

**Award No. 11054**

**Docket No. MW-10681**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**(Supplemental)**

**Preston J. Moore, Referee**

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**PARTIES TO DISPUTE:**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES  
SOUTHERN PACIFIC COMPANY (PACIFIC LINES)**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood that:

(1) The Carrier was in violation of the Agreement between May 29 and June 17, 1957, when, instead of assigning Water Service Sub-department employees to install an air line from the power house to the storage yard at the Eugene Wood Preserving Plant, it assigned or otherwise permitted employees of the Wood Preserving Plant to perform said work.

(2) Because of the violation referred to in Part (1) of this claim, Water Service Helpers Wayne Tullar and D. J. Fryhover each be allowed eighty-eight (88) hours' pay at their respective straight time rates and Water Service Mechanics Robert S. Sweeten and Charles Farmer each be allowed forty (40) hours' pay at their respective straight time rates.

**EMPLOYEES' STATEMENT OF FACTS:** Between May 29 and June 17, 1957, the Carrier assigned employees of the Wood Preserving Plant to install an air line from the Power House to the Storage Yard, which is outside of the Wood Preserving Plant.

Approximately 1,200 feet of new one-inch red lead treated pipe for underground use was installed.

Heretofore, all work of this character and type has been recognized as Water Service Department work. Stated in other words, all pipe work within the Wood Preserving Plant buildings has been considered to belong to Wood Preserving Plant employees while all pipe work outside of the Wood Preserving Plant buildings has been considered to be Water Service employees' work.

Claim as set forth herein was presented and handled in the usual and customary manner, the Carrier declining same at all stages of progress.

The Agreement in effect between the two parties to this dispute dated January 1, 1953, together with supplements, amendments, and interpre-

The foregoing leaves carrier confused as to what position petitioner is taking in the case because it indicates that the water service mechanics are now claiming the right to do "everything" even when it is admittedly within the confines of the Plant. If the water service employes have such right, we wonder where the line is to be drawn and what work can properly be performed by Plant employes who are restricted in seniority to the Plant.

### CONCLUSION

The claim is clearly invalid and carrier requests that it be denied.

All data herein have been presented to the duly authorized representative of the employes and are made a part of the particular question in dispute.

(Exhibits not reproduced.)

**OPINION OF BOARD:** This is a dispute between The Brotherhood of Maintenance of Way Employes and The Southern Pacific Company.

The Carrier assigned Employes of the Wood Preserving Plant to install an air line from the Power House to the Storage Yard, which is outside of the Wood Preserving Plant Buildings, but is on the property of the Plant.

Sections of the Scope Rule which are pertinent to this dispute are as follows:

#### "SCOPE

"These rules govern rates of pay, hours of service, and working conditions of employes in all sub-departments of the Maintenance of Way and Structures Department (not including supervisory employes above the rank of foreman) represented by the Brotherhood of Maintenance of Way Employes, such as:

"(a) Foremen and assistant foremen of bridges, buildings, tunnel, painter, construction, concrete, mason, water supply, plumbing, paving, fence gang, pile driver, and all employes coming under the supervision of such foremen.

\* \* \*

"(i) Employes in Timber and Tie Treating Plants except stationary engineers and stationary firemen."

#### "RULE 3

"Seniority rights of all employes are confined to the sub-department in which employed."

#### "RULE 5

"Seniority rights of employes in the Bridge and Building, Water Service, and Track Sub-Departments (with the exception of laborers in the Track Sub-Department) shall be restricted to the territory under the jurisdiction of one Division Superintendent.

\* \* \*

“Seniority of employes in the Timber and Tie Treating Plants shall be restricted to the respective Timber and Tie Treating Plants.”

There are several letters stating how the parties have treated the Agreement in the past.

The first letter is signed by 8 water service Employes. This letter reads in part “Since the Water Service installed it in 1926, we have taken care of everything from the big valve on to any place in the plant.” Where is the big valve?

The next letter is signed by Dan MacLeod and part of letter is as follows:

“The work of the installation of steam lines, gas lines, air lines, sewer lines and sanitary facilities and all other pipe installations above and below ground at Yards, Roundhouses, Wood Preserving Plants and intermediate points under past practices has been performed by the employes of the Water Service Department on the Western Division of the Southern Pacific Company.

“The work of mechanic and composite mechanics in the Wood Preserving Plant with the exception of large pipe installations on steam boilers, which has been performed by employes of the Water Service Sub-Department.

“I have been employed in the Water Service Sub-Department as W. S. Mechanic and W. S. Composite Mechanic on the Western Division of the Southern Pacific Company for 30 years, **and the work of pipe installations outside the Wood Preserving Plant during that period has been performed by the employes of the Water Service Department.**” (Emphasis ours.)

This indicates that work inside the plant has been done by Wood Preserving Plant Employes and work outside the Wood Preserving Plant has been done by Water Service Employes. So — this leaves us where we started. Now to Carrier's evidence as to past practice.

“Eugene, Ore. Dec. 2, 1957.

“Mr. L. R. Smith.

“I have been employed at the Eugene tie testing plant since it started operating in June 1926.

“Regarding the duties of our plant mechanics. It has always been the practice here for them to do the maintenance work pertaining to the operation of our plant and plant equipment in our internal yard. This work consists of repairs to plant boilers, retort, cranes, boring mill, and replacing and extending steam and air lines when necessary.

/s/ E. S. Van Dossen  
Plant Foreman”

## CARRIER'S EXHIBIT "C"

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"Eugene, Oregon  
December 2, 1957

"Mr. L. R. Smith  
Division Superintendent  
Portland, Oregon

"Dear Sir:

"During my thirty one years of service at the Eugene Wood Preserving Plant, my duties consisted of general maintenance and changes or replacement of steam and air lines, valves, repairs to boilers, air compressor, pumps, etc. in connection with the internal operation of the above plant including buildings and yard.

"It has also been by understanding that steam and air lines extending from this plant for use in other departments and facilities, outside the internal plant, were to be maintained by water service department employes. To my knowledge this work has always been handled according to regular assignments, namely that treating plant mechanics confined their duties to the internal plant, and the water service gang handled all work connected with outside activities.

/s/ Geo. D. Bronrley  
Composite Mechanic"

## CARRIER'S EXHIBIT "D"

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"Eugene, Oregon  
Dec. 2, 1957

"Mr. L. R. Smith  
Division Superintendent  
Portland, Oregon.

"Dear Sir: —

"I have been employed at the Eugene Wood Preserving Plant for the Past 24 years, the last 5 years as a mechanic. My duties during these last 5 years consisted of maintenance, repairs and extensions of existing Steam, and Airlines, repairs to boilers, compressors, pumps as relates to the internal operation of the Above Plant, Buildings and Yard.

"It has been my understanding that steam & air lines extending from this plant were to be maintained by water service employes, to my knowledge, the work inside the treating plant has been handled by Plant mechanics, and outside work connecting to this plant has been handled by the water service Dept.

/s/ George W. Hansen  
Mechanic"

## CARRIER'S EXHIBIT "E"

"Southern Pacific  
Wood Preserving Plant  
Eugene, Oregon  
Dec. 2, 1957

"Mr. L. R. Smith  
Divisional Superintendent

"I am at present employed by the Company as a Composite Mechanic here and have held this position since 1926.

"It has been my understanding that duties consist of repairing, maintaining and servicing worn out or broken parts of all machinery, valves, pipe lines or other mechanical devices within the boundary's of the wood preserving plant.

"While my duties have in the past been confined entirely to the Boring Mill it is understood that I could be called upon to perform these services any place with the limits of the plant.

/s/ R. L. Alloway  
Composite Mechanic"

CARRIER'S EXHIBIT "F"

"12-3-57

"Mr. L. R. Smith

"Reference conversation with Mr. O. E. Yates and request for a statement concerning work at the tie treating plant in Eugene.

"So far as I know, since the plant was built the employes of the tie treating plant have maintained work pertaining to the direct operation of the plant.

"Water Service Dept. has maintained all outside pipe lines such as fire lines, main steam line to the round house, etc.

/s/ Em Hallam"

CARRIER'S EXHIBIT "G"

These letters shed no further light upon how the parties have interpreted the Agreement in the past. Consequently we must examine the rules and determine what was intended by the parties.

After deliberation we believe that Wood Preserving Plant Employees are entitled to all work in the Plant, except where past practice can be shown such work has been done by others. In essence, "We accept the broad meaning, of the term, "plant". This includes the entire area. We believe confusion of the term plant has led to the present dispute. With a proper showing of past practice, the Employees could, perhaps, establish a different interpretation of the Agreement.

For the foregoing reasons, we find the Agreement was not violated.

**FINDINGS:** The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

**AWARD**

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 24th day of January 1963.