

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30089
Docket No. TD-30570
94-3-92-3-320

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

PARTIES TO DISPUTE: (American Train Dispatchers Association
(Southern Pacific Transportation Co. (EL)

STATEMENT OF CLAIM:

"Claim #1 - Rodriguez, Landry, Brill, 1/10/91 - Carrier
File 499-19-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 10, 1991	3835E, 5110E, 3811E, 3835W, 5110W and 3811W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 10, 1991	7:01 AM - 3:01 PM	J.M. Rodriguez
January 10, 1991	3:01 PM - 11:01 PM	D.L. Landry
January 10, 1991	11:01 PM - 7:01 AM	C.F. Brill

Claim #2 - Schulle, Charles, Brill, 1/11/91 - Carrier
File 499-20-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of

Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 11, 1991	4121E, 3835E, 5110E, 3835W and 5110W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 11, 1991	7:01 AM - 3:01 PM	H.H. Schulle
January 11, 1991	3:01 PM - 11:01 PM	J.B. Charles
January 11, 1991	11:01 PM - 7:01 AM	C.F. Brill

CLAIM #3 - O'Leary, Charles, Schwarze, 1/12/91 - Carrier
File 499-21-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 12, 1991	4121W, 3811E, 5110E, 4144E, 3811W, 4144W and 5110W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 12, 1991	7:01 AM - 3:01 PM	C.M. O'Leary
January 12, 1991	3:01 PM - 11:01 PM	J.B. Charles
January 12, 1991	11:01 PM - 7:01 AM	G.W. Schwarze

Claim #4 - O'Leary, McShan, Schwarze, 1/13/91 - Carrier
File 499-22-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 13, 1991	4144E and 4144W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 13, 1991	7:01 AM - 3:01 PM	C.M. O'Leary
January 13, 1991	3:01 PM - 11:01 PM	D.R. McShan
January 13, 1991	11:01 PM - 7:01 PM	G.W. Schwarze

Claim #5 - Penrice, Woods, Ruiz, 1/14/91 - Carrier File
499-23-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 14, 1991	5110E, 4144E, 414W and 5110W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 14, 1991	7:01 AM - 3:01 PM	M.A. Penrice
January 14, 1991	3:01 PM - 11:01 PM	J.P. Woods
January 14, 1991	11:01 PM - 7:01 PM	P. Ruiz

Claim #6 - Garza, Woods, Mosier, 1/15/91 - Carrier File 499-24-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 15, 1991	5110E, 4121E, 3848E, 3848W, 5110W and 4121W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 15, 1991	7:01 AM - 3:01 PM	A.B. Garza
January 15, 1991	3:01 PM - 11:01 PM	J.P. Woods
January 15, 1991	11:01 PM - 7:01 PM	C.J. Mosier

Claim #7 - Gallaway, Dunn, Mosier, 1/16/91 - Carrier File 499-25-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement

to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 16, 1991	3835E, 5110E, 3811E, 5110W and 3811W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 16, 1991	7:01 AM - 3:01 PM	M.A. Galloway
January 16, 1991	3:01 PM - 11:01 PM	W.H. Dunn
January 16, 1991	11:01 PM - 7:01 PM	C.J. Mosier

Claim #8 - Rodriguez, Landry, Brill 1/17/91, Carrier File 499-26-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 17, 1991	4121E, 5110E, 6639E, 6639W, 5110W and 4121W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 17, 1991	7:01 AM - 3:01 PM	J.M. Rodriguez
January 17, 1991	3:01 PM - 11:01 PM	D.L. Landry
January 17, 1991	11:01 PM - 7:01 PM	C.F. Brill

Claim #9 - Schulle, Charles, Brill, 1/18/91 - Carrier
File 499-27-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 18, 1991	5110E, 3835E, 6639E, 5110W, 6639W and 3835W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 18, 1991	7:01 AM - 3:01 PM	H.H. Schulle
January 18, 1991	3:01 PM - 11:01 PM	J.B. Charles
January 18, 1991	11:01 PM - 7:01 PM	C.F. Brill

Claim #10 - O'Leary, Charles, Schwarze, 1/19/91 - Carrier
File 499-28-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 19, 1991	639E and 6639W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below,

one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 19, 1991	7:01 AM - 3:01 PM	C.M. O'Leary
January 19, 1991	3:01 PM - 11:01 PM	J.B. Charles
January 19, 1991	11:01 PM - 7:01 PM	G.W. Schwarze

Claim #11 - McShan, O'Leary, Schwarze, 1/20/91 - Carrier
File 499-29-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 20, 1991	6600E

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 20, 1991	7:01 AM - 3:01 PM	D.R. McShan
January 20, 1991	3:01 PM - 11:01 PM	C.M. O'Leary
January 20, 1991	11:01 PM - 7:01 PM	G.W. Schwarze

Claim #12 - Morrissey, Woods, Ruiz, 1/21/91 - Carrier
File 499-30-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 21, 1991	5110E, 4144E, 4144W and 5110W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 21, 1991	7:01 AM - 3:01 PM	J.J. Morrissey
January 21, 1991	3:01 PM - 11:01 PM	J.P. Woods
January 21, 1991	11:01 PM - 7:01 PM	P. Ruiz

Claim #13 - Garza, Woods, Mosier, 1/22/91 - Carrier File 499-31-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 22, 1991	5110E, 4144E, 6639E, 4144W, 5110W and 6639W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 22, 1991	7:01 AM - 3:01 PM	A.B. Garza
January 22, 1991	3:01 PM - 11:01 PM	J.P. Woods
January 22, 1991	11:01 PM - 7:01 PM	C.J. Mosier

Claim #14 - Gallaway, Dunn, Mosier 1/23/91 - Carrier File 499-32-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an

employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 23, 1991	7252E, 7252W, 4144E, 5110E, 6346E, 6346W, 5110W and 4144W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 23, 1991	7:01 AM - 3:01 PM	M.A. Gallaway
January 23, 1991	3:01 PM - 11:01 PM	W.H. Dunn
January 23, 1991	11:01 PM - 7:01 PM	C.J. Mosier

Claim #15 - Rodriguez, Landry, Brill, 1/24/91 - Carrier
File 499-33-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 24, 1991	6346E, 5110E, 4144E, 5110W, 4144W and 6346W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 24, 1991	7:01 AM - 3:01 PM	J.M. Rodriguez
January 24, 1991	3:01 PM - 11:01 PM	D.L. Landry
January 24, 1991	11:01 PM - 7:01 PM	C.F. Brill

Claim #16 - Schulle, Charles, Brill, 1/25/91 - Carrier
File 499-34-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 25, 1991	3745E, 3835E, 5110E, 3835W, 5110W and 3745W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 25, 1991	7:01 AM - 3:01 PM	H.H. Schulle
January 25, 1991	3:01 PM - 11:01 PM	J.B. Charles
January 25, 1991	11:01 PM - 7:01 PM	C.F. Brill

Claim #17 - O'Leary, Charles, Schwarze, 1/26/91, Carrier
File 499-35-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 26, 1991	3367E and 3367W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below,

one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 26, 1991	7:01 AM - 3:01 PM	C.M. O'Leary
January 26, 1991	3:01 PM - 11:01 PM	J.B. Charles
January 26, 1991	11:01 PM - 7:01 PM	G.W. Schwarze

Claim #18 - Mcshan, O'Leary, Schwarze, 1/27/91 - Carrier
File 499-36-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 27, 1991	3745E and 3745W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 27, 1991	7:01 AM - 3:01 PM	D.R. McShan
January 27, 1991	3:01 PM - 11:01 PM	C.M. O'Leary
January 27, 1991	11:01 PM - 7:01 PM	G.W. Schwarze

Claim #19 - Morrissey, Woods, Ruiz, 1/28/91 - Carrier
File 499-37-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 28, 1991	4144E, 5110E, 3745E, 414W, 5110W and 3745W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 28, 1991	7:01 AM - 3:01 PM	J.J. Morrissey
January 28, 1991	3:01 PM - 11:01 PM	J.P. Woods
January 28, 1991	11:01 PM - 7:01 PM	P. Ruiz

Claim #20 - Garza, Woods, Mosier, 1/29/91 - Carrier File 499-38-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 29, 1991	3811E, 3395E, 5100E, 3811W, 5100W and 3396W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 29, 1991	7:01 AM - 3:01 PM	A.B. Garza
January 29, 1991	3:01 PM - 11:01 PM	J.P. Woods
January 29, 1991	11:01 PM - 7:01 PM	C.J. Mosier

Claim #21 - Gallaway, Dunn, Mosier, 1/30/91 - Carrier File 499-39-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an

employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 30, 1991	3811E, 5110E, 3367E, 5110W and 3811W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 30, 1991	7:01 AM - 3:01 PM	M.A. Gallaway
January 30, 1991	3:01 PM - 11:01 PM	W.H. Dunn
January 30, 1991	11:01 PM - 7:01 PM	C.J. Mosier

Claim #22 - Rodriguez, Landry, Brill, 1/31/91, Carrier
File 499-40-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains indicated below and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch.

<u>DATE</u>	<u>TRAIN(s)</u>
January 31, 1991	5110E, 3376E, 3873E, 5110W, 3367W and 3873W

- (b) Because of said violations, the Carrier shall now compensate [sic] the Claimant(s) indicated below, one (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers as indicated below:

<u>DATE</u>	<u>SHIFT</u>	<u>CLAIMANT</u>
January 31, 1991	7:01 AM - 3:01 PM	J.M. Rodriguez
January 31, 1991	3:01 PM - 11:01 PM	D.L. Landry
January 31, 1991	11:01 PM - 7:01 PM	C.F. Brill

Claim #23 - Senior Train Dispatcher, 2/1/91, ET Seq. -
Carrier File 499-56-A

- (a) The Southern Pacific Transportation Company (hereinafter referred to as "the Carrier"), violated the effective Agreement between the parties, ARTICLE 1 SECTION 1 B (2) thereof in particular, when it permitted and/or required an employee not covered by the Scope of said Agreement to exercise primary responsibility for the movement of trains and for the protection of Maintenance [sic] of Way employees and/or on-track equipment, between Milepost 29.0 and Milepost 23.4 (formerly known as the Guffey Direct Traffic Control (DTC) block) on the Sabine Branch on each shift on February 1, 1991, and on each shift and date thereafter.
- (b) Because of said violations, the Carrier shall now compensate [sic] the Senior Train Dispatcher on rest day (1) day's pay at the pro rata rate applicable to Trick Train Dispatchers beginning on first shift February 1, 1991, and continuing on each subsequent shift and date thereafter until the violation ceases.
- (c) The identities of individual Claimants entitled to the compensation requested in paragraph (b) above are readily ascertainable on a continuing basis from the Carrier's records and shall be determined by a joint check thereof in order to avoid the necessity of presenting a multiplicity of daily claims."

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

As Third Party in Interest, the Western Railway Supervisors Association was advised of the pendency of this dispute and filed a Submission with the Board.

The Carrier issued a notice that effective 12:01 P.M. on January 10, 1991, the track between Mile Post 29.0 and Mile Post 23.4 on the Sabine Branch would thereafter be considered "other than main track." This trackage was formerly designated the Guffey Direct Traffic Control (DTC) block, and was under the authority of train dispatchers. The effect of this change was to place the trackage under Rule 105 of the Carrier's Rules and Regulations, which provides as follows:

"Rule 105 Movement Other Than Main Track

Except on track where a block system is in effect, trains or engines using other than main track must move prepared to stop within one half range of vision short of train, engine, railroad car, stop signal, derail or switch not properly lined."

According to the Organization, this trackage was placed under DTC on October 26, 1986, and designated as the Guffey Block. Three years later, the Carrier changed the DTC operation, removing the Guffey Block and placing the trackage within yard limits. The Carrier reestablished the Guffey Block under DTC on May 4, 1990.

The Carrier expands upon this history by noting that at least as early as April 1953, yard limits had extended from Beaumont Tower 30 (Mile Post 30.2) to Mile Post 25.5. They were extended eastward to Mile Post 23.44 in July 1953, where they remained until October 26, 1986. The Carrier further explains trains were dispatched beyond yard limits on the Sabine Branch under train order authority until April, 1984. At that time, the Carrier designated this line as Absolute Block Register territory, which prohibits any trains from entering the line while another train has registered to occupy it.

Direct Train Control, which was implemented on October 26, 1986, divides the main track into segments known as DTC blocks. Train dispatchers authorize the use of each block to a single train, engine or employee. When the dispatcher authorizes joint occupancy of a DTC block, protection is afforded by requiring that movements be made at restricted speed. When DTC was implemented, the Carrier elected to place the territory between Mile Posts 29.0 and 23.4 within DTC, designating it as the "Guffey Block." According to the Carrier, this created operating difficulties because of the frequency of having to allow a second train or engine in the block. Prior to granting authority to the second train, the dispatcher was required to notify the first train that the block would be jointly occupied. Because this was a frequent

occurrence, the Carrier claims the dispatchers would often grant the first train joint authority just in case it became necessary to operate another movement within the limits to perform switching. When this was done, the first train was required to operate at restricted speed. This, says the Carrier, eliminated the benefits of having DTC on this territory. Therefore, it eliminated the Guffey DTC block and restored the original yard limits.

In March 1990, the Carrier restored the Guffey DTC block when it reduced the maximum authorized speed under "Restricted Speed" from 20 MPH to 10 MPH. The Carrier says it intended trains to be dispatched within that territory with sole occupancy authority whenever possible. However, it appears the same operating difficulties recurred, and trains were being given joint operating authority with some regularity. According to the Carrier, its only feasible alternative was to designate the trackage as "other than main track," making it subject to Rule 105, which does not impose a 10 MPH speed restriction. It does, however, eliminate the involvement of train dispatchers over that territory. This action was taken effective January 10, 1991. Shortly thereafter, the Carrier reversed its decision to reduce the maximum allowable speed under Restricted Speed, and restored the 20 MPH maximum. The Carrier reinstated the earlier yard limits at Mile Post 23.4. Under current instructions, trains or engines must obtain permission prior to entering yard limits. Movements within yard limits are governed by Rule 93 of the Carrier's Rules and Regulations, which reads as follows:

"Rule 93. Yard Limit Rule

Within yard limits, the main track may be used by trains or engines, not protecting against other trains or engines. Engines must give way to trains as soon as practicable upon their approach.

Movements within Yard Limits must be made at restricted speed, unless than main track is known to be clear by a block signal displaying green as its aspect or part of its aspect.

Movements against the current of traffic must not be made unless authorized and protected by track warrant, track bulletin, yardmaster or other authorized employee.

Where yard limits are in effect in CTC territory, trains and engines must not enter the main track at a hand operated or spring switch without authority from the control operator.

Yard limits are in effect continuously unless otherwise specified by timetable or track bulletin."

The Organization has filed the twenty-three claims that are joined herein. These claims allege the Carrier violated the Agreement by permitting and/or requiring employees not covered by the scope of the Agreement to exercise primary responsibility for the movement of trains or the protection of maintenance of way employees or equipment on this trackage. The first twenty-two of these claims cover specific dates, while the last is a continuing claim. The applicable portion of the Scope Rule, Article 1, reads as follows:

"Section 1.

This Agreement shall govern the hours of service and working conditions of Train Dispatchers.

- A. The term 'train dispatcher' as herein used shall include chief, assistant chief, trick, relief and guaranteed assigned dispatchers, except:

* * *

B. Definitions.

(1) ...

(2) Trick Train Dispatchers
Relief Train Dispatcher
Guaranteed Assigned Dispatcher

These classes shall include positions in which the duties of incumbents are to be primarily responsible for the movement of trains by train orders, or otherwise, to supervise forces employed in handling train orders, to keep necessary records incident thereto, and to perform related work."

The Organization argues the Carrier's violation of the Agreement occurred when it substituted the permission of the Beaumont yardmaster as the means of placing responsibility for the movement of trains over this trackage. In asserting its claim, the Organization distinguishes between the terms "yard" and "yard limits," citing the definitions of those terms in the Carrier's operating rules. Those definitions are as follows:

"Yard. A system of tracks, other than main tracks and sidings, used for making up trains, storing of cars and for other purposes.

Yard Limits. A portion of main track designated by yard limit signs and by timetable or track bulleting, which trains and engines may use as prescribed by Rule 93."

Using these definitions, the Organization challenges any assertion that the trackage between Mile Posts 23.4 and 29.0 is yard trackage. It cites Carrier correspondence which states the trackage is for the movement of trains between stations on the Sabine Branch and further denies there is any evidence that the trackage is used for making up trains or storing cars.

The Carrier has shown through the history of the operation of this trackage that except for the time it was under DTC, it has not been under the direction of train dispatchers. The Carrier further notes the Organization has made no objection to the operation of trains on this trackage under any of the previous scenarios, particularly when the Carrier first removed the trackage from DTC. At the same time, the Carrier asserts that all of these changes, including the one precipitating these claims, were made purely for operational reasons. The Carrier argues it must have the right to determine the manner of operation of its trains.

The Western Railway Supervisors Association, as Third Party in Interest representing the craft of yardmasters, asserts that its Scope Rule reserves to yardmasters the exclusive right to supervise all employees within a yard. It argues the Carrier's extension of the yard limits served to extend the yardmaster's jurisdiction over the movements in this area, which has been recognized to be permissible. The applicable portion of the Rule reads as follows:

"The duties and responsibilities of a yardmaster include:

- (a) Supervision over employees directly engaged in the switching, blocking, classifying and handling of cars and trains and duties directly incidental thereto that are required of the yardmaster in a territory as designated by the Carrier."

While we have, in the past, acknowledged the Carrier's rights to manage the operations of its trains, we have also noted that such rights are not without limitations. Where the Agreement reserves work to one craft, an operational change which transfers such work to another craft cannot be accomplished unilaterally.

This is not an issue of first impression. Third Division Award 27109 considered a similar dispute under a Dispatchers' Scope Rule which uses the same language; i.e., "primarily responsible for the movement of trains by train orders, or otherwise." In that case, the Board held:

"It is the conclusion of the Board that the Carrier removed the work in question in violation of Rule 1 of the Train Dispatcher's Agreement. This Scope Rule is specific as to these facts inasmuch as it covers positions primarily responsible for the movement of trains '... by train orders, or otherwise...' This is

the key phrase and so long as trains on the tracks in question under the facts presented here are being controlled by train order or otherwise, the work is reserved to the Dispatchers." (Underlining in original.)

In the instant case, the Carrier effectively removed the responsibility for the movement of trains between Mile Posts 23.4 and 29.0 from the dispatchers and gave it to the yardmaster at Beaumont. This control was and is exercised when the yardmaster authorizes the train to enter the extended yard limits. Such a movement is solely for the purpose of advancing the train and is not related to the switching or yarding of the train. If such control is to be exercised, the Agreement requires that it be exercised by a dispatcher.

Although the Carrier states it has merely reverted to an operation that had existed earlier, to which the Organization had not objected, our review of the record in this case, which includes timetables from 1980 through 1991, shows that train crews previously did not have to receive permission from the yardmaster before entering the trackage. Thus, it is evident the authority reserved to dispatchers was not transferred to another craft in the earlier operations. In the instant case, it is not the changing of the nature of the track that constitutes the violation of the Agreement, but, rather, the transfer of authority to the yardmaster.

Finding a violation of the Agreement, we must consider the appropriateness of the remedy sought by the Organization. The record does not show that the dispatchers on duty were deprived of compensation as a result of this violation. The Claimants herein are off-duty dispatchers who, according to the Organization, should have been called in to perform this work and compensated a day's pay. Under the circumstances present in this case, we will award the Claimants one hour's pay at the pro rata rate for each shift on which trains were actually required to obtain permission from the yardmaster.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Catherine Loughrin
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 15th day of March 1994.