UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13

Wille Brothers Company

Employer

and **Case 13-UC-378**

Building Material, Lumber, Box, Shaving, Roofing and Insulating Chauffeurs, Teamsters, Warehousemen and Helpers, and Related Industry Employees, Watchmen and Security Guards Union, Local No. 786, Affiliated With the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America

Union

DECISION AND CLARIFICATION OF BARGAINING UNIT

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, an investigation[1] on this petition was conducted by an officer of the National Labor Relations Board, herein referred to as the Board, to determine whether it is appropriate to clarify the existing bargaining unit in light of the issues raised by the parties.[2]

I. Issue

The Employer seeks to clarify the existing bargaining unit represented by the Building Material, Lumber, Box, Shaving, Roofing and Insulating Chauffeurs, Teamsters, Warehousemen and Helpers, and Related Industry Employees, Watchmen and Security Guards Union, Local No. 786, Affiliated With the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (hereinafter the "Union"). The current unit includes all lumber employees and concrete employees as delineated in the current collective-bargaining agreement[3] between the Union and the Northern Illinois Ready Mix and Materials Association (of which the Employer is a signatory member). The Employer and the Union assert that, due to changes in the

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[1] The undersigned finds that a hearing on this petition is not required, inasmuch as the Employer and the labor organization involved provided extensive factual stipulations regarding the changed circumstances at issue during the investigation.

[2] Upon the investigation conducted in this proceeding, the undersigned finds:

a. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
b. The labor organization involved is the exclusive bargaining representative of the existing unit at issue herein.

[3] The collective-bargaining agreement is effective May 1, 2000 through April 30, 2005.

Employer's organizational structure, it is no longer appropriate to group the lumber employees and the concrete employees in the same unit. Rather, the Employer and Union argue that the existing unit must be clarified into two separate units: a unit of lumber division employees located in Alsip, Illinois; and a unit of concrete employees in Oak Forest, Illinois.

II. Decision

For the reasons discussed in detail below, the undersigned finds that recent and substantial changes in the Employer's operations have negated any community of interest that the lumber employees and the concrete employees once shared. Accordingly, the unit shall be clarified to divide the lumber division employees from the concrete division employees as promulgated by the parties.

Accordingly, IT IS HEREBY ORDERED that the existing unit be clarified as follows:

Lumber Division

All full and regular part-time truck drivers and fork lift operators employed by the Employer in its Lumber Division currently located at 12600 S. Hamlin Ct. Alsip, Illinois, but excluding all mechanics, maintenance, dispatchers, order takers, quality control, administrative, managerial, sales, all other employees, office clerical employees and guards, professional employees and supervisors as defined by the Act.

Concrete Division

All full and regular part time ready mix truck drivers and front end loader operators employed by the Employer in its Concrete Division currently located at 15800 S. Lamon Ave., Oak Forest, Illinois, but excluding all mechanics, maintenance, dispatchers, order takers, quality control, administrative, managerial, sales, all other employees, office clerical employees and guards professional employees and supervisors as defined by the Act.

III. Unit Clarification Into Two Separate Units is Appropriate

A. Legal Principles

The Board dictates that unit clarification is appropriate for resolving ambiguities within existing classifications "which have undergone recent substantial changes in the duties and responsibilities of employees in it so as to create a real doubt as to whether the individuals within the classification continue to fall within the category - excluded or included – that they occupied in the past." *Union Electric Co.*, 217 NLRB 666, 667 (1975). Further, "while the Board places great weight on collective-bargaining history, it will clarify an historical unit where recent, significant changes have rendered that unit inappropriate." *Lennox Industries, Inc.*, 308 NLRB 1237, 1238 (1992).

For example, in *Rock-Tenn Company*, 274 NLRB 772 (1985), the Board clarified a combined single unit into two units where it found that there had been changes in the organizational structure and operations of the employer's papermill and partition plants. The Board noted that each plant was now engaged in totally different operations, had separate and distinct corporate management/supervisory staff, and labor relations were handled separately at each plant.

Similarly, in *Ameron, Inc*., 288 NLRB 747 (1988), the Board clarified an existing combined single unit into two separate units because it found that a corporate restructuring had resulted in the formation of two distinct operations, each of which had its own managers and employees and required different equipment and skills.

B. Parties' Stipulated Facts

In 1934, Wille Brothers was founded as a partnership with a single facility located in Blue Island, Illinois. Its principal business was hauling coal and other material. The Blue Island location also had a small lumber yard component that had a single employee.

In the mid-1940s, Wille Brothers voluntarily recognized Teamsters Local 721 as the collective bargaining representative of its coal and material delivery drivers. In the late 1940's, the employees' union membership was transferred to the Union, and Wille Brothers recognized the Union as the exclusive bargaining representative of its delivery drivers and one non-driver employee.

During the 1950's, Wille Brothers' principal business was coal and material hauling. Because there were so few lumber yard employees, they were always included in the bargaining unit with the material drivers. In 1958, Wille Brothers opened a concrete plant in Oak Forest, Illinois. As the business grew, additional drivers were hired for this operation. Wille Brothers continued to recognize the Union as the collective bargaining representative of these new employees.

The management of the concrete portion of the business was initially centralized in the Wille Brothers' main office located in Blue Island, Illinois. When the concrete business was first started, employees moved freely between Blue Island and Oak Forest locations. Between 1960 and 1980 the primary focus of Wille Brothers' business was the delivery of ready mix concrete materials to customers.

In the early 1960's Wille Brothers became a member of the Northern Illinois Ready Mix and Materials Association ("NIRMA") and ceded it's collective bargaining rights to NIRMA, Wille Brothers continued to include lumber yard employees in the same bargaining unit with Wille Brothers' ready mix drivers represented by the Union after joining NIRMA.

In 1966, Wille Brothers was incorporated as an Illinois corporation with its principal place of business located in Blue Island, Illinois. At this time, the management of the businesses' operations continued to be centralized at Wille Brothers' office at Blue Island. In 1984, George Wille retired and was succeeded by Roy Wille as President. Wille Brothers

management of its ready mix and lumber operations remained centralized under his control. Roy began to focus on growing the lumber division.

In 1988, Wille Brothers' lumber business was relocated from its original Blue Island location to its current location in Alsip, Illinois. Since 1988, the lumber business has steadily grown, and the number of lumber employees represented by the Union has increased. In November 1999, Roy Wille retired, and Curt Wille succeeded him as Wille Brothers' President.

After Wille Brothers and the Union signed their most recent collective bargaining agreement (effective May 1, 2000 through April 30, 2005), Wille Brothers was reorganized into two distinct operating divisions, Lumber and Concrete. Under this reorganized structure, Wille Brothers created essentially independent entities, functioning separately and autonomously.

Each operating division pays service charges to Wille Brothers Corporate on a monthly basis for the cost of providing services such as legal, finance, and accounting, depending on the amount of such services used by each Division. Further, each division has its own General Manager, who is responsible for the day-to-day operation of his respective division. Rich Wille is the General Manager of the Lumber Division. Kevin Jarchow is the General Manager of the Concrete Division. Each General Manager is responsible only for his respective division and has no responsibility or authority with respect to the other division. Each division is engaged in an entirely different operation requiring different equipment and employee skills. There is no integration of operational functions between the Concrete and Lumber divisions. In addition to separate General Managers, each division has a distinct supervisory staff.

All hiring, discipline, discharge, layoffs and recall and labor relations decisions are made at the divisional level, and the General Manager has the final authority regarding all labor relations matters within his respective division. Each division's General Manager is responsible for all such matters within his respective division. Each General Manager handles all employee grievances solely for his respective division. The disciplinary records of employees are maintained separately within each division. The Union deals separately and exclusively with each General Manager regarding employee grievances.

Employees in the Lumber Division work in the job classifications of forklift operator and truck driver at the Wille Brothers Lumber yard located at 12600 S. Hamlin Ct., Alsip, Illinois. There are currently 16 employees working in the lumber yard that are represented by the Union. No employees in these job classifications work at the Wille Brothers' concrete facility. Lumber Division employees work set hours, observe all established holidays, and do not work Sundays.

Employees in the Concrete Division work in the job classifications of front end loader operator and ready mix truck driver at the Wille Brothers concrete facility located at 15800 S. Lamon Ave., Oak Forest, Illinois. There are currently 35 employees working at this concrete facility that are represented by the Union. No employees in these job classifications work at the Wille Brothers lumber yard. Concrete Division employees work each day until all orders are delivered, and their ending time varies from day to day. Concrete Division employees work Sundays and holidays.

The Alsip and Oak Forest facilities are located approximately 7 miles apart. Employees work exclusively at either the Alsip lumber yard or the Oak Forest concrete facility and have no daily or regular contact with employees working at the other facility. There is no regular interchange of employees between the Lumber and Concrete divisions. Since 2001, only one employee has transferred between divisions. Moreover, employee seniority is not recognized on a companywide basis. Each location has its own separate seniority list. In the one case of an employee transfer between divisions, the transferring employee's seniority was recognized only for the purpose of vacation benefit entitlement, but not for the purpose of job bidding, layoff or recall. During winter months, the Concrete Division typically lays off more than half of its workforce until inclement weather no longer prevents construction activity. By contrast, the Lumber Division typically lays off only a few employees. A laid off employee from one division has no right to use seniority to claim a job in the other division in order to avoid a layoff.

C. Analysis

In the instant case, the evidence shows that there have been substantial changes in the Employer's operations since the parties' most recent collective-bargaining agreement took effect. As in *Rock-Tenn* and *Ameron*, supra, these changes have effectively divided the Employer's lumber division from the concrete division.

As in *Ameron*, supra at 748-749, each division has its own separate management team and supervisory staff. Employees in each division possess different skills, work different hours and different shifts in geographically separate locations. Employees in each division, with only one exception, do not interchange. Labor relations and employee grievances, as well as discipline and seniority, are handled completely separately by each division. And unlike *Batesville Casket Company*, 283 NLRB 795 (1987), in which the Board found that the changes were not recent or substantial as they occurred from ten to thirty years prior to the filing of the UC petition, the restructuring in this case occurred during the life of the most recent contract. As in *Ameron*, supra, the intent of the Employer to create and maintain separate Lumber and Concrete divisions is clear.

The undersigned finds that the historical unit no longer conforms reasonably well to the normal standards of appropriateness. As such, the undersigned shall clarify the unit as described in Section II above.

IV. Right to Request Review

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, 1099 14th Street NW, Washington, DC 20005-3419**. This request must be received by the Board in Washington by April 18, 2005.

DATED at Chicago, Illinois this 4th day of April, 2005.

/s/Gail R. Moran
Gail R. Moran
Acting Regional Director
National Labor Relations Board
Region 13
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CATS — UC Petition –Other Issues

Blue Book 316-3301-5000; 355-7700; 385-7500
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