

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20

MINERAL RESOURCES, LLC
Employer

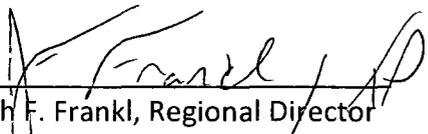
and

**OPERATING ENGINEERS LOCAL
UNION 3, INTERNATIONAL UNION
OF OPERATING ENGINEERS, AFL-CIO**
Petitioner

ERRATUM

The Decision and Direction of Election in the above captioned case, which issued on May 2, 2014, inadvertently omitted a brief portion of text. Please substitute the enclosed Pages 4 and 5 to correct that error.

DATED AT San Francisco, California this 5th day of May 2014.



Joseph F. Frankl, Regional Director
National Labor Relations Board, Region 20
901 Market Street, Suite 400
San Francisco, California 94103-1735

Background: The Employer is engaged in the mining and processing of sand. Production entails mining sand out of hills and then processing the sand to product-ready completion. The Unit operators, mechanics and laborers engage in various aspects of the mining and preparation of the sand, most of which appears to occur in or around what is known as the "Wet Plant." The pertinent operational staff numbers between 14 and 16.

Currently, the Employer operates its Oroville facility 24 hours-a-day by way of two 12-hour shifts, and is operating seven days a week. The second 12-hour night shift was added in around April 2013.

The day shift is staffed with between five to eight Unit employees. The night shift is staffed with between two to five Unit employees per shift. There is a Leadperson on the day shift who reports to a Plant Manager. The Plant Manager, in turn, reports to a General Manager (GM) and the President of the company. Plant Manager Michael Butler supervises the day shift directly, and also currently handles or delegates any duties that might fall to the Day Shift Leadperson position because at the time of the hearing, it remained vacant.

The night shift is staffed with between two and five Unit employees per shift. Instead of an evening Leadperson, the night shift employs an Evening Shift Supervisor. Like the Leadperson on days, the Evening Supervisor reports to the Plant Manager.

Travis Hoiseth is the Employer's GM, and has occupied this position for approximately five years. Ted Hale served the Employer as its Plant Manager from sometime in about 2011 through about September 2013. In fact, Hale served for a time as Plant Manager for both the plant at issue and a related operation known as the Sierra Silica "Dry Plant."⁷ Hale remains Plant Manager for the Dry Plant. Ray Briseno took on the Plant Manager role from about October 1, 2013, through March 22, 2014. When the Employer hired Briseno, it eliminated the Foreman classification, which Neely occupied at the time as a

⁷ No party sought to include in the Unit employees employed by the Sierra Silica Dry Plant operation.

statutory supervisor, and replaced it with the Day Shift Leadperson classification.⁸ Briseno no longer works for the Employer or its related operations.

As GM, Hoiseth is present at the Employer's facility two to three times a week. The Plant Manager is present five days a week. Their physical presence at the plant, however, is generally limited to the day shift. The record also demonstrates that the Plant Managers are generally reachable by phone and text message at all hours.

The "Loader Operator" on shift will typically operate the loader machine exclusively. The remainder of the Unit employees are generally cross-trained and may fill in on the various jobs as needed. The record describes the work as rather routine and repetitive, with the employees understanding the operation and their roles in it. But for special projects that may be required from time to time, the goal every day is to process as much sand as possible.

Operators tend to make hourly wages of between \$15 and \$20 per hour. Other Unit employees' wage rates vary between \$10 and \$13 per hour.

The Employment History of Doering:

Doering has worked for the Employer for about nine years. From approximately April 2013 through April 9, 2014, Doering served as the Employer's Day Shift Leadperson. Doering was moved to the Evening Shift Supervisor position beginning April 10, 2014—a move necessitated by Neely's termination. This move resulted in a \$2 per hour raise, from \$19.00 to \$21.00 per hour.

Roles of the Day Shift Leadperson and the Evening Shift Supervisor:

No party introduced job descriptions for the classifications at issue. Hoiseth and Hale testified in generalized terms that the Leadperson and Night Shift Supervisor have responsibility over the operations and production, and over the Unit employees themselves. Doering and Neely testified in general terms that they have (or had) no such authority in these positions.

⁸ The record evidence demonstrated that Neely exercised 2(11) authority by independently hiring employees before the Employer abolished the Foreman classification, but the evidence did not show that his 2(11) authority carried over to his brief stint as the Day Shift Leadperson, and after the Employer, by its agent Keith Tubandt (see Footnote 9), told him that henceforth he "was nothing but a leadman during the day."