



**NATIONAL MEDIATION BOARD**  
WASHINGTON, DC 20572

(202) 692-5000

In the Matter of the  
Application of the

**BROTHERHOOD OF  
LOCOMOTIVE ENGINEERS AND  
TRAINMEN**

alleging a representation dispute  
pursuant to Section 2, Ninth, of  
the Railway Labor Act, as  
amended

involving employees of

**TALLEYRAND TERMINAL  
RAILROAD COMPANY**

35 NMB No. 9

CASE NO. R-7142  
(File No. CR-6922)

FINDINGS UPON  
INVESTIGATION-  
AUTHORIZATION OF  
ELECTION

December 5, 2007

This determination addresses the application filed by the Brotherhood of Locomotive Engineers and Trainmen (BLET or Organization) alleging a representation dispute pursuant to the Railway Labor Act<sup>1</sup> (RLA), 45 U.S.C. § 152, Ninth (Section 2, Ninth). The BLET seeks to represent the craft or class of Non-Operating Employees at Talleyrand Terminal Railroad Company, Inc. (Talleyrand or Carrier). Talleyrand seeks the Board's determination as to the proper craft or class for representation purposes.

For the reasons discussed below, the National Mediation Board (NMB or Board) finds that the appropriate craft or class is Non-Operating Employees and that a representation dispute exists among that craft or class of employees. Accordingly, the Board authorizes an election.

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<sup>1</sup> 45 U.S.C. § 151, *et seq.*

## PROCEDURAL BACKGROUND

On August 24, 2007, the BLET filed an application alleging a representation dispute involving the Crane Operators at Talleyrand. The application to represent Crane Operators was assigned NMB File No. CR-6922. Norman L. Graber was assigned as the Investigator. On September 10, 2007, the Carrier filed a List of Potential Eligible Voters as of August 26, 2007, the last day of the last payroll period prior to August 27, 2007, as well as signature samples for those on the List. On September 10, 2007, BLET filed an initial position statement.

On September 20, 2007, Investigator Graber requested certain additional information from the Carrier regarding its employees. Talleyrand supplied the requested information on October 4, 2007. On October 11, 2007, the BLET filed a request to amend its application to cover the craft or class of Non-Operating Employees rather than Crane Operators. On October 12, 2007, Talleyrand objected to the BLET's amendment.

## ISSUE

What is the appropriate craft or class for Talleyrand's crane operators?

## CONTENTIONS

### BLET

Although the BLET initially filed for a craft or class of Crane Operators, it subsequently, without explanation, requested to amend the application to cover Non-Operating Employees.

### Talleyrand

Talleyrand asserts that Non-Operating Employees is not an appropriate craft or class. Talleyrand argues that a Non-Operating Employees craft or class is too broad and could encompass other employees "with little or no community of interest with 'crane operators' and no commonality of duties, functions and responsibilities."

## FINDINGS OF LAW

Determination of the issues in this case is governed by the RLA, as amended, 45 U.S.C. § 151, *et seq.* Accordingly, the Board finds as follows:

I.

Talleyrand is a common carrier as defined in 45 U.S.C. § 151, First.

II.

The BLET is a labor organization and/or representative as defined in 45 U.S.C. § 151, Sixth, and § 152, Ninth.

III.

45 U.S.C. § 152, Fourth, gives employees subject to its provisions, "the right to organize and bargain collectively through representatives of their own choosing. The majority of any craft or class of employees shall have the right to determine who shall be the representative of the craft or class for purposes of this chapter."

IV.

45 U.S.C. § 152, Ninth, provides that the Board has the duty to investigate representation disputes and to designate who may participate as eligible voters in the event an election is required.

STATEMENT OF FACTS

The Carrier provided information regarding the job classifications of its employees, the functions and duties of its employees, and the extent of cross-training and cross-utilization of its employees. The Carrier also submitted a declaration from its president, William A. Jasper, attesting to the accuracy of the information submitted.

Talleyrand employs a total of 14 employees: six train and engine service employees, three maintenance of way employees, three crane yard employees (Crane Operators), and two managers.

Crane Operators off-load container freight from rail cars onto truck flatbeds for movement to a staging area within the Port of Jacksonville where the containers are placed on ocean-going vessels for subsequent transport. Inbound containers from ocean-going vessels are handled in reverse fashion and are loaded onto rail cars by the Crane Operators for movement by rail to various destinations. Two Crane Operators operate rubber tire gantry cranes to load/unload the containers, while the third employee works as a flagman to

protect the crane and inbound/outbound trucks. This work occurs within the confines of the Carrier's facility in the Jacksonville marine terminal.

The maintenance of way employees perform minor track maintenance on Talleyrand's railroad right of way. The train and engine service employees operate locomotive-powered trains in common carrier service over the Carrier's railroad right of way. The managers are responsible for various aspects of Talleyrand's operations including managing train and engine service operations, maintenance of way, accounting, and administrative services.

The Crane Operators, train and engine service employees, and maintenance of way employees are hourly paid employees, except for one employee in each of these three groups that is a working supervisor who is salaried. The two managers are salaried. All employees receive similar benefit packages.

Although there is no formal cross-training or cross-utilization program at the Carrier, some cross-utilization occurs. Usually a few times each month, a maintenance of way employee is used in train and engine service. Also, about once or twice each month, a maintenance of way employee will assist Crane Operators by unpinning double-stack containers. Once or twice a year, a train and engine service employee will assist maintenance of way employees. And the salaried train and engine supervisor generally fills vacation vacancies in the crane yard for about three weeks each year.

### DISCUSSION

In determining the proper craft or class for a group of employees, the Board considers a number of factors including functional integration, work classifications, terms and conditions of employment, and work-related community of interest. *United Air Lines, Inc.*, 32 NMB 75 (2004); *National R.R. Passenger Corp.*, 31 NMB 178 (2004); *United Parcel Serv. Co.*, 30 NMB 84 (2002); *Frontier Airlines, Inc.*, 29 NMB 28 (2001). It is particularly important that the employees share a work-related community of interest. *Continental Airlines, Inc./Continental Express, Inc.*, 26 NMB 143 (1999); *LSG Lufthansa Servs., Inc.*, 25 NMB 96 (1997); *Airborne Express, Inc.*, 9 NMB 115 (1981). The Board makes craft or class determinations on a case by case basis, relying upon Board policy and precedent. *National R.R. Passenger Corp.*, *above*; *Simmons Airlines*, 15 NMB 124 (1988).

The Board has consistently held that "historical patterns of representation in the railroad industry provide the basis for craft or class determinations." *Terminal R.R. Ass'n of St. Louis*, 28 NMB 187, 199 (2000);

*Duluth, Missabe & Iron Range Ry. Co.*, 16 NMB 495, 500 (1989). “Crane Operators” were not historically represented as a separate group and the Board has never recognized these employees as a distinct craft or class.<sup>2</sup> Moreover, the Board more recently has recognized that on some smaller carriers, small numbers of employees may be grouped together in a combined craft or class of non-operating employees. See *Florida Northern R.R.*, 34 NMB 142 (2007); *Brandywine Valley R.R. Co.*, 30 NMB 445 (2003); *Industrial Steel Group, Cleveland Works Ry. Co.*, 29 NMB 474 (2002).

In this instance, there are three groups of Talleyrand employees that are eligible to have union representation under the RLA: train and engine service employees, maintenance of way employees, and crane operators.<sup>3</sup> The BLET was certified by the NMB as the representative of employees in the Carrier’s Train and Engine Service craft or class. *Talleyrand Terminal R.R.*, 34 NMB 165 (2007). The BLET also was certified by the NMB as the representative of employees in the Carrier’s Maintenance of Way craft or class. *Talleyrand Terminal R.R.*, 34 NMB 186 (2007). Accordingly, the Crane Operators are the only remaining unrepresented employees of the Carrier; and they do not constitute a historically recognized craft or class. The only appropriate craft or class which would contain these employees, therefore, is the Non-Operating Employees craft or class.

### CONCLUSION

As discussed above, Talleyrand’s Crane Operators are employees eligible for representation under the RLA in the Non-Operating Employees craft or class. As such, NMB Case No. CR-6922 is converted to NMB Case No. R-7142.

The Board finds a dispute to exist in NMB Case No. R-7142, among Non-Operating Employees of Talleyrand Terminal Railroad, sought to be represented by the BLET and presently unrepresented. A TEV and Internet election is hereby authorized using a cut-off date of August 26, 2007.

Pursuant to Manual Section 12.1, the Carrier is hereby required to furnish, within five calendar days, 1” X 2 5/8”, peel-off labels bearing the alphabetized names and current addresses of those employees on the List of Potential Eligible Voters. The Carrier must print the same sequence number

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<sup>2</sup> The Carrier has provided no Board decisions or other precedent in support of its position that “Crane Operators” is an appropriate craft or class.

<sup>3</sup> Section 9.211 of the Board’s Representation Manual (Manual) provides that “[m]anagement officials are ineligible to vote.” Accordingly, Talleyrand’s two managers are not eligible for inclusion in any craft or class.

from the List of Potential Eligible Voters beside each voter's name on the address label. The Carrier must use the most expeditious method possible, such as overnight mail, to ensure that the Board receives the labels within five calendar days. Tally in Washington, D.C.

By direction of the NATIONAL MEDIATION BOARD.

A handwritten signature in cursive script that reads "Mary L. Johnson".

Mary L. Johnson  
General Counsel

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