

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

MATSON TERMINALS, INC.
Employer

and

Case 20-RC-173060

WORKING FOREMEN'S AND
WORKING SUPERVISORS UNION,
LOCAL 100, INTERNATIONAL
LONGSHORE & WAREHOUSE UNION
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.¹

MARK GASTON PEARCE,	CHAIRMAN
PHILIP A. MISCIMARRA,	MEMBER
LAUREN McFERRAN,	MEMBER

Dated, Washington, D.C., September 22, 2016.

¹ In denying review, we agree with the Regional Director that the petitioned-for employees share a community of interest and that the F&M supervisors need not be excluded. We also find that the petitioned-for employees constitute an appropriate unit separate from the Teamsters-represented unit because they perform the common function of overseeing employees in their respective departments, which are functionally integrated; they all are salaried and receive benefits; and they share a common work site. See *DPI Secuprint, Inc.*, 362 NLRB No. 172, slip op. at 4 fn.10 (2015) (unit of employees is appropriate despite being drawn from several departments if they are readily identifiable as a group and share a community of interest). Because we find that the employees share a community of interest, we find it unnecessary to pass on the Regional Director's residual unit analysis.

The Regional Director applied *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB 934 (2011), enf'd. sub nom. *Kindred Nursing Centers East, LLC v. NLRB*, 727 F.3d 552 (6th Cir. 2013). Member Miscimarra disagrees with the *Specialty Healthcare* standard. See *Macy's, Inc.*, 361 NLRB No. 4, slip op. at 25-32 (2014) (Member Miscimarra, dissenting). He nevertheless finds that the petitioned-for employees constitute an appropriate unit under traditional community-of-interest principles on the basis that they comprise an overall unit of the Employer's unrepresented supervisors and they share a community of interest based on the fact that they perform the same function of overseeing employees in their respective departments at a common work site, they are all paid on a salaried basis and receive benefits, and they perform work that is functionally integrated. Member Miscimarra therefore joins his colleagues in denying the Employer's Request for Review.