

The Employer submitted a request for review to the Board from the Regional Director's decision, asserting that his decision "contravenes Board precedent, specifically two separate Board decisions involving radiological control technicians and holding that their separation from a larger group of technical employees with whom they share a common interest constitutes an improper unit fragmentation." (Employer's Request for Review, p. 1) On July 30th, the Board granted the Employer's request, stating that it "raises substantial issues warranting review."

The two cases referred-to by the Employer are *Westinghouse Corp.*, 300 NLRB 834 (1990), and *Westinghouse Corp.*, 131 NLRB 332 (1992). Both of these decisions involved the same facility operated by the same employer, and both determined that a unit of radiological control technicians which did not include the other technical employees at the facility was inappropriate. The Employer relies upon these decisions, essentially asking the Board to declare a "bright-line" rule determining units consisting of radiological control technicians to be *per se* inappropriate, regardless of the actual factual circumstances of particular cases. As the Regional Director aptly pointed out, however, the factual circumstances of the *Westinghouse* decisions were dramatically different than the instant matter. In the *Westinghouse* cases, the facility was devoted *exclusively* to the handling and processing of nuclear materials, and the radiological control technicians (who comprised approximately 25% of all technical employees at the facility) had a much greater degree of commonality in terms of job skills and interchange with the other technical employees, almost all of whom were also involved in the handling of radioactive materials. The RTCs in the instant matter, by contrast, are employed at a shipyard -- where the main business is the construction of ships and where the

overwhelming majority of technical employees (such as designers) have virtually nothing to do with the handling or control of radioactive materials. In addition, the RCTs in the instant matter constitute but a very small minority of the overall technical workforce.

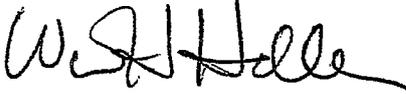
The Regional Director's decision contains a meticulous review of the Record and carefully delineates the job duties, training, work areas, supervision, and interchange between the RTCs and the other nine technical classifications at the Employer's facility. That Record clearly demonstrates that the RTCs have very little in common with the other technical classifications, who (except for the other technicals in Department E85) do not deal with radiological control and safety issues, receive only a few days of radiological safety training (as opposed to the half-year intensive training received by the RCTs), work in separate areas from the RCTs, generally have little or no contact with the RCTs in the workplace, are separately supervised, and have little or no interchange with the RCTs. In fact, the only aspect of their employment that the RCTs share in common with other technical classifications is wages and benefits, since the Employer maintains a common salary and benefits package for all of the technical classifications. As the Regional Director correctly concluded, however, this single aspect of commonality is clearly outweighed by the numerous other differences between the RCTs and the remaining technical classifications.

The Regional Director's Decision is carefully considered, contains a meticulous and accurate review of the factual record, and correctly applies existing Board precedent to the particular factual circumstances of this case. The Board, therefore, should sustain and Regional Director's Decision upon review, and should direct that the impounded ballots in this matter be opened and counted forthwith.

The Union respectfully requests that in its review of this matter the Board consider the briefs previously submitted by the Union to the Regional Director, as well as the instant submission.

Respectfully submitted,

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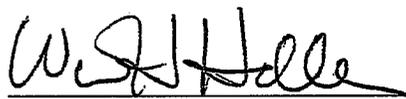
Dated: August 21, 2009

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of August, 2009, a true and correct copy of the foregoing brief has been served upon the following by electronic transmission:

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