



DEPARTMENT OF INDUSTRIAL RELATIONS

STATE CONCILIATION SERVICE

455 GOLDEN GATE AVENUE
SAN FRANCISCO

Address Reply to:
P. O. BOX 603
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is 103-2606 FAX

March 6, 1973

Gentlemen:

Enclosed herewith is the Order of the Director of the Department of Industrial Relations concerning appropriate units for the Bay Area Rapid Transit System. This Order is a result of the extensive hearings conducted by Hearing Officer Sam Kagel.

As a result of the above Order, a pre-election conference is scheduled for March 15, 1973, 10:00 A.M., at 455 Golden Gate Avenue, Room No. 2198, in San Francisco, California. All organizations who participated in Hearing Officer Kagel's procedures are being notified.

At the conference, we will announce the time, date, and place or places of balloting and will inform you of all procedures necessary to comply with the representation election regulations forwarded to you on January 10, 1973.

Sincerely,

RALPH F. DUNCAN
Supervisor of Conciliation

RFD:sg

Enclosure

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS

BEFORE THE DEPARTMENT OF INDUSTRIAL RELATIONS.

In The Matter of)
Bargaining Units of)
The San Francisco Bay)
Area Rapid Transit District)

DECISION

The attached recommendations of the hearing officer, Sam Kagel, Esq., for appropriate collective bargaining units of the San Francisco Bay Area Rapid Transit District are adopted by the Department of Industrial Relations as its decision in the above entitled matter (Sec. 28851, Public Utilities Code).

This decision shall become effective on Tuesday
March 6, 1973.

Dated March 6, 1973

H. Edward White
H. Edward White
Director

RECOMMENDATIONS FOR APPROPRIATE UNITS
FOR BART

A. The governing statute provides that the Service is to "establish the boundaries of any collective bargaining unit and provide for an election to determine the question of representation" (Public Utilities Code § 28851) (emphasis added). The term "boundaries" is not defined in the statute, nor is it a term used in other labor relations statutes which has come to have an accepted meaning. Rather, it appears that the Legislature utilized the unique concept of collective bargaining "boundaries" so that the Service could establish a collective bargaining structure suitable for BART with all its unique characteristics, instead of limiting the Service solely to the traditional task of merely determining which unit or units are appropriate. Taking into account the foregoing, the community of interest among the Employees involved, and the responsibility of BART and its Employees to provide the public with essential transportation services, the boundaries for collective bargaining for BART Employees pursuant to Section 28851 should be established as follows:

1. A security unit as set forth in Exhibit 1.

2. A supervisors unit as set forth in Exhibit 2.

3. A comprehensive "umbrella" unit of transportation, maintenance, and clerical Employees, to be comprised of the following voting groups: (a) a subunit of transportation Employees as set forth in Exhibit 3; (b) a subunit of clerical Employees as set forth in Exhibit 4; and (c) a subunit of maintenance employees as set forth in Exhibit 5. The Employees of each voting group/subunit shall determine separately the representative to represent them jointly in collective bargaining with the designated representatives of each of the other voting group/subunits of the comprehensive "umbrella" unit.

B. In accordance with the foregoing determination of the boundaries for collective bargaining, there shall be a separate ballot for each of the voting group/subunits of the comprehensive "umbrella" unit which shall provide eligible Employees with a choice of selecting either "no union" or one of the labor organizations included on the ballot for that voting group/subunit. A vote for one of said labor organizations shall be deemed a vote that the voting group/subunit shall have

union representat: . within the comprehensive umbrella" unit and a vote for "no union" shall be deemed a vote that the voting group/subunit comprehensive "umbrella" unit shall not have union representation; a majority of the votes cast in each voting group/subunit shall be determinative of whether or not the voting group/subunit shall have union representation. A labor organization receiving a majority of the votes cast in a voting group/subunit shall be entitled to be certified with the designated representatives of each of the other voting group/subunits as bargaining representative of the comprehensive "umbrella" unit with responsibility for the interests of the Employees in its voting group/subunit. In the event that a majority of the Employees of a voting group/subunit vote to have union representation but no labor organization receives a majority of the votes cast in that voting group/subunit the Director shall conduct a run off election, pursuant to Section 15921, of Title 8, Chapter 8, Group 2.3 of the California Administrative Code, between the labor organizations which received the highest and the second highest number of votes cast in that voting group/subunit.

C. In the event that a majority of the Employees of the voting group/subunit vote not to have union representation, the comprehensive "umbrella" unit shall still exist, except that the boundaries of that particular voting group/subunit shall not be occupied and the employees in that

particular voting group/subunit shall not be represented until such time as the member of that particular voting group/subunit so vote.

D. Those Employees excluded from any unit are set forth in Exhibit 6.

SAM KAGEL
JOHN KAGEL

LAW OFFICES
KAGEL AND KAGEL
PROP. CORP.
544 MARKET STREET, SUITE 401
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TELEPHONE
415) 982-1438

February 26, 1973

Mr. H. Edward White, Director
Department of Industrial Relations
455 Golden Gate Avenue
San Francisco, Ca. 94109

Dear Mr. White:

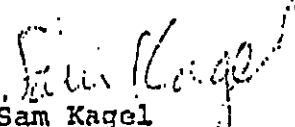
Enclosed are my recommendations for the appropriate units for the BART election. Also included are the classifications that should be excluded from any collective bargaining unit.

The purpose of the Comprehensive "umbrella" unit is to provide a single medium through which the designated subunits could bargain with BART. If there are different unions selected among the subunits they should work out their internal relationships. The objective is to create a situation in which joint bargaining would proceed with all the unions in the subunits (if there is more than one union) and BART. Such a result is in the public interest and adequately protects the interest of the Employees who select unions to represent them.

Also enclosed is a form for a suggested ballot.

May I suggest that you meet jointly with all interested Unions and BART for the purpose of determining a date or dates for the election.

Sincerely yours,


Sam Kagel

SK/gm
Enc.

cc. Mr. Ralph Duncan

EXHIBIT 1.

SECURITY UNIT

SHALL INCLUDE THE FOLLOWING PRESENT BART CLASSIFICATIONS:

Clerk I, II, III, IV
Stenographer
Secretary I, II, III
Engineering Aide I, II
Staff Assistant I, II, III
Foreman I, II

WITHIN THE FOLLOWING DEPARTMENTS:

Operations - Police Services (Security)

EXHIBIT 2.

SUPERVISORY UNIT

SHALL INCLUDE THE FOLLOWING PRESENT BART CLASSIFICATIONS:

Staff Assistant V, VI
Foreman III
Supervisor I.

WITHIN THE FOLLOWING DEPARTMENTS:

General Services
Insurance
Passenger Services
Planning
Public Information
Systems and Data Processing
Treasury
Operations - Maintenance Planning
Operations - Power and Way
Operations - Rolling Stock and Shops
Operations - Transportation
Training
Controller
Auditing
Engineering and Construction
Real Estate
Research
Legal
District Secretary

EXHIBIT 3.

TRANSPORTATION SUBUNIT

SHALL INCLUDE THE FOLLOWING PRESENT BART CLASSIFICATIONS:

Clerk I, II, III, IV
Stenographer
Secretary I, II, III
Engineering Aide I, II
Staff Assistant I, II, III, IV
Transportation Man I, II, III
Foreman I, II, III

WITHIN THE FOLLOWING DEPARTMENT:

Department of Operations - Transportation Division

EXHIBIT 5.

MAINTENANCE SUBUNIT

SHALL INCLUDE THE FOLLOWING PRESENT BART CLASSIFICATIONS:

Utility Man
Maintenance Man I, II, III
Clerk I, II, III, IV
Stenographer
Secretary I, II, III
Engineering Aide I, II
Staff Assistant I, II, III, IV
Foreman I, II

WITHIN THE FOLLOWING DEPARTMENTS:

Department of Operations - Power and Way Division
Department of Operations - Rolling Stock and Shops
Division
Department of General Services - Stores Division
Department of Operations - Maintenance Planning

EXHIBIT 6.

EXCLUDED EMPLOYEES

THE FOLLOWING EMPLOYEES SHALL BE EXCLUDED FROM ANY BARGAINING UNIT:

1. All employees of the General Manager's Department
2. All employees of the Labor Relations Department
3. All employees of the personnel Department
4. All employees classified as Engineer I, II, III, IV, V
5. All District Management employees classified as:
 - Supervisor II
 - Manager I, II, III, IV
6. All employees of the Police Services Department classified Foreman III and above.

SUGGESTED BALLOT

(should be a separate Ballot for each unit or subunit)

MARK X in BOX of your choice in the unit in which you are employed and which shows the classification in which you work. VOTE IN ONLY ONE BOX

Security Unit (Describe)

- UNION (List as many unions as offer representation)
 NO UNION
-

Supervisory Unit (Describe)

- UNION (List as many unions as offer representation)
 NO UNION
-

Comprehensive - "Umbrella Unit":

Transportation Subunit (Describe)

- UNION (List as many unions as offer representation)
 NO UNION
-

Clerical Subunit (Describe)

- UNION (List as many unions as offer representation)
 NO UNION
-

Maintenance Subunit (Describe)

- UNION (List as many unions as offer representation)
 NO UNION

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS

BEFORE THE DEPARTMENT OF INDUSTRIAL RELATIONS

In The Matter of
Bargaining Units of
The San Francisco Bay
Area Rapid Transit District

AMENDED DECISION
TO CORRECT ERRORS

The Decision of March 6, 1973, made in the instant matter, is hereby amended to reflect the following corrections in the adopted recommendations of the hearing officer, as follows:

1. In Exhibit 2, under heading of "Within the Following Departments" item eleven (11) should read:

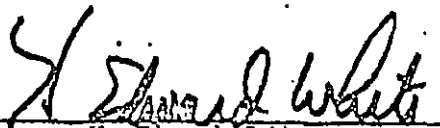
"Operations - Transportation, except Foreman III" (this means that Foreman III in all departments except in Operations - Transportation are in the supervisory group).

2. In Exhibit 3, under heading "Transportation Subunit", the Foreman classification shall read:

"Foreman I, II, III."

The changes made herein are solely for correction of proofreading error and do not represent any alteration of my premises for rendering the Decision made herein on March 6, 1973.

Dated March 6, 1973.


H. Edward White
Director

SAM KAGEL
JOHN KAGEL

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H. Edward White
Director
State of California
Department of Industrial Relations
455 Golden Gate Avenue
San Francisco, CA

Sam Kagel
Attorney at Law
544 Market Street
San Francisco, CA 94104

March 8, 1973

Dear Mr. White:

Due to a proof reading error on my part, I have erroneously excluded Foreman III from the Transportation Subunit and included them in the Supervisory Unit.

The Transportation Subunit should include Foreman III. The Supervisory Unit, under the heading "WITHIN THE FOLLOWING DEPARTMENTS" should read, "Operations - Transportation, except Foreman III."

Please correct my report accordingly.

Sincerely,

Sam Kagel
SAM KAGEL

cc: Ralph F. Duncan

SK:pk