

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

GENERAL DYNAMICS  
LAND SYSTEMS

Employer

and

Case 19-RC-76743

INTERNATIONAL UNION  
OF OPERATING ENGINEERS,  
LOCAL #286, AFL-CIO

Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.<sup>1</sup>

MARK GASTON PEARCE, CHAIRMAN

RICHARD F. GRIFFIN, JR., MEMBER

Member Hayes, dissenting:

I would grant review. The Employer's Request for Review raises substantial issues warranting review as to the exclusion of the employees in the Contractor Logistics Support ("CLS") department, the Auburn National Repair ("ANR") department, and the Warehouse department on community-of-interest grounds. Excluding such classifications may result in an inappropriate unit. Even under *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB No. 83 (2011), in which I dissented, the disputed classifications may share an "overwhelming community of interest" with the classifications sought by the Petitioner. In addition, those employees who are currently deployed overseas on fixed-term temporary assignments should be included in the unit and be eligible to vote. The Regional Director relied on case law pertaining to employees who are permanently assigned outside of the U.S., and further erred by finding that deployed employees do not share a community of interest with their stateside

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<sup>1</sup> In agreeing with the Regional Director that employees working overseas should not be included in the unit, Chairman Pearce and Member Griffin rely on his finding that the Employer has not shown that they have an overwhelming community of interest with MFT and Retrofit mechanics and material handlers working in the United States.

counterparts. As the Employer contended that all unit employees share the prospect of deployment, overseas assignments implicate terms and conditions of employment that appear to be shared by all unit employees whether they are currently deployed or will be in the future. Finally, the Regional Director's "strict presumption against extraterritoriality" is inapposite here. *California Gas Transport*, 347 NLRB 1314, 1316 (2006) ("extraterritorial conduct" is conduct that both occurs outside of the U.S. and causes no effects within the U.S.); and see cases cited at fn. 10.

BRIAN E. HAYES,

MEMBER

Dated, Washington, D.C., July 20, 2012.