting with the unions and management and the mediator to get filled in on the state of the negotiations. His sense is that if the dispute is merely economic, and the strike were a tool in that battle, then we wouldn't intervene and the union would strike. But he thinks that if it is a management ploy to remove itself from federal jurisdiction by changing fundamental legislation, then our response is a political one, and he needs our guidance on that. One possible option for defusing the situation now would be to try to get the twelve railway unions and the Teamsters to get together and ask for another emergency board, which would buy some time to try to work out the dispute.

Recommendation: you should pull together Mort Downey, Tom Glynn and/or Steve Rosenthal, Bruce Lindsey, someone from the NEC and Legislative Affairs and the Counsel's office, and anyone else you think would be helpful to brainstorm on this. As you will be travelling, I can attend the meeting and we can try to schedule it such that you can participate by phone.

Dot memo North

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PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: Jennifer O'Connor
POL Affairs

FROM: Don Norden
New York MTA

DATE: _____ TIME: _____

TOTAL NUMBER OF PAGES 1 (NOT INCLUDING THIS COVER)

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OPERATOR: _____

COMMENTS: _____

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BACKGROUND INFO ON METRO NORTH STRIKE SITUATION

- Over the past two weeks, MTA staff has worked diligently to close all 17 contract agreements on Metro North Railroad in order to avoid a "legal" strike deadline of 12:01 this morning, Tuesday, November 28th.
- After round the clock negotiations, agreements were reached with the following 7 unions (accounting for 2,726 of the approximately 4,000 represented workers) by 2 a.m. this morning:

- Transport Workers Union (TWU) -	519
- Brotherhood of Locomotive Engineers	300
- Int'l Assn of Machinists & Aerospace Wkrs	226
- Int'l Brotherhood of Electrical Workers	812
- Int'l Brotherhood of Firemen & Oilers	73
- Sheet Metal Workers, Int'l Assoc.	168
- United Transportation Union	<u>628</u>
	2,726
- Ten agreements remain to be closed, but most are not considered to be problematic except for that with the International Brotherhood of Teamsters, which represents 690 track workers.
- The Teamsters have refused to settle over what is considered a relatively minor matter -- the addition of an extra week of vacation in years 2 and 3 of the four year contract proposal.
- This morning, after 4 a.m. when contract talks broke off with the Teamsters, pickets were set up at the Poughkeepsie station on MNR's Hudson line. Diesel service was accordingly halted from Poughkeepsie through Croton Harmon during the rush hour.
- Before the pickets were removed at 8:30 a.m., about 500 customers were directly affected, forced to use the alternative bus service provided by the MTA.
- Indications are that there will be no further labor activity this afternoon and negotiations with the Teamsters will resume at 5 p.m. at the Sheraton Midtown Hotel.
- While every effort will be made to reach a solution this evening, so as to avoid a service disruption tomorrow morning, there are indications that the Teamsters might selectively picket all or part of one of the MTA's three lines.

R E G I O N

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strike*

Metro-North Braces for a Strike, Again

With Walkout Possible, Railroad Readies Contingency Plans

By RICHARD PÉREZ-PEÑA

With 15 of its unions still without a contract and a strike possible as early as tomorrow, the Metro-North Commuter Railroad plans to distribute its strike contingency plan today at Grand Central Terminal.

Negotiators for the teamsters and the Metropolitan Transportation Authority, Metro-North's parent agency, met over the weekend, and talks are scheduled to resume with a coalition of other unions this morning to try to reach contracts retroactive to Jan. 1.

"It's all up in the air," William Mitchell, general chairman of the International Association of Machinists, said yesterday. "We're contemplating a strike, but we're also hopeful that there will be an agreement. We'll know tomorrow some time, but right now, we can't give the passengers any assurances."

Metro-North has developed a contingency plan that includes bus service from 21 of its stations outside the city, and from several major parking lots like those at Rye Playland and Yonkers Raceway, that would transport riders to subway stations in the Bronx.

Details of the contingency service

are contained in a brochure that will be handed out to riders today on the main concourse at Grand Central Terminal.

"It outlines their options, which, unfortunately, are not comparable to Metro-North service," said Marjorie Anders, a spokeswoman for the railroad. "In the event of a strike, we expect to be able to handle about 60 percent of our normal morning rush hour, which is about 70,000 people."

Metro-North commuters can also park at Yankee Stadium and Shea

Stadium at 12:01 A.M. on Tuesday, after which the M.T.A. cannot prevent a strike.

Last week, the Brotherhood of Locomotive Engineers and the United Transportation Union, representing conductors, signed tentative contracts, subject to ratification votes by their members. The two unions were, along with the teamsters, the most defiant in the earlier round of talks, and railroad officials hoped that with their contract settled, the other unions would fall in line and settle.

Yesterday, John Cunningham, an M.T.A. spokesman, said, "We believe our differences with the teamsters are modest, and we're hopeful."

Earlier this year, two mediation boards appointed by President Clinton recommended a 10.3 percent wage increase over three years for the unions, along with modest changes in work rules that would save the railroad money and cost workers some extra income beyond their base salaries. The two unions that settled reportedly agreed to 10.3 percent over four years and limited work-rule changes, while winning other concessions, like additional sick leave.

Negotiators keep talking, trying to stop a job action by railroad workers.

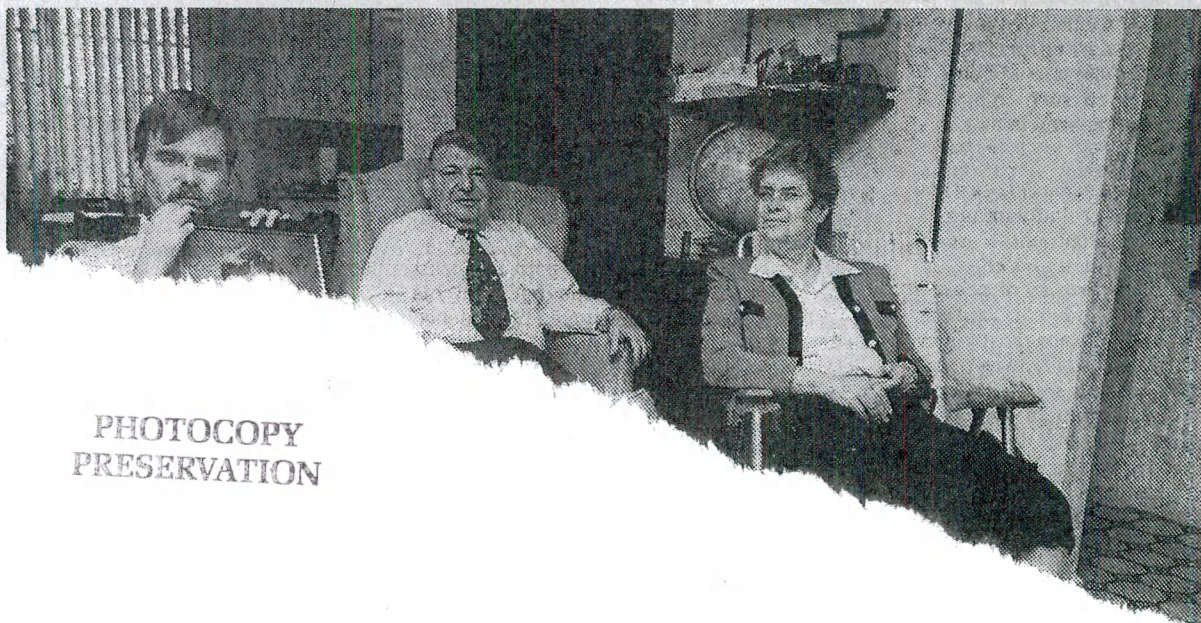
Stadium and take subways into the city, Ms. Anders said.

A coalition of 17 Metro-North unions threatened a strike in June and July, before the M.T.A. invoked a provision of Federal law that postponed any job action for four months. That waiting period will ex-

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FAX TRANSMISSION COVER

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Strike

Date: 11/27/95

TO: Steve Silverman

FAX: _____

FROM: **Ann Bormolini**
Office: (202) 366-1103
FAX: (202) 366-3956

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MESSAGE:

"FYI"



U.S. Department
of Transportation
**Federal Railroad
Administration**

Memorandum

Date:

Reply to Attn. of:

Subject: **INFORMATION:** Potential Strike at the Metro-North Commuter Railroad

From: *[Signature]*
Jolene M. Molitoris
Administrator

To: The Secretary
The Deputy Secretary

SITUATION

Labor contract disputes at Metro-North Commuter Railroad have not been resolved with all of the unions. Last week, two of the major unions, United Transportation Union and Brotherhood of Locomotive Engineers, reached tentative agreements. However, there are fifteen other organizations that have not reached tentative agreements. *Negotiations with a coalition of unions will continue today, and we understand that progress is being made to resolve the disputes.*

As we reported that week, the dispute resolution procedures of Section 9A of the Railway Labor Act have been exhausted and the final status quo period expires at 12:01 a.m., Tuesday, November 28. *However, a legal work stoppage could occur any time on or after November 28.*

IMPACT

Metro North serves 105,000 customers daily from New York and Connecticut. Seventy percent of the riders are from New York and the remainder are from Connecticut. Metro North will activate an alternative transportation plan on Tuesday, November 28. Up to 400 buses will be used. Metro North anticipates that about 60 percent of the riders can be served by this plan.

MONITORING

FRA will continue to monitor the dispute. I will provide situation reports as appropriate. John Murphy, FRA Office of Policy, has the lead for this activity.

DOT POSITION

DOT position is to urge the parties to work toward a negotiated settlement.

RECOMMENDED DOT ACTIONS

1. The Secretary, Deputy Secretary or FRA Administrator contacts National Mediation Board Chairman Maggie Jacobsen to request briefing on status of negotiations and to offer assistance in avoiding a work stoppage.

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2. Secretary/Deputy Secretary may publicly or privately recommend continued negotiations especially in consideration of the serious effect on commuters and other highway users. (Direct involvement in negotiations would be coordinated with NMB and/or DOL.)
3. In the event of a strike, we should anticipate initiative to remove commuter rail employees from coverage under the Railway Labor Act and other federal laws, including the Railroad Safety Act. The House Railroad Subcommittee may schedule a hearing where witnesses from New York state and the Metropolitan Transit Authority will argue that commuter employees should be subject to state law.

cc: Chief of Staff

Deputy Chief of Staff

General Counsel

Assistant Secretary for Transportation Policy

Assistant Secretary for Governmental Affairs

Administrator, RSPA

Administrator, FTA