

Mac A. Fleming  
President



Freddie N. Simpson  
Secretary-Treasurer

**Brotherhood of Maintenance of Way Employees**  
*Affiliated with the A.F.L.-C.I.O. and C.L.C.*

February 14, 2003

AFFIL  
BMW/USW

Mr. Leo W. Gerard, President  
United Steelworkers of America  
Five Gateway Center  
Pittsburgh, PA 15222

Dear Brother Gerard:

Your recent proposal suggesting that the BMW and the United Steel Workers of America again explore the possibility of merger has been reviewed by BMW's Grand Lodge Officers. The Officers considered your request and collectively set forth BMW's course of action.

With the concurrence of the Grand Lodge Officers, I am requesting your written response to the list of issues that is attached hereto as Appendix A. This list represents key issues addressed in BMW discussions with other potential merger partners. BMW certainly does not expect any merger partner to simply accept an unratified merger proposal, lock, stock and barrel. Nonetheless, it is impossible to ignore the fact that BMW's leadership bodies thought the matters highlighted in the attachment to be important enough to specifically address them in a merger framework. So, issue by issue, we ask: Can the Steelworkers agree to a merger framework that accommodates these BMW concerns? And, if there are specific problem areas, we would appreciate their identification.

BMW is anxiously awaiting your response to the attached questions. Your reply will facilitate BMW's review of your invitation to re-enter into merger talks.

Sincerely and fraternally,

President

Enclosures

cc: Mr. Freddie N. Simpson - w/o C&BL }  
Grand Lodge Officers }

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## APPENDIX "A"

Can the USWA enter into a merger agreement with BMW that would include the following features?

1. BMW would become an autonomous Division, or its equivalent, of the merged union.
2. The purposes of the BMW Division would be to deal with collective bargaining, contract administration, legislative affairs, legal matters affecting the Division, safety matters affecting the Division, organizing, "labor protection" (statutory labor protective provisions involving carrier organizational transactions), strategic planning and education, and such other matters.
3. The BMW Division shall have representation on the merged union's governing body, at least proportional to its share of the merged union's membership. The Division will elect its representatives to such governing body, through balloting conducted at its periodic conferences.
4. BMW office in Detroit will remain at least through the remainder of the current lease and, thereafter, the Division may maintain such offices as determined jointly by the International President and the Chief Executive Officer of the BMW Division.
5. BMW's offices in Washington, D.C. and Chicago, Illinois (legislative and arbitration, respectively) will be maintained and perform all their current functions, at the same level of services as provided today.
6. The BMW-owned office in Ottawa Canada shall be maintained and staffed as current, subject to the discretion of the Chief Executive Officer of the BMW Division. No changes regarding the disposition of the building will be made by the International without consultation with the BMW Chief Executive Officer.
7. BMW Vice Presidents will continue to be elected as they are elected today, and will continue to be headquartered at or near their point of residence. See, BMW's Constitution and Bylaws, Articles I, IV.
8. BMW will operate a conference of delegates elected from BMW local lodges. (Essentially, a convention of the Division.) The conference will meet before each regular international convention of the merged union.
9. No officer or staff pay cut or 'red circling' will occur as a result of the merger.

10. If vacancies occur in a BMW Division international officer, the vacancy will be filled in accordance with the terms of Article I, Sec. 7 of the current Constitution and Bylaws.
11. All lodges (local unions), system divisions and federations (intermediate bodies) of the BMW will be merged with the merged union and be chartered as subordinate affiliates.
12. System division/federation bylaws shall continue to be applicable until otherwise amended in accordance therewith.
13. The provision of the BMW Constitution and Bylaws regarding the "Government of Local Lodges" shall be adopted and control the operation of local lodges in lieu of local lodge bylaws. See, BMW Constitution and Bylaws, Article XXII.
14. The provision of the BMW Constitution and Bylaws regarding "Government of Protective Department, System Divisions and Federations" shall be adopted and incorporated in the merger agreement. See, BMW Constitution and Bylaws, Article XXIII.
15. The provision of the BMW Constitution and Bylaws regarding "United States (U.S.) and Canadian Legislative Departments" shall be adopted and incorporated in the merger agreement. See, BMW Constitution and Bylaws, Article XVI.
16. All BMW officers and staff shall receive the same health and welfare, pension and other benefits received by other officers and staff of the merged union, except that they will, in no case, be less than those currently available to BMW officers and staff. Participation in such benefit plans will be open to system division/federation officers and staff.
17. The Chief Executive Officer of the BMW Division shall have the authority to fill appointed staff positions of the BMW Division. Such appointed staff must come from the BMW Division, except for professional and technical personnel.
18. Current BMW executive board members will continue as a BMW Division advisory board and, thereafter, be elected on an at-large basis by the BMW Division conference.
19. All BMW Grand Lodge employees will receive job offers at salaries no less than their current salary, and benefits no less than their current benefits. Those employees of the BMW represented by a labor union shall continue to be subject to the collective bargaining agreement between such union and BMW, with the merged union standing as BMW's successor.

20. The dues obligation of BMW members to the merged international union shall be no more than current Grand Lodge dues, and shall not exceed that of other members of the merged union.
21. Members of the BMW Division will continue to pay their current state/provincial legislative assessment that will be used to fund a separate BMW State Legislative Department, continuing BMW's current arrangements, including the continuation and funding of BMW state legislative directors in each of the respective states.
22. Members of the BMW Division will continue to pay the \$1.00-a-month special assessment for national negotiations.
23. The merged union will divert \$.50 cents per member, per month into a separate account known as the BMW Defense Fund for the purpose of offsetting defense for related costs in connection with service to the BMW Division. This diversion will continue until the assets reach \$70,000 (in excess of the \$2.5 million recently transferred into such fund). These amounts and this account are in addition to and separate from the Legal Defense funding mechanism of Article XIX. Thereafter, \$.20 cents will go to the National Legislative Department Fund and the \$.30 cents will go to the financing of the overall operation of the BMW Division.
24. One dollar and ninety (\$1.90) will be remitted back to the system division or federation to which a U.S. member belongs, on a per capita basis. In lieu thereof, in Canada, such remittance shall be converted into a special Canadian Death Benefits fund, to be used for that sole purpose. Once that purpose is satisfied, all remaining monies in the fund will be returned to the Canadian system divisions and federations on a per capita basis.
25. U.S. Death Benefit fund will be maintained and funded through interest derived from the BMW Strike Fund, or other mutually acceptable means.
26. Strike benefits from the BMW's Strike Fund Trust will be payable solely to BMW-U.S. members. Strike benefits under any Steelworker's strike benefit plan shall be in addition to strike benefits available to eligible U.S. members under the BMW Strike Fund and be applicable to all eligible BMW members in the United States and Canada. The BMW's Strike Benefit Trust will not be merged with any other fund, and will remain in a separate Trust Fund of the BMW Division.
27. The international union will fund travel costs and necessary expenses for one local lodge delegate, per local, to the merged union's convention.

28. There will be no involuntary mergers or disbandments of system divisions/federations, joint protective boards, local lodges, and international or regional associations so long as they duly elect officers, hold meetings, file all required reports, handle claims and grievances and perform the other duties normally required of system division/federations and local lodges.
29. Disputes arising over the interpretation or application of the merger agreement shall be subject to arbitration.
30. Where officers, staff, or employees are required to relocate their residence in order to remain employed, such persons will be offered separation pay if they choose not to accept the offer to relocate, in set amounts set forth in the Washington Job Protection Agreement of 1936 (e.g. 10 years service = 360 days pay, etc.)
31. All BMW resolutions will continue and be adopted by the merged union. See Attachment B.
32. At the next convention of the merged union, the name of the international union will be changed to reflect its railroad component.
33. The merged union will provide a pension plan or plans which would permit BMW-represented railroad employee participation, contingent upon conclusion of collective bargaining agreements mandating carrier contributions, and provide bonded indemnification of employer against funded pension liability, if necessary, in order to negotiate railroad employers' contributions.
34. Continue the existing BMW Canadian operation in total.
35. Continue publication of BMW's *Journal* in U.S. and Canadian versions in the rate of six issues per year and, in addition, provide the merged Union's publication to BMW members as well. Ultimately, the BMW journals can be combined with the existing union's membership publication; provided, however, that such a merger would not reduce the amount of space dedicated to BMW's specific issues, and rail issues in general.
36. Provide support for a BMW Division for organizing workers performing traditional, recognized work of the maintenance of way craft (including that performed by contractors operating under the NLRA), and other work not otherwise exclusively that of other divisions of the merged union. Such newly organized members will become part of the BMW Division.

37. BMW will retain its right to endorse and support candidates and issues in legislative and political positions as in its sole judgement benefit the BMW Division members. No less than 85% of the voluntary political action funds contributed by BMW Division members will be allocated for contributions to federal candidates whom the BMW Division identifies as significantly affecting rail concerns of the BMW Division membership.
38. The merged union will provide technical assistance to the BMW Division regarding plan design and cost containment with respect to health and welfare plans applicable to BMW members, the BMW Division, and BMW System Federations and Divisions.
39. BMW Division officers and employees who are required to relocate their residence by the merged union would be reimbursed for such relocation costs by the International Union. Such officers and employees would also be entitled to relocation back to their "home point" upon retirement or other separation from service. ("Home point" means the location of their residence before accepting employment at a BMW Grand Lodge office.
40. Preserve the rights and obligations of BMW Division and its affected membership to vote to ratify or reject collective bargaining agreements. See, BMW Constitution and Bylaws, Article III, Sec. 16; Article XXIII, Sec. 9.
41. In no case will the BMW Division be funded at a level insufficient to permit the Division to provide services at the same or higher level as those being provided by the BMW Grand Lodge as of the date of the merger.
42. Local lodge secretary-treasurers will be exempt from paying dues.
43. No prohibition on the membership in the Communist Party or other subversive organizations will be applicable to membership or office holding in the BMW Division.
44. The BMW Division will continue to maintain and amend its list of designated FELA law firms.
45. Steps will be taken to assist BMW Division members in securing work in other industries represented by the Steelworkers.
46. Scholarships shall be made available to the children of BMW Division members.
47. Charge, Trial, and Appeal procedures will apply to all officers and members.
48. Vacation of Division officers and staff shall continue to be governed by the National Vacation Agreement.