

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 19**

**PCC STRUCTURALS, INC.**

**Employer**

**and**

**Case 19-RC-202188**

**INTERNATIONAL ASSOCIATION OF  
MACHINISTS & AEROSPACE WORKERS,  
AFL-CIO, DISTRICT LODGE W24**

**Petitioner**

**SUPPLEMENTAL DECISION**

This matter appears before me on remand from the National Labor Relations Board (“Board”).

The primary issue before me on remand is which job classifications should be included in the smallest appropriate unit. Petitioner contends that the petitioned-for unit of all full-time and regular part-time rework welders, rework specialists, and crucible repair welders<sup>1</sup> (“petitioned-for unit”), employed by the Employer at its facilities in Portland, Milwaukie, and Clackamas, Oregon (collectively, “Portland operation”) is an appropriate unit for collective bargaining, as it is a craft unit that shares a community of interest sufficiently distinct from excluded employees. Conversely, the Employer contends that the petitioned-for unit is not an appropriate unit for the purposes of collective bargaining and that it must include a wall-to-wall unit of all production and maintenance employees as the smallest appropriate unit.

A hearing officer of the Board held a hearing reopening the record in this matter and the parties subsequently filed briefs with me. As explained below, based on the record, the briefs, and relevant Board law, I find that the record establishes that the petitioned-for welders constitute a craft unit that possesses a community of interest sufficiently distinct from excluded employees under the standard set forth in *PCC Structurals*, 365 NLRB No. 160 (2017). Accordingly, I am issuing an amended certification of representative along with this Decision.

**I. PROCEDURAL HISTORY**

On July 11, 2017, Petitioner filed the instant representation petition.

On July 20 and 21, 2017, a hearing officer of the Board held a hearing in this matter. The parties subsequently filed briefs with me. Then, on August 28, 2017, I issued a Decision and Direction of Election (“Initial Decision”), in which I directed an election in the petitioned-for unit based on the analytical framework of *Specialty Healthcare & Rehab. Ctr. of Mobile*, 357

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<sup>1</sup> The record and the parties use various titles for the position referred to herein as “crucible repair welder,” but I do not believe there is any confusion between the parties or the Board regarding which position is at issue.

NLRB 934 (2011), *enfd. sub. nom. Kindred Nursing Centers East, LLC v. NLRB*, 727 F.2d 552 (6th Cir. 2013).

On September 18, 2017, the Employer filed a request for review of the Initial Decision, along with a special request to stay the election pending the Board's decision. On September 22, 2017, the Board issued an order denying the Employer's request to stay or impound the ballots for the election scheduled for September 22, 2017. Later on September 22, 2017, a secret-ballot election was held, in which the tally was 54 to 38 in favor of the Petitioner, with two non-determinative challenged ballots. Accordingly, on October 2, 2017, I issued a certification of representative for all full-time and regular part-time rework welders and rework specialists, but neither included or excluded the crucible repair welders, as that position was allowed to vote subject to challenge and challenges were not determinative. On October 12, 2017, the Employer filed a corrected request for review of the Initial Decision with the Board.

On December 15, 2017, the Board issued an Order Granting Review and Remanding. *PCC Structural, Inc.*, 365 NLRB No. 160 (2017). In its decision, the Board overturned the *Specialty Healthcare* standard and remanded this matter for my reconsideration consistent with its decision. The legal standard set forth in *PCC Structural* is discussed in greater detail below.

On December 20, 2017, I issued an Order to Show Cause soliciting positions from the parties as to whether the record should be reopened to take additional evidence with regard to the standard set forth in *PCC Structural, Inc.*, 365 NLRB No. 160. After consideration of the parties' positions, on January 11, 2018, I issued an Order Reopening the Record in order for the parties to present evidence on the possibility of an alternate unit being the smallest appropriate unit and on the crucible repair welder. On February 7, 8, and 22, 2018, the hearing officer reopened the record in this matter. Both Petitioner and the Employer filed supplemental briefs after the hearing on remand.

## **II. FACTS**

Below I will set forth the facts from the initial hearing, generally as they appear in the Initial Decision, followed by the additional facts as presented in the hearing on remand.

### **1. Departmental Organization**

#### **A. Initial Hearing**

The Portland operation consists of three "profit and loss centers" within an approximately five mile radius of one another. Each of the three profit and loss centers has a general manager and uses a similar, highly structured organizational format. Reporting to each general manager are operations managers or superintendents for the respective production areas, such as titanium or steel. Reporting to them are numerous departmental supervisors and area managers, who oversee production employees.

Throughout the Portland operation, multiple job titles report to each production-supervisor. No production supervisor oversees only the rework welders or rework specialists in the petitioned-for unit. There is no evidence in the initial hearing regarding the supervision of the crucible repair welder.

The record for the initial hearing contains organizational charts that reflect the structure of the Portland operations in Large Parts Campus (“LPC”), Small Steel Business Operation (“SSBO”), and Deer Creek Annex (“DCA”). The organizational charts do not include production employees or their job titles.

The LPC has titanium and steel operations. Titanium operations within the LPC is run by the vice president of the structurals division. The production superintendent and the manufacturing manager report to the vice president. Reporting to the production superintendent are two production supervisor Is, four production supervisor IIs, and a senior planner. Production supervisors manage the production workers who are completing various operations required to produce a casting. Reporting to the manufacturing manager are three area managers, each responsible for a different area of the LPC. Each manager oversees three or four production supervisors, and one area manager also oversees a titanium manufacturing specialist. A day shift production supervisor, for example, is responsible for inspection functions, including radiographers, radiologic evaluators, film interpreters, rework grinders, production grinders, rework welders, and rework specialists. The steel operation has the same structure as the titanium operation.

The SSBO is headed by a vice president/general manager. Reporting to the vice president/general manager are: vice president of operations/business unit manager (commercial); wax area manager; plant controller, automation and control systems manager; investing, foundry, and cleaning area manager; facilities manager; business unit manager II (aerospace); and quality manager. Under the vice president of operations/business unit manager (commercial) are: production engineer; commercial account manager; area manager service center/inspection; and SSB1 area manager. Reporting to the area manager service center/inspection are the HT & straightening supervisor, x-ray/FP.I supervisor, swing shift supervisor, and shipping coordinator. Under the wax area manger are: wax area supervisors; swing shift supervisor; wax process engineer; SLA area manager; production planner; technicians; and manufacturing administrator. Under the control systems manager are: automation engineers; manufacturing engineer; wax area engineer; and technician. Under the investigating, foundry, and cleaning area manager are: cleaning supervisor; foundry supervisor; investing supervisors; allow planner; investing engineers; foundry engineer; and technicians. Under the aero business unit manager II are the international team and the operations team, which includes the engineering manager and the area manager. Reporting to the area manager are the hand grind supervisor/dispatch, supervisor, swing shift supervisor, production group lead, and production planner. Reporting to the engineering manager are about 16 engineers and three technicians. Under the quality manager are: NDT engineering manager; welding process control engineer; quality engineer medical; quality engineering supervisor; and quality engineer commercial. As with the LPC, there is no supervisor for a single classification of production employees.

The DCA is also headed by a general manager. Reporting to the general manager are the sales manager, operations controller, senior human resources manager, production control manager, operations manager, engineering manager, and quality manager. Under the production control manager are the master schedule supervisor, the alloy planner, and the customer service planner. Under the operations manager are the back end area manager, front end and interim TiAl area manager, TiAl supervisor, and the maintenance administrator. Under the back end area manager are the back end supervisors, cleaning supervisor, x-ray supervisor, off-shift supervisor, targeting supervisor, manufacturing engineers, OSP supervisor, and TiAl supervisor. Under the front end area manager are the casting supervisor, wax supervisor, wax technician, investing and shell finish supervisor, and investing and shell finish technician. Under the engineering manager are the engineering program manager (non-GE IGT), engineering program manager (GE IGT), process control program manager, dimensional tooling engineer, simulation modeler, and MECOP. Reporting to the quality control manager are quality engineers, MECOP, quality technicians, NDT level III, and technician. Also reporting to the operations manager are electrical engineer, manufacturing engineer, two MECOPs, maintenance supervisor, and maintenance administrator.

All of the rework welders and rework specialists who testified in the initial hearing regarding their departmental structure and supervision stated that their immediate supervisors also supervise rework grinders, visual dimensional inspectors, x-ray shooters and readers, and florescent penetrant inspectors. Other than these employees, there is no evidence in the initial hearing that rework welders or rework specialists are supervised by the same supervisor as other production employees sought by the Employer. Similarly, there is no evidence in the initial hearing that higher-level managers actually supervise or regularly interact with the production employees at issue. The record in the initial hearing shows that rework welders speak to their leads about welding issues, and only discuss vacation and other logistical issues with their immediate supervisors.

There is currently no specific department anywhere in the Portland operation solely for the rework welders and rework specialists in the petitioned-for unit. The record in the initial hearing establishes that rework welders and rework specialists are employed in the inspection and rework stage of the production process, sometimes referred to as “back end,” which occurs after completion of “front end” operations of waxing, investing, and casting. The record shows limited instances of use of the term “back end” in reference to the Employer's production process. At LPC, although the term “steel back end” is not reflected in the LPC organizational chart, the Employer referred to “steel back end” in a June 2017 organizational announcement regarding the promotion of a manager to production superintendent for steel back end at LPC. The record in the initial hearing is void of other evidence suggesting regular use of “steel back end” as a department at LPC. At DCA, the organization chart shows that the “back-end” area manager oversees the back-end supervisors, cleaning supervisor, x-ray supervisor, off-shift supervisor, targeting supervisor, manufacturing engineers, OSP supervisor, and TiAl supervisor. Of note, a rework specialist testified that in the past welding has constituted its own department. However, the record in the initial hearing contains no further detail as to the timeframe in which this independent department existed, how long it existed, which employees made up the department, or where the department fell within the Employer's organizational structure.

The crucible repair welder appears to be the only employee in the petitioned-for unit in the casting portion of the process. The record in the initial hearing does not specify where the crucible repair welder falls within the Employer's departmental organization.

The Portland operation utilizes both corporate human resources and human resources for each profit and loss center.

### ***B. Hearing on Remand***

The record establishes that the petitioned-for rework welders, rework specialists, and crucible repair welders fall into approximately 18 departments, all of which include non-welding job classifications.

For example, in the Large Parts Campus, Titanium Section (“LPC Ti”), the operations manager is the only manager to cover all phases of the production process. The plant superintendent only covers a portion of the process. Under the operations manager, there are three managers who oversee the inspection and rework process. This process encompasses about 450 employees, including 115 grinders, 50 visual dimensional employees, 44 radiographer readers, and 80 radiographer shooters, 41 rework welders and rework specialists, and penetrant inspectors. The Employer’s sole crucible repair welder, also located at LPC Ti, is in department 854, with electrofabrication operators.

## **2. Skills and Training**

### ***A. Initial Hearing***

The job description for rework welders indicates that applicants must possess welding skills, as demonstrated by the completion of the Employer-approved welding tech series and welding certification in the applicable alloys or titanium at the time of hire. Additionally, the job description notes that applicants must have either two years applicable welding experience or an equivalent combination of classroom training and work experience and complete “Certification to PCC Weld Test Standards.”

Once hired, rework welders must also complete a multi-week, in-house welding program that lasts approximately 120 hours. The welding training coordinator testified that rework welders can go through the Employer's in-house welding program if they bid into the position with no prior experience. Similarly, the job description for rework welder states that training is provided on the job. However, record testimony in the initial hearing is clear that rework welders must generally demonstrate some skill and experience in order to be hired into the job classification through the bid process and begin working in production. One rework welder testified that when hired five years ago, he was required to demonstrate five to ten years of tig welding (a type of welding) experience and a minimum of one year college experience. Then, upon hire, he went through a preparatory class showing newly hired rework welders how to work and pass the certifications. After completing this initial training, he worked with a tech lead or training specialist for eight or nine weeks. Another rework welder testified that when he applied to enter the Employer's welding program, he needed to demonstrate efficiency with a sample test

plate to qualify for the job and to begin the training program. Of the 15 employees who attempted the test plate, only four employees qualified to begin training. A rework specialist testified that requirements to become a rework welder included two classes in welding technology and tig welding, offered at the local community college, not through the Employer, in order to apply for the Employer's in-house welding program.

Beyond the initial training, rework welders must hold visual weld certifications. The job description for rework welders states that they may receive additional training, such as: alloy certification; titanium certification; and gas metal arc welder, gas tungsten arc welder, shielded metal arc welder, and plasma arc welder welding certifications.

Applicants for rework specialist positions are required to be a step 6 rework welder (the highest level of rework welder, discussed below in wages) at the time of application. Applicants must have worked a minimum of five years as a step 6 rework welder, with a preference for eight years of experience at step 6. Additionally, applicants for rework specialists must hold all generally required certifications pertaining to their facility and must have a record of 80 percent or better "first try" certification test success.

Not all positions require rework welders and rework specialists to hold the same certifications. The rework welder job description states that SSBO uses gas tungsten arc welding only, "LSBO" requires use of WEBTAQ welding technique for gas tungsten arc welding, and "TBO" requires gas tungsten arc welding only and titanium certification. One rework welder testified that he holds multiple certifications, including three patches, two coupons, and three DSAs. One rework specialist testified that he holds about a dozen certifications, as his plant works with multiple metal alloys.

The crucible repair welder has somewhat distinct training and entry qualification requirements from the remainder of the petitioned-for unit. The crucible repair welder completes on-the-job training run by the welding engineer. According to the job description, once training is complete, copper welding qualification is required. The job description also states that an applicant needs PCC IIIb-SA welding experience prior to copper welding training and qualification, but that a potential candidate without IIIb-SA welding experience shall be trained and capable of passing any necessary qualification exams. The sole crucible repair welder did not testify, nor did his immediate supervisor, so it is unclear from the record in the initial hearing what training and qualifications the employee actually had at the time of hire or must maintain to continue to hold the position.

All employees in the petitioned-for unit must take and pass an annual eye exam.

The Employer submitted job descriptions for the approximately 120 job classifications for the employees the Employer seeks to include in the unit.

Of those 120 job descriptions, several classifications, including wax assemblers, gate removal operators, and millwrights, perform some welding as part of their listed job qualifications or duties. As discussed below, wax assemblers weld wax, whereas gate removal operators and millwrights weld metal. However, no metal welding certifications are required for

these job classifications. Moreover, as no employees in those excluded classifications testified in the instant matter and no front-line supervisors testified regarding hiring requirements or day-to-day duties, the record does not indicate the extent, if any, of their welding qualifications prior to hiring or welding work or training after hire.

Other job classifications require some advance training, but not in welding. For example, radiographers, film interpreters, florescent penetrant inspectors, and visual dimensional inspectors all require training and certifications in their respective skill sets. Dispatchers must be certified to drive a fork lift and maintain a fork track license.

It is uncontested that no job classifications outside the petitioned-for unit require metal welding certifications.

Like employees in the petitioned-for unit, all non-destructive testing employees, which includes radiographers, shooters, x-ray readers, penetrant inspectors, processors, and rework analysts, as well as dispatchers, must take and pass an annual eye exam.

All production employees working in the Portland operation go through safety training and an orientation that addresses, policies, procedures, and work rules.

### ***B. Hearing on Remand***

The petitioned-for rework welders and rework specialists need distinct certifications depending on their specific work, as certification is based on the type of alloy being welded. If a welder has only a titanium certification, the welder could be trained to weld steel, but could not substitute immediately, as the welder would first have to get the necessary certification.

Unlike the rework welders, the crucible repair welder needs to have a copper certification. The crucible repair welder at the time of the hearing on remand has copper and titanium certifications, and with only that cannot weld other metals. However, the individual training to become the next crucible repair welder upon the current crucible repair welder's retirement has steel certification, as he previously worked as a rework welder in steel. There is no requirement that the crucible repair welder have first been a rework welder or some other kind of welder within the plant.

Most welding certifications need to be recertified every two to three years. Typically, the Employer does not give employees the option to recertify unless they are actively using that certification. Additional recertification options depend on business needs and are determined by the Employer. Recertification can take several weeks.

The record establishes that while some job classifications other than welding, such as visual dimensional and x-ray work, do require certifications and training, this consists of training and certification provided by the Employer. For example, radiographers need 200 hours of hands-on training and a 40-hour class run by a third-party vendor.

Finally, many jobs require no certifications at all. For example, grinders, including rework grinders, are trained on the job using training modules and require no certification.

### **3. Job Functions and Work**

#### **A. Initial Hearing**

Rework welders repair defects identified in metal castings. According to the job description, rework welders weld areas on castings using techniques such as gas metal arc welding, gas tungsten arc welding, shielded metal arc welding, and plasma arc welding.

Rework specialists perform rework welder duties, train rework welders, and provide welding engineering project support. Rework specialists are required to develop rework plans for parts that have particularly large numbers of defects and repair the castings according to customer specifications. This can include working with grinders, inspectors, and rework analysts to route the part for repair.

There is only one crucible repair welder employed in the Portland operation. As noted above, neither the employee nor his immediate supervisor testified in the instant proceeding. The only record evidence in the initial hearing regarding the job duties of the crucible repair welder are the job description and the testimony of a corporate manager. According to that testimony, as part of the production process, titanium ingot is melted into a crucible, which is then tipped into a funnel. Once the titanium has been poured in, there is still a layer of titanium metal left in the crucible, which is chipped out of the crucible, thus damaging it. The role of the crucible repair welder is to weld and repair the crucible so that it can be used again to melt titanium. According to the job description, the rework-specialist/copper crucible repair role includes, *inter alia*: identifying and inspecting areas needing repair; grinding or chipping off defective areas; and welding ground areas with gas tungsten arc or plasma arc welding processes. Unlike rework welders and rework specialists, the crucible repair welder does not work on metal castings.

As noted above, the Employer submitted job descriptions for the approximately 120 job classifications for the employees the Employer seeks to include in the unit. No employees in those job classifications testified in the initial hearing.

The record in the initial hearing reveals that several classifications in the unit sought by the Employer perform some welding duties. For example, wax assemblers and pattern finishers weld wax components together at the beginning of the production process in order to make a larger mold; it is uncontested that they weld wax, not metal. Gate removal operators use torches to remove plumbing from the gating attached to the mold; gate removal operators weld metal using an air carbon torch. Millwrights, who work in the maintenance department to repair equipment, weld if necessary to repair equipment.

Employees in the remaining job classifications perform highly specialized steps of the Employer's production process, discussed in greater detail below. For example, numerous job classifications review castings for defects. Florescent penetrant inspectors check the surface of a casting for defects by dipping the entire casting into a bright green florescent penetrant solution,

rinsing the casting, and then taking it into a booth lit by black light to show surface defects. Visual dimensional inspectors and dimensional evaluators check and measure the metal casting to ensure that all of the features on the castings comply with the blueprints and customer specifications. Radiographers, film interpreters, and digital radiological evaluators take or interpret x-rays to determine where subsurface defects are located.

It is clear from the record in the initial hearing that employees cannot perform the duties of a distinct job classification unless specifically qualified to do so.

### ***B. Hearing on Remand***

The production supervisor of the LPC Ti foundry, who directly oversees the crucible repair welder, testified in the hearing on remand about the duties of the crucible repair welder. In the foundry, electrodes are melted and poured into a copper crucible, which then tilts and pours molten metal into the parts. During that repeated process, the approximately 20 copper crucibles used in the foundry become stressed, cracked, or otherwise damaged. When that occurs, the crucible repair welder repairs the crucible using GTAW (a type of welding) to weld the copper and repair the defects.

## **4. Functional Integration**

### ***A. Initial Hearing***

The production of metal castings in the Portland operation consists of a lengthy, specialized process. As the part moves through the manufacturing process, the employee performing each task codes onto a router, which is a paper record that travels throughout the process. The “front end” of the process consists of waxing, investing, and casting. The “back end” of the process consists of reworking the casting to ensure it meets customer specifications.

Waxing, the first step of the process, entails creating a full-scale wax version of the desired metal casting according to customer specifications for the final product. The waxing process includes core prep operators, framers, high volume wax operators, journey mold makers, leach tank operators, mold machine operators, pattern finishers, pattern makers, precision assemblers, production pattern wax assemblers, production gating wax assemblers, production wax assemblers, rapid prototype operators, wax area inspectors, wax cleaners, wax dimensional inspectors, wax makers, wax outsource inspectors, and wax process auditors.

Investing involves dipping the wax mold into slurry, putting it into a sand pit, and repeating the process until there is a dry ceramic shell around the wax mold and an empty cavity remains. Investing includes investing helpers, investing specialists, shell finishing processors, shell processors, and utility investors.

Casting occurs when metal is poured into the wax mold to create the final product. The casting process includes air cast pour/gen operators, ASC vacuum furnace operators, crucible rework specialist/crucible repair, deer creek furnace operators, electrode fabricators, foundry

persons, foundry specialists, master caster furnace operators, MM vacuum furnace operators, pot packers, pot packers/coil maintenance, and vacuum furnace operators.

After the part is cast, the metal casting moves into the inspection and rework cycle. This stage of the manufacturing process utilizes employees who identify defects, including penetrant inspectors, radiographers, digital radiographers, radiological evaluators, film interpreters, straighteners, visual dimensional inspectors, LSPS specialists, dimensional analysts, and dimensional operators. Along with the necessary inspection, rework welders and rework specialists repair the defects identified by other employees. Generally, a "rework team" includes florescent penetrant inspection, x-ray inspection, visual inspection, and any subsequent grinding and welding. As discussed below, rework welders and rework specialists have only limited contact with other employees in the inspection and rework cycle, and essentially no contact with production employees in other stages of the manufacturing process.

The final stage of the process, called Coordinate Measuring Machine (CMM), utilizes a machine to check for accuracy, and includes employees such as utility aides, tool room attendants, and dispatchers.

If a part has an unusually high number of defects, best practice is for operators responsible for the root cause of the defect to coordinate directly with other job classifications in order to solve the problem. While the corporate manager testified that this need to correct defects causes employees at later stages in the process, such as rework welders and rework specialists, to interact frequently with employees at the earlier stages of the process, other record evidence discussed below contradicts this testimony.

For example, as part of its effort to improve the specialized production process, the Employer utilizes "Tiger Teams," which is led by an engineer and composed of employees throughout the production process. Tiger teams target a particular part, a particular casting, or part of the process and seek to make improvements on it. The Employer currently has about ten Tiger teams running, only one of which has a rework welder as part of its core team. Moreover, most of the employees who testified in the initial hearing, many of whom had extensive tenure with the Employer, did not know Tiger teams existed or did not have Tiger teams in their departments.

The crucible repair welder, per the corporate manager, interacts with other production employees in a different way because he solely works on a crucible, not a part. Again, the sole crucible repair welder did not testify in the initial hearing to reveal his role in the production process.

The maintenance department does not work on specific parts, but rather keeps the production machinery functioning.

### ***B. Hearing on Remand***

The record on remand establishes that different plants within the Portland operation have slightly different phases of production, depending on which metals, alloys, or parts are involved.

For example, the LPC Ti operations manager testified that LPC Ti production process includes wax; investing; foundry, which is also known as casting; cleaning; hot isostatic press (HIP) process; chem mill, which includes rework and inspection; heat treat; final inspection; and shipping.

Moreover, the record on remand reveals that some classifications are involved in various phases of the production process. For example, at LPC Ti, visual dimensional inspectors inspect both wax and metal, using the same tools and going back and forth between wax and rework/inspection. Similarly, and also at LPC Ti, radiographers work on both wax and metal, using the same equipment and flexing back and forth between those stages of the production process. Additionally, CMM process and equipment, which is part of the rework and inspection process in metal, is also the same as what is used in wax. Finally, rework welders are sometimes involved in the heat treat process and weld “extensions” for hand grinders, who work in a different stage of the production process.

Again, the record on remand does not address most of the production job classifications in detail.

## **5. Contact**

### **A. Work Areas**

#### **i. Initial Hearing**

Rework welders work either in eight foot by eight foot booths or in open air chambers, depending on the type of metal being welded. The welding booths are adjacent to one another, adjoined by plastic flaps as doors and walls; only welders use the welding booths.

A corporate manager testified in the initial hearing that rework welders communicate with other employees, such as visual dimensional inspectors, on a daily basis, however other record evidence contradicts this testimony. One rework specialist testified in the initial hearing that his main interaction with non-welding employees is with rework grinders regarding the way the welder is prepped; he estimated that he interacted with the grinder about a piece about once per week. Another rework specialist testified in the initial hearing that he interacts with rework grinders or visual dimensional employees about once or twice a week when there has been incorrect work. One rework welder testified in the initial hearing that he spends maybe five to ten percent of his week with rework grinders or visual dimensional employees.

Beyond rework grinders and visual dimensional employees, rework welders and rework specialists have essentially no interaction with employees in the unit sought by the Employer. This is in part due to the fact that not all buildings or areas of buildings contain all portions of the production process. In fact, rework welders and rework specialists testified in the initial hearing to never having seen waxing, investing, or casting. For example, a rework specialist who worked in LMA testified that he works in a repair facility for castings, which includes florescent penetrant inspection, clean line, grinding, visual dimensional sandblast, welding, visual dimensional inspection, CMM, CNC machine, and non-destructive testing. A rework welder

testified that in his building, Crosswhite, there are rework grinders, visual dimensional employees; rework welders, and florescent penetrant inspectors, but no wax, casting, or investing employees.

The record in the initial hearing does not reveal whether the crucible repair welder has contact with employees in the petitioned-for unit or in the unit sought by the Employer.

Additionally, all employees at issue in the instant proceeding use the same lunch room, break room, and smoke area, and time clock. However, the record in the initial hearing does not establish that employees frequently interact with one another at these locations.

**ii. Hearing on Remand**

At LPC Ti, rework welders and rework specialists are located in multiple locations throughout the plant. Rework welders and rework specialists work in welding chambers adjacent to the rework grinding rooms and visual inspection rooms. As part of inspection, radiographers work in an x-ray tube, and x-ray readers have a booth and read the x-rays on a monitor. All radiographers, regardless of whether they work on metal, wax, or both, have a home department of metal.

Also at LPC Ti, the crucible repair welder is located on the steel side in an enclosed booth about 20 feet away from any other operator. The production supervisor testified that the crucible repair welder does not leave his designated work area and has very little interaction with anyone. The record on remand suggests that the crucible repair welder does have some interaction with fluorescent penetrant inspectors and x-ray technicians who check the crucible for remaining defects after he has rewelded it, but this interaction is at most limited.

The radiographic evaluator x-ray lead at LPC Ti testified that he does not go a day without talking to all seven rework welders in his area. The x-ray lead, who used to work as a production coordinator, testified that while working in that role he regularly had contact with x-ray shooters, x-ray leads, dark room operators, weld mappers, rework welders, rework specialists, rework grinders, hand grinders, visual dimensional inspectors, and fluorescent penetrant inspectors. He noted that he had individual conversations with rework welders throughout the day to create rework plans with them. As a production coordinator, if the issue was complex he coordinated a variety of classifications, including visual dimensional inspectors and welders, to create the rework plan and fix the part.

In the DCA, rework welders and rework specialists are located in a separate room at the end of the reworking grinding room, with a wall separating them due to noise and dust. Visual dimensional employees also work adjacent to the rework grinding room, with a wall dividing the spaces.

At the SSBO, a non-destructive testing visual dimensional specialist who used to work as a hand grinder testified in the hearing on remand that as hand grinder he was in “daily” contact with welders, as they weld their extensions; he did not further specify the nature or duration of the contact. He also testified that sandblasters typically have contact with final blenders, hand

grinders, rework grinders, and visual dimensional inspectors, but again did not further specify the nature or duration of the contact. The visual dimensional specialist lead testified in the hearing on remand that in his current position he has contact with grinders, inspectors, welders, x-ray shooters, readers, CMM layout, cleaning, belt grind, and wax employees. He further noted that he interacts with rework welders every day so they can continue working on the part. However, on cross examination, he revealed that the visual dimensional employees put the parts into a “buffer,” where the appropriate job classification picks up the parts for next steps. The visual dimensional specialist lead noted that he only talks to rework welders about 50 percent of the time when it is a priority “hot” piece; but again did not specify the length of the contact.

With regard to interactions in break areas, at LPC Ti, all production and maintenance employees use the same lunch room during the staggered lunches and break times on their shift, which is not done by job title. Engineering, supervisors, and others all use the lunch room in addition to the classifications at issue. At LPC Ti all production employees use lockers in similar areas, which are not assigned to specific employees, though employees typically use the same lockers every day.

***B. Meetings***

***i. Initial Hearing***

Anywhere from weekly to monthly, according to a corporate manager, the production employees under each supervisor attend standup meetings. A rework welder testified that “welding meetings” occur every other Wednesday, or as often as needed to discuss issues, with the department supervisor; the meetings are only for welders. It is unclear from the record in the initial hearing if welding meetings and standup meetings are the same thing, as there is not extensive detail about standup meetings in evidence.

Once per quarter, the general manager from each profit and loss center holds a mandatory “coffee talk” with all production and maintenance employees. The coffee talks include a presentation followed by a very short question and answer session. Employees in the petitioned-for Unit who testified in the initial hearing regarding coffee talks noted that they do not generally interact with other employees during the meetings. One rework welder testified that talking in coffee talks is frowned upon, and another rework welder testified that a vice president specifically said not to speak during coffee talks.

All employees must participate in ongoing harassment training, safety training, and other trainings. The Employer conducts these trainings in groups of about 30 to 40 production employees, irrespective of job classification. The record in the initial hearing does not reveal how frequently these meetings occur or the nature of employee contact at these trainings.

***ii. Hearing on Remand***

About a month before the hearing on remand, the Employer introduced its Cardinal Rules of Quality, which apply to the entire corporation, including management employees and facilities outside the Portland operation. As part of the roll out of these rules, for several weeks the

employer brought employees together in groups of both production and non-production employees, supervisors, and managers, to watch the video on the Cardinal Rules of Quality and be trained on them.

**C. Committees**

**i. Initial Hearing**

The Employer maintains a number of employee-management committees.

The grievance committee, discussed in greater detail below in the section on work rules, consists of production employees, including rework welders and rework specialists, in the Portland operation, as well as supervisors and manager. It is not evident from the record in the initial hearing how frequently the grievance committee meets, the nature of employees' interactions with one another, or how many employees in the petitioned-for Unit participate.

The policy review committee is a group of hourly employees and salaried representatives from the Portland operations that meets to review policies. This committee discusses policies, makes edits, and sends their proposals for revision to a human resources group. If the human resources group agrees, the policy is presented to management to be accepted and incorporated. A production employee is elected by coworkers and a production supervisor or manager appointed by the Employer for each facility. One rework welder serves on the policy review committee. Like with the grievance committee, it is not evident from the record in the initial hearing how frequently the policy committee meets or the nature of employees' interactions with one another while serving on the committee.

**ii. Hearing on Remand**

The grievance committee is an elected group that reviews grievances filed by current employees or employees terminated by the Employer. The grievance committee consists of 14 supervisors or managers and 12 "hourly employees," including two rework specialists. From the list of committee members, a grievance panel of three salaried members and three hourly members is selected to hear a grievance. The six committee members review the documentation based on the disciplinary action or termination, speak with the employee, supervisors, witnesses, and human resources to determine, after deliberation, whether policy was followed. The grievance committee typically meets once per week, but could meet more depending on the number of grievances to cover.

The policy review committee consists of 70 percent "hourly" employees and 30 percent salaried employees. It meets once per month, though the composition changes slightly between meetings. For example, in February 2017, the committee included an LSBS specialist, a rework specialist, a precision assembler, a shell processor, and an ASC vacuum furnace operator. There is also a subcommittee of the policy review committee that helps obtain information from plant employees and distribute new updates and changes; the subcommittee members do not attend the monthly policy review committee meeting, but rather have their own meetings.

***D. Special Events***

The initial hearing established that every fall, the Employer holds a picnic for employees of the Portland operation and their families. Every spring, the Employer holds an awards dinner to recognize years of service with the Employer. All employees at the Portland operation with at least five years of experience and their families are invited to attend.

**6. Interchange**

***A. Initial Hearing***

With regard to temporary interchange among petitioned-for employees, the record in the initial hearing establishes that rework welders and rework specialists may be sent to other departments to perform welding work to avoid being sent home for lack of work. However, the record in the initial hearing does not provide extensive detail how often this happens. There is no record evidence regarding temporary transfer to or from the crucible repair welder job classification.

With regard to temporary interchange between petitioned-for employees and employees in the unit sought by the Employer, the record in the initial hearing reveals that the rework welders and rework specialists occasionally perform non-welding work when welding work is slow. This generally occurs either if the employee has prior experience in the non-welding task or if the non-welding task is much lower-skilled.

Some rework welders or rework specialists with prior experience in a non-welding task may perform this work when welding work is low. One rework specialist testified in the initial hearing that he has been asked to temporarily step in as a line operator, which was a position he held prior to becoming a rework welder; however he has not been asked to work as a line operator since about 1992. According to a production supervisor, a rework welder volunteered around a year ago to take visual dimensional certification classes, and thus will sometimes perform visual dimensional work when welding work is low; the record in the initial hearing is silent as to how frequently this occurs. A rework specialist who came to the Employer highly trained in many production areas testified that, about 10 months ago, his supervisor had him perform weld mapping or masking almost daily; however it did not appear from the record in the initial hearing that this occurred outside of that limited timeframe. Another rework specialist, who transitioned to welding about two years ago from being a grinder, testified that around the time he moved to welding he performed grinding work to avoid getting sent home early for lack of work; there is no evidence that he continues to do this at present.

The record in the initial hearing contains conflicting evidence regarding performance of non-welding tasks for employees without prior experience in those areas. An Employer witness testified that rework welders and rework specialists may be asked to perform a non-welding task that is less skilled, such as "patch and plug" work, which is traditionally performed by grinders, or "taping," which requires no skill as employees merely place masking tape on a spot marked by the inspector. However, it is unclear from the record what percentage of a given work week or month this may consume or for how many rework welders or rework specialists. Contrasting the

Employer's view, one rework welder testified that he asked his supervisor if he could perform grinding work when welding work was low in order to get his 40 hours in the week, and the supervisor told him he was a welder, not a grinder, and sent him home. Similarly, one rework welder testified that in his 30 years as a rework welder he has never been asked to perform non-welding work. Another rework welder testified that in his five years with the Employer, he has never been asked to perform non-welding work.

There is no evidence in the initial hearing that other production employees ever perform rework welder or rework specialist work on a temporary basis. Wax welders cannot temporarily fill in for rework welders.

All production employees within the Portland operation may bid into open positions, and it is routine for production employees to bid for various positions throughout the Portland operation.

With regard to permanent interchange among employees in the petitioned-for unit, all rework specialists previously worked as rework welders. The crucible repair welder has not worked as either a rework welder or a rework specialist.

The record in the initial hearing reveals that certain classifications of production employees outside the petitioned-for unit have bid into and received rework welder and rework specialist positions. An Employer exhibit shows that around 55 rework welders and rework specialists previously held other production positions with the Employer. Of those, only eight employees have permanently transferred from other production positions since 2010, and five of those eight held rework grinder positions immediately prior to becoming rework welders. Approximately 30 previously worked as rework grinders, 21 worked as production grinders, 5 worked as shell finishing processors, 5 worked as walk-in sand/shotblasters, 4 worked as mold machine operators, 4 worked as production wax assemblers, 3 worked as wax cleaners, 2 worked as heat treat operators, and 1 worked as a gate removal operator. However, the exhibit shows only the date the employee began in their rework welding, and does not show the length of time employees held these prior positions or the timeframe in which they held the position. There is no evidence in the initial hearing that the majority of the classifications sought to be included by the Employer have ever permanently bid into positions in the petitioned-for unit.

With regard to permanently transferring out of positions in the petitioned-for unit, it is rare for employees from the petitioned-for unit to move into non-welding positions that are not management positions. As noted below, the petitioned-for employees are on the higher end of the Employer's pay scale. One Employer witness recalled a rework welder becoming a production coordinator, but did not testify regarding the timeframe or details of the change in position. A human resources manager testified that one welder in DCA transferred into a visual dimension position in fall of 2016 to avoid layoff. The manager also testified that from 2013 to 2014, while serving as a human resources manager at LPC titanium, no employees in the petitioned-for unit went from welding positions into other production and maintenance positions. The record in the initial hearing also indicates that two rework welders moved into maintenance around or more than 10 years ago, but contains limited details regarding this permanent interchange.

***B. Hearing on Remand***

With regard to temporary interchange, the record on remand shows that rework welders and rework specialists can only temporarily perform the duties of another rework welder or rework specialist if they have the necessary certifications. For non-rework welding work, the record on remand establishes that if a rework grinder is out for an extended time, a rework welder might voluntarily fill the role for no more than a week. The human resources manager at DCA testified that welders have been temporarily performing (also known as “flexing”) grinding work during the 44 years he has been working in the Portland operation. Per the manager, at DCA there are currently anywhere from two to five rework welders flexing into grinding but did not know how many hours were spent flexing per week. There is no specific evidence on remand that rework welders and rework specialists temporarily perform other work. Of note, rework welders and rework specialists do not get flexed back and forth between metal welding and wax welding. Again, due to the fact that only employees with the necessary welding certifications can perform rework welding, the record on remand establishes that non-rework welders do not perform rework welding work on a temporary basis.

For the crucible repair welder, the record on remand is clear that there is no temporary interchange into that position and that no one substitutes for the crucible repair welder when he is on leave. While there is evidence that the crucible repair welder has been temporarily assigned to different areas for a few weeks within the last six months, the record on remand is lacking detail regarding these temporary assignments.

For excluded employees, there is evidence of temporary interchange among certain positions that do not require certifications. For example, production grinders, rework grinders, and hand grinders may flex between various grinding positions, which are all considered unskilled and frequently filled with temporary employees. At DCA, belt grinders do not perform rework grinding. At LPC Ti, rework grinders can perform hand grinder work, but not the other way around. Some visual dimensional employees and penetrant inspectors previously worked as rework grinders, and thus can also flex over to perform rework grinding work. At SSBA, rework grinders and other grinders help each other if one department has too much or too little work.

Conversely, there is no temporary interchange into positions that require special training or certification unless the employee has previously held that position. For example, other employees, such as rework grinders, cannot perform visual dimensional work without the necessary training. Likewise, x-ray shooters cannot read x-rays because they are not certified to do so, but readers can shoot x-rays, because they have already performed the shooter position.

There is no specific evidence on remand regarding temporary interchange to and from most production job classifications.

The Employer presented extensive evidence on remand regarding “job classification adjustments” (known as “JCAs”), which are forms employees complete when they work two or more hours in a job other than their own. JCAs are used only for other jobs that pay at a higher rate, and are not used for performing the same job at a different location within the Portland operation. JCAs are only valid for one week. The Employer entered into evidence a summary

report of JCAs that shows that payroll processed 3002 JCAs for 373 employees in 2017. However, the record on remand does not establish whether the work was for two hours in one day or 40 hours for the week or if the employees were always going to the same position. Moreover, the record on remand does not establish how many, if any, of the 373 employees who submitted JCAs in 2017 were rework welders or rework specialists.

With regard to permanent interchange, permanent movement between positions is based on bidding. The Employer presented a document that purportedly reflects permanent changes in position within the last 10 years, however, the document is difficult to analyze, in that it only shows limited data for the individuals listed. Regardless, the document seems to show only very limited permanent changes into or out of rework welder and rework specialist positions.

## **7. Terms and Conditions of Employment**

### **A. Work Rules and Policies**

#### **i. Initial Hearing**

The employee handbook, attendance policies, and leave policies apply to all non-exempt employees in the Portland operation. All production employees use a barcode to clock in at the beginning of their shifts.

Standard forms and processes for performance reviews are used throughout the Portland operation. The forms all include the same broad categories, such as efficiency, quality, safety, and behavior, for all employee classifications.

All production workers are required to maintain their equipment in good working order, to take responsibility for and demonstrate safe work practices, to adhere to plant and department safety rules, to safely operate their equipment and tools, and to identify and report safety problems.

If employees believe the Employer has not applied policies fairly, employees can file a grievance. If after human resources investigates the grievance it is deemed a hearing is necessary, a grievance hearing is scheduled before a grievance committee consisting of three salaried employees and three hourly employees, who are selected out of a pool of hourly employees elected by employees in the Portland operation. The pool of employees for the grievance committee includes one employee from the petitioned-for unit, a rework welder.

#### **ii. Hearing on Remand**

The evidence regarding such terms and conditions of employment is largely the same as is set forth in the Initial Decision.

***B. Wages and Benefits***

***i. Initial Hearing***

With regard to wages, all employees in the Portland operation are paid according to a set pay scale of pay grade and step. Job classifications are assigned a pay grade between five and 20, though there is currently no job classification at grade 17. Within each grade, there are six steps. The lowest step in grade 5 earns \$14.21 per hour, and the highest step in grade 20 earns \$38.85 per hour. Each job classification has a different set of requirements for advancement between steps.

The record in the initial hearing does not contain the wage rates for each grade and step, as the Employer refused to provide the documents pursuant to Petitioner's subpoena, contending that employees' wages were confidential. Employer witnesses claimed that there is a four and a half percent increase in pay between grades and \$6 difference in steps. However, the record testimony in the initial hearing is clear that the individual who calculated this percentage on behalf of the Employer did not examine all of the pay grades and steps in reaching these numbers. Accordingly, I find that this does not have probative value.

The record in the initial hearing establishes that rework welders are paid at grade 15, rework specialists at grade 16, and crucible repair welders at grade 18. Two rework welders testified that they earned \$30.25 per hour. Three rework specialists testified that they earned \$31.37 per hour.

However, the record in the initial hearing also suggests that the Employer may pay some employees outside of the strict grade and step framework outlined above. One rework specialist testified that he believed rework welders are not paid according to the regular grade and step framework, but rather are either a grade 15 plus four percent or a grade 16 plus eight percent. Two rework specialists believed they were either a grade, 15 plus four percent or a grade 16.

Only a small number of employees in the unit sought by the Employer are paid at grade 15 or higher. These positions include maintenance positions, such as millwrights, millwright LMEs, and electricians, and other highly skilled employees.

All production employees are eligible for quarterly cash bonuses based on the performance of their profit and loss center as a whole. While the formula for calculating quarterly cash bonuses is the same across the profit and loss centers, the actual bonus payout for each process and loss center is different, as it depends on how well each center hit its financial targets.

The Employer provides market-based wage adjustments on January 1 of each year. The percentage increase is the same for all production workers.

All employees in the Portland operation receive the same health and retirement benefits. The same vacation accrual policies apply to all production employees.

**ii. Hearing on Remand**

The record remains devoid of actual wage rates, as the Employer continues to insist that wages are confidential. Benefits are the same for all employees at issue.

**C. *Hours and Scheduling***

**i. Initial Hearing**

Production operates seven days per week. Most production employees work Monday through Friday, although some work Tuesday through Saturday, others work Sunday through Thursday, and others work more condensed schedules.

Production employees work on shifts, which they can bid on twice per year. Production employees generally work on three shifts. First, or day, shift runs from 6:00 a.m. to 2:30 p.m. Second, or swing, shift runs from 2:30 p.m. to 10:30 p.m. Third, or graveyard, shift runs from 10:30 p.m. to 6:00 a.m. There are exceptions to these standard shifts, such as four ten-hour shifts or three 12-hour shifts. The record in the initial hearing suggests that rework welders and rework specialists work on all shifts.

**ii. Hearing on Remand**

Seniority is within department by job classification. For example, although rework welders, rework grinders, visual dimensional inspectors, and penetrant inspectors may all be in the same department, each job title has its own seniority list. However, the crucible repair welder is on the same seniority list with the electrofabrication employees in department 854.

**D. *Equipment and Attire***

**i. Initial Hearing**

Employees in the petitioned-for unit testified to using tig torches, tungsten, filler rods, foot pedals, grinders, millers, air nozzles, hoses, veneers, dial calipers, chipper synthesers, and welding lenses. Grinders use the same style of grinder, but do not use the remaining equipment or tools, and also use additional grinding tools. According to one rework specialist, visual dimensional inspectors may occasionally also use some of the same tools.

Employees in the petitioned-for unit also use a weld stamp, which shows work performed by a particular welder. Although penetrant inspectors and visual dimensional inspectors also have stamps, only welding stamps have a W insignia.

There is no work uniform, and most production employees wear jeans. General attire requirements, such as having shoulders covered, apply to all production employees. Some production areas also provide aprons to protect employees' clothes, but the record in the initial hearing does not reveal which employees utilize aprons in the workplace.

All employees are required to wear steel-toed shoes, safety glasses, and hearing protection in certain areas of the Portland operation. Some of the petitioned-for welders use additional personal protective equipment, such as a hood with a screen that is shaded to protect their eyesight from the welding arc.

All employees have identical badges with a specific barcode that allows them access to the building and operations on the router.

**ii. Hearing on Remand**

Employees use and wear a variety of personal protective equipment beyond the basic requirements. For example, some classifications, such as rework grinders or other grinders, wear shop coats or aprons due to dust if they choose to; rework welders do not use these items. Grinders also use a face shield if they are using cutting discs; rework welders always wear face shields. The crucible repair welder wears a respirator, arc mask, lab coat, leather gloves, ear plugs, and steel toe boots.

**8. Separate Supervision**

**A. *Initial Hearing***

In the Initial Decision, the facts regarding supervision were set forth in the section regarding departmental organization, above.

**B. *Hearing on Remand***

Rework welders and rework specialists do not have a designated or separate welding supervisor. For example, at DCA, the supervisor who oversees rework welders and specialists also supervises rework grinders, visual dimensional inspectors, x-ray, CMM, and CNC classifications.

Moreover, the crucible repair welders report to the production supervisor, who also oversees the furnace operators in the titanium foundry and the operators in electrofabrication; this production supervisor does not supervise any rework welders or rework specialists. Only the designated supervisor oversees the crucible repair specialist. The crucible repair welder also falls under the oversight of a different manager than that of the rework welders and rework specialists.

**9. Collective Bargaining History**

There is no record evidence of a history of collective bargaining or union representation at the Portland operation. The record does reveal that the Employer and Petitioner previously entered into a stipulated election agreement for a unit of all production and maintenance employees.

### III. LEGAL STANDARD

#### 1. Community of Interest Standard

When examining the appropriateness of a unit, the Board must determine not whether the unit sought is the only appropriate unit or the most appropriate unit, but rather whether it is “*an* appropriate unit.” *Wheeling Island Gaming*, 355 NLRB 637, 637 n.1 (2010) (emphasis in original) (citing *Overnite Transp. Co.*, 322 NLRB 723 (1996)).

In determining whether a unit is appropriate, the Board looks at whether the petitioned-for employees have shared interests. *See Wheeling Island Gaming*, 355 NLRB 637. Additionally, the Board analyzes “whether employees in the proposed unit share a community of interest *sufficiently distinct* from the interests of employees excluded from that unit to warrant a separate bargaining unit.” *PCC Structurals*, 365 NLRB No. 160, slip op. at 11 (emphasis in original). *See also Wheeling Island Gaming*, 355 NLRB at 637 n.1 (the Board’s inquiry “necessarily proceeds to a further determination of whether the interests of the group sought are *sufficiently distinct* from those of other employees to warrant establishment of a separate unit”). In weighing the “shared and distinct interests of petitioned-for and excluded employees [...] the Board must determine whether ‘excluded employees have meaningfully distinct interests in the context of collective bargaining that *outweigh* similarities with unit members.’” *PCC Structurals, Inc.*, 265 NLRB No. 160, slip op. at 11 (emphasis in original) (quoting *Constellation Brands U.S. Operations, Inc. v. NLRB*, 842 F.3d 784, 794 (2d Cir. 2016)). Once this determination is made, “the appropriate-unit analysis is at an end.” *PCC Structurals, Inc.*, 365 NLRB No. 160, slip op. at 11.

In making these determinations, the Board relies on its community of interest standard, which examines:

whether the employees are organized into a separate department; have distinct skills and training; have distinct job functions and perform distinct work, including inquiry into the amount and type of job overlap between classifications; are functionally integrated with the Employer’s other employees; have frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment; and are separately supervised.

*PCC Structurals*, 265 NLRB No. 160, slip op. at 11 (citing *United Operations*, 338 NLRB 123 (2002)).

In contrast to the Board’s standard under *Specialty Healthcare*, “at no point does the burden shift to the employer to show that any additional employees it seeks to include share an overwhelming community of interest with employees in the petitioned for unit.” *PCC Structurals*, 265 NLRB No. 160, slip op. at 11. Rather, “parties who believe that a petitioned-for group improperly excludes employees whose interests are not sufficiently distinct from those of employees within the proposed group will [...] introduce evidence in support of their position.” *Id.*, slip op. at 11.

Additionally, when applicable, the above analysis should consider the Board's established guidelines for appropriate unit configurations in specific industries. *Id.*, slip op. at 11.

## 2. Craft Unit Standard

Section 9(b) of the Act confers on the Board the discretion to establish the unit appropriate for collective bargaining and to decide whether such unit shall be the employer unit, craft unit, plant unit, or subdivision thereof.

A craft unit is defined as:

one consisting of a distinct and homogeneous group of skilled journeymen craftsmen, who, together with helpers or apprentices, are primarily engaged in the performance of tasks which are not performed by other employees and which require the use of substantial craft skills and specialized tools and equipment.

*Burns & Roe Services*, 313 NLRB 1307, 1308 (1994).

In determining whether a group of employees constitutes a craft unit, the Board looks at:

Whether the petitioned-for employees participate in a formal training or apprenticeship program; whether the work is functionally integrated with the work of the excluded employees; whether the employer assigns work according to need rather than on craft or jurisdictional lines; and whether the petitioned-for employees share common interests with other employees, including wages, benefits, and cross-training

*Id.* at 1308. In non-construction industry cases, “the Board has not limited its inquiry solely to these factors. Instead, the Board will ‘determine the appropriateness of the craft unit sought in light of all factors present in the case,’” which include the community of interest factors set forth above. *MGM Mirage d/b/a The Mirage Casino-Hotel*, 338 NLRB 529, 532 (2002) (quoting *E.I. du Pont & Co.*, 162 NLRB 413, 417 (1966)).

In *Anheuser-Busch, Inc.*, 170 NLRB 46 (1968), the Board found that maintenance electricians were found to possess the traditional skills of their craft. The only factor weighing against the separate craft group unit was the highly integrated nature of the employer's production process. But because this did not obliterate the lines of separate craft identity, it was not, in itself, sufficient to preclude the formation of a separate craft unit. *Id.* In *Anheuser-Busch*, the employer did not have a formal apprenticeship program, but all hired electricians had at least 3 to 4 years of prior experience, all were required to secure licenses, and the work was technical and complicated. While there were several permanent transfers between the production and maintenance department, there were no temporary transfers between such classifications. *Id.* at 47. Moreover, in practice, layoffs, overtime, and vacations were scheduled by the maintenance electricians' classification. *Id.*

Similarly, in *MGM Mirage*, 338 NLRB 529, the Board directed an election in a unit of carpenters and upholsterers at a hotel-casino, finding that neither the integrated nature of the employer's operation nor the examples of unskilled work being performed by unit employees negated the craft status of the unit. *Id.* at 532. The Board noted that the carpenters performed craft work, were—with the upholsterers—separately supervised, had limited interchange with other engineering department employees, and area practice was to include the upholsterers with the carpenters. In its analysis, the Board noted that the Employer requires carpenters to have two to five years of carpentry experience at the time of hire, which was equivalent to journeyman status. *Id.* at 532. The Board highlighted that the “absence of a formal apprenticeship program does not negate this finding [of craft unit status] where the carpenters are hired with significant experience.” *Id.* at 532 (citing *Wal-Mart Stores*, 328 NLRB 904, 907 (1999) (“That the Employer does not have a meatcutter apprenticeship program or other formal training in meatcutting is of little relevance here, as the meat-cutters had prior experience when hired.”)). Moreover, the Board found that the carpenters were paid \$22.52 per hour, which the Board determined to be substantially more than the employer's unskilled employees, who earned \$11.05, \$12.88, or \$14.01 per hour, depending on the classification. *Id.* The Board did not address in its analysis that engineers earned \$23.08 per hour and painters earned \$21.85 per hour. Further, the Board determined that the carpentry crew did have a craft identify, as the employer assigned “all work requiring more than the most basic of skills along craft line” and “virtually all” of the carpentry work was performed by the carpentry crew and they do not perform work totally unrelated to carpentry. *Id.* While the record established 13 permanent transfers during a seven year period, there was no evidence of temporary transfers and no evidence of any transfers at all during the 17 months preceding the hearing. *Id.* at 533. The Board noted that this was “insignificant” and also not the typical two-way transfers between departments. *Id.* (quoting *Hilton Hotel Corp.*, 287 NLRB 359, 360 (1987)). The Board noted that “while carpenters share terms and conditions of employment such as vacation, leave, and benefit programs with other employees, these policies are common to all of the employer's employees,” not just the employees at issue in the case. *Id.* at 534.

The Board has found craft units of highly skilled welders to be appropriate. In *Hughes Aircraft Co.*, 117 NLRB 98 (1957), the Board found a craft unit of skilled aerospace welders to be appropriate. The Board noted that the welders worked in the aircraft industry, which used specialized metal and required welders to master advanced and highly skilled welding techniques. Of note, the welders at issue “periodically must take and pass certain prescribed tests of their welding skills and abilities” and “no welding operator is permitted to perform any production welding in connection with military aircraft or air guided missiles until his efficiency has thus been fully established and certified by military authorities.” *Id.* at 100. Furthermore, the petitioned-for welders did not have a formal apprenticeship program, but the employer sought welders with three to five years of experience in the aircraft industry and the “welders have a formal program of merit advances while working on the job.” *See also Aerojet General Corp.*, 129 NLRB 1492 (1961) (Board found that petitioned-for welders constitute a craft group that may constitute a separate appropriate craft unit, but the petitioned-for group was inappropriate for a self-determination election); *Arrowhead Products Div. of Mogul Bower Bearings, Inc.*, 120 NLRB 675 (1958) (directing a craft severance election of heliarc welders from existing production and maintenance unit); *Parker Bros. & Co., Inc.*, 118 NLRB 1329

(1957) (finding a welder craft unit appropriate, and including classifications who spend most of their time performing the same work and skills as the petitioned-for welders).

In *Lockheed Aircraft Corp.*, 121 NLRB 1541 (1958), the Board found a unit of highly skilled welders appropriate for craft severance from an existing production and maintenance unit. The Board found that, like the welders at issue in *Hughes Aircraft Co.*, the petitioned-for welders work with special and newer metals used in high-speed aircraft and were required to have high degrees of knowledge and skills. The welders in *Lockheed* held Army-Navy certificates that needed to be renewed every 6 months. *Id.* at 1542. Moreover, “there [was] a different test and certificate for each metal and welding process used, and a certification in one metal [did] not permit a welder to perform in any other certification class.” *Id.* at 1542. Also as in *Lockheed*, the Board noted that although the employer did not require the welders to have formal training or apprenticeship, all welders had extensive welding experience before being certified to do aircraft welding for the employer and often performed only simple jobs for the first few years of employment until they could demonstrate proficiency on more difficult jobs. *Id.* Accordingly, the Board found the petitioned-for aircraft welders constituted a separate appropriate craft unit. *Id.* Of note, the Board then considered whether certain additional employees who also performed some welding work should be included in the craft unit. *Id.* The Board determined that although certain other job classifications performed some welding work, they should be excluded as they were less skilled, operated automatic welding machines, used welding torches primarily for cutting and shaping and did not perform functions normally associated with welding, or spent less than 50 percent of their time performing skilled welding. *Id.* at 1543. The Board included in the craft unit the one employee who held the same certifications and spent more than 50 percent of his time engaged in aircraft welding. *Id.* at 1543.

#### **IV. PARTIES’ POSITIONS**

##### **1. Petitioner’s Position**

Petitioner contends that the petitioner-for welders share a community of interest under the standard set forth in *PCC Structurals* and as a craft unit.

Regarding department organization, Petitioner contends that welding work is assigned strongly along job classification lines regardless of department, and notes that even without clear departmental distinction, employees with a particular skill or function can form an appropriate unit. *E.I. Dupont De Nemours & Co. (Florence Plant)*, 192 NLRB 1019 (1971). Petitioner does not specifically address the crucible repair welder.

Regarding skills and training, Petitioner argues that no other employees perform skilled welding work or hold welding certifications. Petitioner contends that like the HVAC technicians at issue in *United Operations*, 338 NLRB 123, even entry-level welders must have demonstrated welding skill prior to being accepted for more advanced training and most have college courses in welding. Petitioner further argues that the fact that the step progression within the rework welder position requires skill development supports a finding of distinct skills and training for the petitioned-for welders. Moreover, Petitioner contends the skills and training of the petitioned-for Unit supports a finding that they constitute a craft unit due to their experience

requirements upon hire, that no other class of employees is required to have the same level of technical knowledge, and that they advance through wage steps through additional skills development.

Regarding job duties, Petitioner contends that, like the HVAC technicians in *United Operations*, 338 NLRB 123, no one else does the work of the rework welders. Similarly, rework welders do not regularly perform the work of other job classifications. Citing to *United Operations*, Petitioner argues that it is unnecessary to establish that all rework welders perform only welding and that no other employees perform welding to show distinct job functions, and that it is sufficient that the incidence of job overlap is minimal and the primary function of rework welders is welding at all times.

Regarding functional integration, Petitioner argues that any functional integration is counterbalanced by the fact that welders rarely work with others, have limited contact with other classifications, and perform different functions.

Regarding contact, Petitioner argues that there is no significant contact between rework welders and other classifications of employees, and that those interactions are limited.

Regarding interchange, Petitioner argues that while there is some evidence of rework welders temporarily transferring into previously held positions, these temporary transfers are one way. Petitioner further argues that evidence of permanent transfers is limited or stale.

Regarding terms and conditions of employment, Petitioner notes that they are generally the same for all employees of the Employer. However, Petitioner argues that the petitioned-for welding positions are among the highest paid in production, as welders make over \$30 per hour, but a large portion of production employees make below \$20 per hour. Petitioner contends that a wage differential of \$5 is sufficient to establish different terms and conditions of employment. *United Operations*, 338 NLRB at 125; *MGM Mirage d/b/a Mirage Casino-Hotel*, 338 NLRB 529, 532 (2002) (finding wage differentials of \$10 and less to support differences in terms and conditions of employment). Moreover, Petitioner contends that this wage differential for the petitioned-for Unit supports a finding of craft unit status.

Regarding common supervision, Petitioner, citing *United Operations*, contends that even if there is common supervision with other employees, a “readily identifiable group with common interests” is nevertheless an appropriate unit. 338 NLRB at 125.

## **2. Employer’s Position**

The Employer contends that the petitioned-for welders do not meet the standard for community of interest either under *PCC Structural*s or as a craft unit.

Regarding departmental organization, the Employer contends that it is “a particularly important consideration,” *Gustave Fischer, Inc.*, 265 NLRB 1069, n.5 (1981), that there is no separate welding department, the rework welders are not in the same departments, and that all of the departments that contain rework welders also contain non-welders. Moreover, the Employer

argues that although the petitioned-for unit includes the crucible repair welder, the crucible repair welder is in an entirely separate department from all other welders and that department is not part of the inspection and rework phase.

Regarding skills and training, the Employer argues that while all of the rework welders hold certifications, they are not interchangeable as each position requires separate skills, training, and certification depending on the type of alloy welded and the type of products worked on. The Employer further notes that rework welders and the crucible repair welder cannot perform one another's duties without additional certifications and training. With regard to the excluded employees, the Employer argues that their skills and training are not sufficiently distinct. The Employer notes that 13 excluded classifications use welding and/or welding equipment as part of the job duties, as evidenced by their job descriptions. Specifically with regard to electrode fabricators, the Employer contends that not only do they weld alloy bar to stub to create a titanium electrode, they also share a department with the crucible repair welder. The Employer also highlights that eleven excluded job classifications, ranging from radiological evaluators to forklift drivers, must all hold special certifications. In support of its argument that the differences in certifications do not undermine the similarity shared by included and excluded employees, the Employer cites to *Casino Aztar*, 349 NLRB 603, for the proposition that a unit of beverage employees was inappropriate and without a community of interest as to skills and training even though, unlike the beverage unit, not all of the excluded employees had the same licenses. The Employer also notes that all production and maintenance employees received identical orientation, safety training, and are subject to the Cardinal Rules of Quality.

Regarding job duties, the Employer argues that welders do not perform a distinct job function and that, like their certifications, rework welders' job functions vary. Moreover, the Employer notes that rework welders do not develop rework plans, which is work performed by rework specialists. Additionally, the Employer highlights that, unlike the remainder of the petitioned-for unit, crucible repair welders do not weld products, but repair crucibles used in casting. With regard to excluded employees, the Employer again highlights that numerous other classifications also weld and do so throughout the Employer's entire production process.

Regarding functional integration, the Employer argues, *inter alia*, that even within the petitioned-for unit, there is no distinct functional integration, as the rework welders and specialists perform an entirely differently phase and type of welding than does the crucible repair welder. The Employer notes that these two phases of production cannot be viewed in a vacuum, especially as the rework welders and specialists are scattered among teams throughout the Employer's production process. Moreover, the Employer contends that due to the Employer's highly integrated process, it is impossible for rework welders and specialists to perform their duties without certain other classifications, such as the x-ray, visual dimensional inspectors, and fluorescent penetrant inspectors who identify defects and the rework grinders who prepare the product for rework welding. The Employer cites to this highly integrated process in support of its argument that welders cannot be severed from other production and maintenance workers as a craft unit. The Employer, citing *North American Aviation*, 162 NLRB 1367 (1967), notes that the Board "has not recognized welders as a distinct group of craftsmen in any industry other than aerospace" since 1955. *Id.* at 1271. The Employer argues that, like the operations in *North*

*American Aviation*, its process involves a continuous flow process or cycle, and thus the Board should reject Petitioner's proposed unit.

Regarding contact, the Employer contends that there is no evidence to suggest that the rework welders and rework specialists interact with each other any more than they do any other production or maintenance workers. Specifically, the Employer argues that it would not be possible for them to do their jobs without speaking to classifications such as grinders, visual dimensional inspectors, straighteners, or x-ray operators, all of whom detect and identify the nature of the defect in need of repair. Moreover, the Employer argues that neither the rework welders and rework specialists nor the crucible repair welder is in a delineated physical space, but rather both have booths or welding stations in close proximity to other employees. The Employer cites to *Terex*, 360 NLRB 138 (2014), to support its argument that the Board has found it compelling that, despite a separate work space, employees were within 30 feet of other production workers with whom their work was functionally integrated. The Employer highlights that the petitioned-for employees regularly interact with other classifications through participation in the policy review and grievance committees.

Regarding interchange, the Employer contends that the petitioned-for welders are not interchangeable among themselves, as their required certifications limit what alloy or product they can weld. With regard to excluded employees, the Employer argues that there is interchange among the included welders and other excluded classifications. Specifically, the Employer notes that it is common for rework welders to perform grinding work on a near daily basis.

Regarding terms and conditions of employment, the Employer contends that all production and maintenance employees share common terms and conditions of employment and are subject to the same benefits, rules, and policies. The Employer notes that all production and maintenance workers retain a seniority date based on their start with the Employer, rather than a specific job title or department, and that personnel forms, systems, and policies are the same. With regard to wages, the Employer notes that the petitioned-for welders are pay grade 15, 16, and 18, which are also shared by nine job classifications. Similarly, the Employer argues that wage increases are the same for all production and maintenance employees and bonuses are the same by facility.

Regarding common supervision, the Employer argues that the welders do not have independent supervisors who supervise only other welders. Instead, per the Employer, welders are supervised by 28 different supervisors, each of whom supervises up to 15 other job titles.

## **V. ANALYSIS**

I conclude that the petitioned-for Unit constitutes a craft unit of highly skilled welders and is appropriate for the purposes of collective bargaining in that the petitioned-for welders share a community of interest sufficiently distinct from excluded employees.

## **1. Departmental Organization**

An important consideration in any unit determination is whether the proposed unit conforms to an administrative function or grouping of an employer's operation. Thus, for example, generally the Board would not approve a unit consisting of some, but not all, of an employer's production and maintenance employees. *See Check Printer, Inc.* 205 NLRB 33 (1973). However, in certain circumstances, the Board will approve a unit in spite of the fact that other employees in the same administrative grouping are excluded. *Home Depot USA*, 331 NLRB 1289, 1289, 1291 (2000) (finding unit of drivers and dispatchers appropriate despite integration into the activities and operations of the store, where the petitioned-for employees had special driving qualifications and licensing, lacked substantial interchange, and had distinct job functions).

Here, with regard to rework welders and rework specialists, it is clear that employees from the petitioned-for rework welder and rework specialist classifications are included in departments throughout the Portland operation, with numerous other classifications of employees sought by the Employer, and do not conform with an administrative grouping of the Employer. However, most of the classifications sought by the Employer are not part of the same departmental organization as the rework welders and rework specialists.

With regard to the crucible repair welder, the record establishes that this position is the sole welder in a department otherwise made up of excluded electrofabrication employees.

Accordingly, I find that departmental organization weighs in favor of finding a shared community of interest with those excluded employees with whom the petitioned-for welders share departments, and against such a finding with respect to excluded employees with whom they do not share departments. On balance, I find that departmental organization weighs in favor of finding that the petitioned-for welders do not share a community of interest with the vast majority of excluded employees with whom they do not share departments.

## **2. Skills and Training**

This factor examines whether disputed employees can be distinguished from one another on the basis of duties or skills. If they cannot be distinguished, this factor weighs in favor of including the disputed employees in one unit. Evidence that disputed employees must meet similar requirements to obtain employment, that they have similar job descriptions or licensure requirements, that they participate in the same Employer training programs, or that they use similar equipment supports a finding of similarity of skills. *Casino Aztar*, 349 NLRB 603 (2007); *J.C. Penny Co., Inc.*, 328 NLRB 766 (1999); *Brand Precision Serv.*, 313 NLRB 657 (1994).

Here, the petitioned-for rework welders must have specific welding training and experience at the time of hire, pass a preliminary test, go through extensive welding training upon hire, receive welding certifications specific to the alloys with which they will be working, and progress through pay steps based on achieving additional skills and qualifications. Rework specialists must have already advanced through the pay steps for rework welders and be able to perform even more advanced welding skills. One interesting result of the Employer's highly

specialized production process is that these welders are so specialized in their certifications that they cannot even interchange or substitute for one another unless they hold identical classifications. However, their required skills and training prior to the final certification for the specific metal or alloy are the same, and they are able to obtain the necessary certification to change metals or alloys by undergoing additional training and certification.

Moreover, under applicable law regarding craft units, I find that while the petitioned-for welders do not participate in a formal apprenticeship program, they do have highly specialized training and certifications prior to hire and undergo extensive additional training upon hire. The Board has found it sufficient that employers required multiple years of experience at the time of hire. *See Anheuser-Busch*, 170 NLRB 46; *MGM Mirage*, 338 NLRB 529; *Lockheed Aircraft Corp.*, 121 NLRB 1541; *Hughes Aircraft Co.*, 117 NLRB 98. Here, not only must the petitioned-for welders meet experience or education requirements at the time of hire, but upon hire they undergo specialized training and certification. The petitioned-for rework welders move up on the wage step progression based on additional qualifications and experience, not merely tenure, a process which has similarities to journeymen training. Moreover, even though only some of the petitioned-for welders work on parts for the aerospace industry, the record is clear that the high level of skill required for the welders at issue is clearly of the type the Board has found to be sufficient to warrant a finding of a craft unit. *See, Lockheed Aircraft Corp.*, 121 NLRB 1541; *Hughes Aircraft Co.*, 117 NLRB 98.

The Employer's arguments regarding excluded employees are not persuasive. First, while some other positions do require certifications, none requires the type of skills and training required for the petitioned-for employees. Second, although the Employer cites to *Casino Aztar*, 349 NLRB 603, in support of its argument, I find that case to be distinguishable. In *Casino Aztar*, the Board found that the petitioned-for beverage employees and the remaining restaurant and catering employees all performed the same basic function, many had the same duties, many held the same licenses, and none of the positions at issue was highly skilled. Here, in contrast, the instant case addresses highly skilled positions, the excluded employees do not perform the same basic job function (discussed below), and the excluded employees do not hold the necessary welding certifications to perform their positions. Third, contrary to the Employer's argument, I do not find that generalized training regarding orientation, safety, and the Cardinal Rules of Quality, which are applicable to employees of the Employer beyond the excluded classifications, constitute skills or training necessary for specific positions.

In sum, I find that skills and training weigh in favor of finding that the petitioned-for welders constitute a craft unit that share a community of interest sufficiently distinct from the interests of the employees excluded from the unit.

### **3. Job Duties**

This factor examines whether the disputed employees can be distinguished from one another on the basis of job functions. If they cannot be distinguished, this factor weighs in favor of including the disputed employees in one unit. Evidence that employees perform the same basic function or have the same duties, that there is a high degree of overlap in job functions or

of performing one another's work, or that disputed employees work together as a crew, support a finding of similarity of functions.

Here, I find that the petitioned-for rework welders and rework specialists have specific job duties that focus almost exclusively on welding of metal alloys on the product itself. The crucible repair welder also focuses almost exclusively on welding metal, but on the copper crucibles, rather than the final product. While it is true, as highlighted by the Employer, that the job descriptions of a limited number of excluded classifications also include welding as part of their tasks, the record lacks specificity about the type and frequency of welding performed by these classifications, though it appears that no other classification welds metal to the same extent as the petitioned-for employees. In fact, the record evidence providing further detail on those welding duties shows that these classifications do not weld metal on the product or on the copper crucibles, but rather weld wax or perform different types of metal welding. Moreover, there is no evidence that the vast majority of excluded employees perform welding, let alone metal welding, and it is clear that they lack the necessary certifications to perform the work of petitioned-for welders.

Should the Employer argue that the petitioned-for welders do not constitute a craft unit because the crucible repair welder does not work on parts, such argument would also be without merit, as he always performs metal welding and maintains a similar level of certification, albeit for a different metal. *See Lockheed Aircraft Corp.*, 121 NLRB 1541.

Moreover, should the Employer argue that the petitioned-for welders cannot constitute a craft unit because other excluded employees also performing welding work, such arguments would not be persuasive. With regard to other employees who perform some welding duties, the Board specifically addressed this issue in *Lockheed Aircraft Corp.*, 121 NLRB 1541, and found that only employees who performed similarly skilled welding more than 50 percent of the time and held the same level of certifications should be included in the unit with highly-skilled welders; all other employees who performed some welding work were excluded. *Id.* at 1543. The same conclusion is warranted here, where none of the other employees who perform any welding work do so with the same level of skill and certification or for a significant portion of their time.

In sum, I find that the lack of shared job function weighs in favor of finding that the petitioned-for welders constitute a craft unit that shares a community of interest sufficiently distinct from the interests of the employees excluded from the unit.

#### **4. Functional Integration**

Functional integration refers to when employees' work constitutes integral elements of an employer's production process or business. Thus, for example, functional integration exists when employees in a unit sought by a union work on different phases of the same product or a single service as a group. Another example of functional integration is when the Employer's work flow involves all employees in a unit sought by a union. Evidence that employees work together on the same matters, have frequent contact with one another, and perform similar functions is

relevant when examining whether functional integration exists. *Transerv Sys.*, 311 NLRB 766 (1993).

Here, the record establishes that all production employees at issue play a highly specialized role in the Employer's complex and intertwined metal casting manufacturing process. The record is clear that rework welders and rework specialists would not be able to perform their duties without the work of the other classifications before them in the production process. Moreover, the crucible repair welder would have no need for his work but for the repeated use of the crucibles by other production employees for their job functions. I conclude that given that unique nature of its manufacturing process, these classifications cannot be viewed in a vacuum and must be viewed as pieces of the whole production process.

I find that functional integration exists in this case, and weighs against finding that the petitioned-for welders constitute a craft unit that shares a community of interest sufficiently distinct from excluded employees.

## **5. Contact**

Also relevant is the amount of work-related contact among employees, including whether they work beside one another. Thus, it is important to analyze the amount of contact employees in the unit sought by a union have with one another. *See, e.g., Casino Aztar*, 349 NLRB 603.

Here, the record establishes some contact between the petitioned-for welders and some excluded employees. Although the rework welders and rework specialists usually work alone in their booths, the record on remand establishes additional on-the-job communication with certain excluded classifications. I continue to find the record evidence regarding contact in the cafeteria, break areas, trainings, meetings, and other special events is insufficient to establish meaningful contact.

On balance, I find that the contact weighs slightly in favor of finding that the petitioned-for welders constitute a craft unit that shares a community of interest sufficiently distinct from excluded employees.

## **6. Interchange**

Interchangeability refers to temporary work assignments or transfers between two groups of employees. Frequent interchange "may suggest blurred departmental lines and a truly fluid work force with roughly comparable skills." *Hilton Hotel Corp.*, 287 NLRB 359, 360 (1987). As a result, the Board has held that the frequency of employee interchange is a critical factor in determining whether employees who work in different groups share a community of interest sufficient to justify their inclusion in a single bargaining unit. *Executive Res. Assoc.*, 301 NLRB 400, 401 (1991) (citing *Spring City Knitting Co. v. NLRB*, 647 F.2d 1011, 1015 (9th Cir. 1981)). Also relevant for consideration with regard to interchangeability is whether there are permanent transfers among employees in the unit sought by a union. However, the existence of permanent transfers is not as important as evidence of temporary interchange. *Hilton Hotel Corp.*, 287 NLRB 359.

Here, with regard to temporary transfers among petitioned-for welders, the record demonstrates that not all rework welders and rework specialists may temporarily interchange with one another due to the specialized certifications necessary for such advanced welding. Moreover, the record is clear that rework welders and rework specialists do not temporarily perform the duties of the crucible repair welder.

With regard to temporary interchange between the petitioned-for welders and excluded employees, the record shows that excluded employees do not and cannot perform rework welding or crucible repair duties. Moreover, petitioned-for welders perform tasks from a limited number of other job classifications as a small percentage of their duties. This is usually grinding work or duties that the employee performed in a prior position. Such temporary transfer does not extend to the vast majority of the excluded employees. I do not find the summary of the JCAs submitted by the Employer to be persuasive, as it shows transfers only into higher paid positions, does not reveal the length of time in a given week that other work was performed, and does not reflect which employees, if any, were rework welders or specialists.

With regard to permanent interchange, the evidence of permanent job transfers is limited and dated. While it is true that many of the petitioned-for welders have previously held other positions with the Employer, only a small percentage of these permanent transfers has happened in recent years and only from a limited number of other classifications. Moreover, the record fails to establish meaningful evidence of petitioned-for employees permanently transferring into excluded positions. Finally, the sole crucible repair welder, who was set to retire after many years in the position, is being permanently replaced by a rework welder.

Also, under applicable law on craft units, I find that the Employer clearly assigns rework welding and crucible welding according to craft or jurisdictional lines, rather than need. As noted above, only rework welders and specialists perform rework welding, and only the crucible repair welder repairs crucibles. There is no temporary interchange into these positions and all work is assigned accordingly. Plus, again given the highly specialized nature of the work of petitioned-for employees, there is no evidence of cross-training for excluded employees to perform rework welding or crucible repair welding.

On balance, I find that interchange weighs in favor of finding that the petitioned-for welders constitute a craft unit that shares a community of interest sufficiently distinct from excluded employees.

## **7. Terms and Conditions of Employment**

Terms and conditions of employment include whether employees receive similar wage ranges and are paid in a similar fashion (for example hourly); whether employees have the same fringe benefits; and whether employees are subject to the same work rules, disciplinary policies and other terms of employment that might be described in an employee handbook. *See, e.g., Overnite Trans. Co.*, 322 NLRB 347 (1996).

I find that the petitioned-for welders have the same or substantially similar terms and conditions of employment as excluded employees with regard to work rules and policies, benefits, and schedules. These all weigh against finding that the petitioned-for welders share a community of interest sufficiently distinct from excluded employees.

With regard to tools and personal protective equipment, it is clear that each job classification uses its own tools and personal protective equipment specific to the tasks performed. While there is overlap among some tools and equipment between certain classifications, I do not find this to be dispositive of sharing a community of interest given the highly specialized nature of the Employer's production process. On balance, the evidence shows that the petitioned-for welders use tools and equipment not utilized by the vast majority of excluded employees. This weighs in favor of finding that the petitioned-for welders constitute a craft unit with a community of interest sufficiently distinct from excluded employees.

Given the overall similarities of the other terms and conditions of employment, I find the question of wages to be significant. As a preliminary matter, the Employer continues to argue that wages are confidential and has failed to provide specific wage rates for the employees at issue, rendering an exact analysis more difficult. Regardless, at least some rework welders and rework specialists earn approximately \$30 to \$31 per hour, which is more than twice as much as the lowest earning employee in grade 5, step 1, and around \$8 per hour less than the highest earning employee in grade 20, step 6. Only a few, highly skilled job classifications earn at the upper end of the wage scale alongside the petitioned-for welders, especially when compared to the number of production and maintenance classifications as a whole. However, as is the issue with much of the evidence regarding the excluded production and maintenance employees, the record lacks other evidence showing that the same classifications who share wage scales with the petitioned-for welders also share other community of interest factors with them. Ultimately, I find that the generalized record evidence regarding wages shows that those of the petitioned-for welders are sufficiently different from those of the vast majority of excluded employees such that the petitioned-for welders do share a community of interest sufficiently distinct from those excluded employees. *See, e.g., MGM Mirage*, 338 NLRB 529 (wage differential significant for purposes of craft unit where petitioned-for employees earned \$21 to \$23 per hour, but excluded employees earned \$11 to \$14). While the petitioned-for welders do not have a community of interest sufficiently distinct from those classifications on the same rung of wage scale, the lack of evidence regarding shared community of interest for the remaining factors renders the common wage rates less significant.

In sum, I find that many terms and conditions of employment are shared by petitioned-for welders and excluded employees, and thus weigh against finding that the petitioned-for welders share a community of interest sufficiently distinct from excluded employees. However, I find that, except for the few classifications with which the petitioned-for welders share a wage rate, wages do establish that the petitioned-for welders share a community of interest sufficiently distinct from the vast majority of excluded employees. Given the significance of wages, I conclude that, as a whole, terms and conditions of employment weigh in favor of finding that the petitioned-for welders constitute a craft unit that shares a community of interest sufficiently distinct from excluded employees.

## 8. Supervision

The fact that two groups are commonly supervised does not mandate that they be included in the same unit, particularly where there is no evidence of interchange, contact or functional integration. *United Operations*, 338 NLRB at 125. Similarly, the fact that two groups of employees are separately supervised weighs in favor of finding against their inclusion in the same unit. However, separate supervision does not mandate separate units. *Casino Aztar*, 349 NLRB at 607, n.11.

Here, the petitioned-for rework welders and rework specialists report directly to a variety of direct supervisors who also supervise excluded employees. However, the record shows that for specific welding issues, they consult with the lead, not the supervisor, and only consult with the designated supervisor for administrative issues. Moreover, while it is clear that the petitioned-for crucible repair welder does not share supervision with any other welders, given the craft unit status of the petitioned-for welders, I do not find this to be dispositive.

Accordingly, I find that supervision weighs against finding the petitioned-for welders constitute a craft unit that shares a community of interest sufficiently distinct from the excluded employees with whom they share supervision. However, in light of the craft unit status of the petitioned-for welders and the fact that the immediate supervisors apparently do not supervise on welding issues, I do not place as much weight on common supervision. *See, e.g., E.I. de Nemours and Co. (Florence Plant)*, 192 NLRB 1019, 1019 (1971) (craft unit of control mechanics appropriate even though supervisor also supervised excluded positions, where control mechanics retained their own foreman).

## 9. Summary

In conclusion, I find that skills and training, job functions, contact, interchange, and terms and conditions of employment weigh in favor of finding that the petitioned-for employees share a community of interest sufficiently distinct from excluded employees. Conversely, I find that departmental organization, functional integration, and supervision weigh against finding that the petitioned-for employees share a community of interest sufficiently distinct from excluded employees. Moreover, I find that training, assignment of work along jurisdictional lines, and lack of shared common interests, such as wages and cross training, with excluded employees support a finding that the petitioned-for welders constitute a craft unit.<sup>2</sup>

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<sup>2</sup> I find that the case cited by the Employer to be distinguishable. In *North American Aviation*, 162 NLRB 1267 (1967), the Board considered the appropriateness of a craft severance election for welders from a production and maintenance unit at aerospace manufacturing, research, and design plants. Then, under the standard for craft severance set forth in *Mallinckrodt Chemical Works*, 162 NLRB 387 (1967), the Board concluded that “it would not effectuate statutory policy to permit disruption of the existing production and maintenance unit.” *Id.* at 1270. The welders in *North American Aviation* had skills “generally regarded as nonapprenticeable” and acquired their skills from “various sources.” *Id.* While the Board stated that the welders at issue in *North American Aviation* were part of the employer’s “continuous flow process,” it noted that the welders also had frequent contact with the production and maintenance employees. Significantly, the Board highlighted that the union already representing the production and maintenance employees had effectively represented the welders at issue in the severance for the purposes of collective bargaining. I find that the instant case is distinguishable as there is no question of craft severance and no

In sum, I find that the record establishes that the petitioned-for welders constitute a craft unit that shares a community of interest sufficiently distinct from excluded employees under the standard set forth in *PCC Structural*s. Moreover, assuming *arguendo* that the petitioned-for unit is found to be inappropriate, I find that the evidence is insufficient to show that anything less than a wall-to-wall unit would be appropriate.

## VI. CONCLUSION

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The rulings at the hearing are free from prejudicial error and are hereby affirmed.<sup>3</sup>
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time rework welders, rework specialists, and crucible repair welders employed by the Employer at its facilities in Portland, Clackamas, and Milwaukie, Oregon; excluding all other employees, and guards and supervisors as defined by the Act.

As noted above, on September 22, 2017, a secret ballot election was held for all full-time and regular part-time rework welders and rework specialists, with the crucible repair welder being allowed to vote subject to challenge. Of the approximately 100 eligible voters, 54 employees cast votes in favor of Petitioner, 38 employees cast votes against, and 2 ballots were challenged. As the challenges were not sufficient to affect the results of the election, on October 7, 2017, I certified the Union as the collective-bargaining representative for the unit of all full-time and regular part time rework welders and rework specialists, but did not include or exclude the crucible repair welder. In light of the fact that the rework welders, rework specialists, and

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history of collective bargaining, but rather is an initial organizing campaign not subject to the legal standard set forth in *Mallinckrodt*. Moreover, unlike the welders in *North American Aviation*, the petitioned-for welders possess a high degree of specialization and skill acquired through extensive training.

<sup>3</sup> Of note, and specifically in light of the Board's comments with regard to possible other appropriate units, I find the Employer's contentions regarding the Hearing Officer's questioning during the hearing on remand regarding possible alternate units to be without merit.

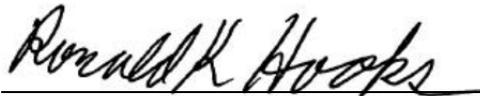
crucible repair welders were all afforded an opportunity to vote in the September 22, 2017, election, and challenges were not determinative, I find that a rerun election is not warranted. Instead, I will be issuing along with this Decision an amended certification of representative that reflects the above unit found to be appropriate.

## **VII. RIGHT TO REQUEST REVIEW**

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board within 14 days of the issuance of this Decision, which constitutes a final disposition in this matter. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Dated this 4<sup>th</sup> day of May, 2018, at Seattle, Washington.



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Ronald K. Hooks, Regional Director  
National Labor Relations Board, Region 19  
915 Second Avenue, Suite 2948  
Seattle, Washington 98174