

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 25  
SUBREGION 33

FCA US LLC

Employer

and

Case 25-RC-256973

INTERNATIONAL UNION, UNITED  
AUTOMOBILE, AEROSPACE AND AGRICULTURE  
IMPLEMENT WORKERS OF AMERICA, AFL-CIO<sup>1</sup>

Petitioner

DECISION AND DIRECTION OF ELECTION

Petitioner seeks to represent a unit of all full-time and regular part-time quality process specialists (QPSs) employed by the Employer at its Belvidere Assembly Plant (BAP) located in Belvidere, Illinois.<sup>2</sup> The unit sought by Petitioner consists of four QPSs, including one QPS lead.<sup>3</sup> Petitioner seeks a self-determination election under the Board's *Armour-Globe*<sup>4</sup> doctrine to determine whether these employees wish to be included in the existing salaried bargaining unit (SBU) of engineers and office clerical employees. In this regard, Petitioner asserts that the petitioned-for QPSs constitute an identifiable, distinct segment of the Employer's employees and share a community of interest with existing SBU employees, and particularly the SBU engineers. In the alternative, Petitioner seeks a self-determination election exclusively among the QPSs employed at BAP.

The Employer primarily contends that the petition should be dismissed on the ground that all of the QPSs are supervisors within the meaning of Section 2(11) of the National Labor Relations Act (Act). The Employer also maintains that the unit sought by Petitioner is not appropriate because the petitioned-for unit of QPSs does not share the requisite community of interest with the existing unit of SBU employees, or among themselves, and therefore a self-determination election to include the QPSs in the existing SBU would not be appropriate, nor would a self-determination election exclusively among the QPSs be appropriate.

A hearing officer of the Board held a hearing in this matter, and the parties orally argued their respective positions prior to the close of the hearing. As explained below, based on the record and relevant Board law, I find that the petitioned-for unit of QPSs are non-supervisory employees who constitute an identifiable, distinct segment of the Employer's unrepresented

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<sup>1</sup> The Petitioner's name appears as amended at the hearing upon Petitioner's motion to amend its name discussed more fully herein.

<sup>2</sup> At the hearing, Petitioner withdrew its desire to represent quality WCM (World Class Manufacturing) specialists, also known as WCM Pillar Leads, and the parties stipulated that such position should be excluded from the unit sought herein based on record evidence demonstrating that such position has been eliminated by the Employer.

<sup>3</sup> Unless otherwise indicated all references to the QPSs herein shall also include the QPS lead.

<sup>4</sup> *Globe Machining & Stamping Co.*, 3 NLRB 294 (1937); *Armour & Co.*, 40 NLRB 1333 (1942).

employees and share a sufficient community of interest with the current existing SBU employees, particularly the SBU engineers, to constitute an appropriate voting group for a self-determination election.

Accordingly, I am directing an election in this matter among the petitioned-for employees at the Employer's BAP to determine whether they wish to be included in the current SBU of engineers and office clerical employees represented by Petitioner.

## I. PROCEDURAL MATTERS

### A. Petitioner's Motion to Amend Petition

Petitioner's original petition names Petitioner as UAW Local 1761 (Local 1761). During the hearing, Petitioner moved to amend its petition to change its name to International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (International Union). The Employer opposed Petitioner's motion to amend on the basis that it constituted a material amendment and amounted to an attempt to modify the scope of the petitioned-for unit. In this regard, the Employer argued that the community of interest between the petitioned-for employees and the SBU engineers employed at BAP can only be considered within the context of Local 1761 as the local union that represents the existing SBU engineers at BAP. Petitioner responded that its motion to amend is purely to change its name on its petition and that should the petitioned-for employees be added to the existing SBU they would become part of the Local 1761 SBU. During the hearing, I granted Petitioner's motion to amend its petition. I find that Petitioner's amendment does not constitute a material change to the scope of the unit proposed by Petitioner.

## II. THE EMPLOYER'S OPERATION

The Employer manufactures, designs, engineers, sells and services vehicles and related parts worldwide. In North America, the Employer operates 12 assembly plants, including its BAP which manufactures the Jeep Cherokee. There are approximately 4,000 employees employed at BAP, a majority of whom are union-represented.

### A. Bargaining History

Petitioner has represented the Employer's salaried engineering and office clerical employees since about 1984. This salaried bargaining unit is called the SBU. The most recent national multi-facility collective bargaining agreement (national SBU agreement) covering all SBU employees employed at BAP and multiple other plants expired on September 14, 2019. The SBU is the pre-existing unit for which Petitioner seeks a self-determination election for the four petitioned-for QPSs. The 2015-2019 national SBU agreement was recently renegotiated and the parties' current national SBU national agreement is effective from 2019 to 2023; however, as of the conclusion of the hearing, a formal document with beginning and ending dates had not been executed. The SBU employees employed at BAP are locally represented by Petitioner's Local 1761 and are also covered by a supplemental local agreement. Petitioner also

has represented the Employer's hourly production and maintenance employees and team leads for many years. This hourly bargaining unit is called the HBU. The most recent national collective bargaining agreement covering all HBU employees employed at BAP also recently expired. The HBU employees employed at BAP are locally represented by Petitioner's Local 1268 and are also covered by a supplemental local agreement. The QPSs have never been represented by a labor organization. The QPSs are part of the Employer's quality organization while the SBU and HBU employees are part of the Employer's manufacturing/assembly organization.

#### B. The Employer's Quality Organization

While the quality organization for all of the North American plants, including BAP, used to report to each local plant manager, the quality organization has become centralized to the extent that quality operations for each North American plant now report to the Employer's head of Quality Control for North America, Brett Hillock, who works at the Employer's corporate headquarters in Auburn Hills, Michigan. Hillock reports to Director of Manufacturing Quality Enio Parete, also in Auburn Hills. However, BAP quality operations, like its assembly organization described below, has also remained decentralized to an extent. In this regard, the BAP head of quality operations, Quality Control Manager Javier Lara, reports to Parete in Auburn Hills but works at BAP. All remaining BAP quality employees report to BAP quality management below Lara. Reporting to Lara are three managers: Quality Assurance Manager Ron Reed; Quality Control Manager Moe Noutsi; and Resident Engineer Manager Chad Kaempfer. Lara, Reed, Noutsi and Kaempfer all have offices at BAP located in the quality area of the administration building which connects by tunnel to the production floor. Reed is the direct supervisor of the four<sup>5</sup> petitioned-for QPSs: lead QPS Ellen Rice; QPS Kyle Gordon; QPS Mike Siciliano; and QPS Jeff Swiatowiec. Also reporting to Reed is CTVV (Center for Technical Vehicle Validation) Engineer<sup>6</sup> Vernon Sims and Lab Specialist<sup>7</sup> John Bondawicz. Sims directly supervises approximately seven HBU inspectors who work in the CTVV area and the parties stipulated that he is a statutory supervisor based on his authority to assign and responsibly direct such employees. Noutsi supervises QVS (quality verification station) and certification line employees and leads who are responsible for quality inspection of vehicles at workstations throughout the plant. Kaempfer manages the resident engineering group consisting of resident engineer leads and resident engineers. The resident engineers, discussed more fully below, are non-represented engineers.

#### C. The Employer's Manufacturing/Assembly Organization

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<sup>5</sup> While Petitioner originally petitioned for five QPSs, former QPS Lyman Hensley was recently terminated in about February 2020.

<sup>6</sup> This position has also been referred to as CPA (Customer Products Audit) Coordinator.

<sup>7</sup> There is no claim or evidence the petitioned-for employees have any interaction with lab specialists who are responsible for scientific equipment issues such as microscopically analyzing defective parts.

The manufacturing/assembly organization is entirely decentralized with each North American plant reporting to the local plant manager. The Plant Manager at BAP is Tomasz Gebka. The HBU production employees and team leads work in the main assembly, body shop, paint and stamping areas of the plant and are directly supervised by production department supervisors responsible for different zones in areas of the plant. Limited record evidence demonstrates that these department supervisors report to shift managers who report to a Center Manager<sup>8</sup> who reports to Plant Manager Gebka. The SBU engineers are also part of the assembly organization and are directly supervised by Product Process Specialists (PPSs) who work in different areas throughout the plant. The PPSs report to Process Improvement Managers (PIMs) and/or Center Managers<sup>9</sup> who report to Plant Manager Gebka.

#### D. The QPSs

The QPS<sup>10</sup> position commenced in about 2017 as a pilot program at two plants, BAP and Jefferson North Assembly Plant (JNAP) in Detroit, Michigan. Although the Employer has contemplated extending the QPS pilot program to other plants, to date that has not happened.

QPSs spend a majority of their time on the plant floor auditing processes that are performed by HBU production employees. This includes examining records, documentation, and operating practices to ensure plant ISO (international organization for standardization) compliance through process conformance audits. All processes audited by the QPSs are governed by pre-determined standard operating procedures (SOPs) written and updated by PPSs. PPSs train HBU team leads and department supervisors regarding the SOPs who in turn train the HBU production employees. SOPs are supplemented by standard work instructions (SWIs) some of which are written by SBU industrial engineers. The SWIs generally relate to the time and task elements of a process. Department supervisors and HBU team leads likewise train HBU production employees regarding the SWIs. BAP has approximately 1,000 SOPs and SWIs pertaining to its plant processes which are posted at each workstation in the plant where the referenced process is performed. In addition to SOPs and SWIs, plant processes are judged by other corporate and government regulatory standards called Manufacturing Quality Assurance System (MQAS) and Manufacturing Quality Guidelines and Regulations (MQGRs). MQAS standards are specifically tied to ISO corporate standards while MQGRs are tied to government regulations established by federal agencies such as the North American Traffic and Safety Administration (NTSA). The common goal of all of these standards is the elimination of variances in production processes on a global basis. The QPSs are not involved in the drafting of any of these standards (SOPs, SWIs, MQAS or MQGRs).

QPSs perform process audits in production departments and areas throughout the plant. Thirty-nine process audits are divided among the QPSs by area and/or process. Each process is audited on a four-month rotating “loop” basis, about three times per year. However, audits that

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<sup>8</sup> The record identifies James Cantrell as General Assembly Center Manager but is unclear as to whether there are additional Center Managers.

<sup>9</sup> The record is unclear as to whether the PIM is a level of supervision that exists only in the paint department.

<sup>10</sup> QPSs were originally called quality process auditors (QPAs); they have also been referred to as quality process engineers.

result in below 80 percent compliance are deemed to be “in the red” and must be repeated within 30 days. QPS Swiatowiec is primarily assigned to conduct audits in the paint department; QPS Gordon is primarily assigned to conduct audits in the body shop and assembly departments, focusing on processes involving attachments and connections; QPS Siciliano is primarily assigned to conduct audits related to electrical and water processes; and QPS lead Rice is primarily assigned to conduct audits in the stamping department.

QPSs prepare for their assigned audits at their desks by reviewing the governing standards (SOPs, SWIs, MQAS, and MQGRs) for the process being audited. For each process audit there is a pre-determined process conformity checklist of questions created by corporate which the QPS generates from a company intranet portal and follows during the audit process. The QPSs have no authority to modify the checklists in any way although there is an on-line intranet process to make suggestions and/or provide input to corporate. The QPS schedules an assigned audit with the department supervisor via the intranet portal. As the QPS is performing an audit, he/she follows the questions on the checklist to document conditions found and identify opportunities for process improvement. During the audit, the QPS has contact with HBU production employees by observing their performance of the process as well as HBU team leads and department supervisors working in the department. While a typical audit takes approximately three to five days from start to finish, some are longer or shorter depending on the complexity of the process.<sup>11</sup> Once an audit is complete, the QPS returns to his/her desk to prepare a final audit report and upload findings to the intranet portal for automatic electronic transmission to a corporate database and automatic email transmission to the department supervisor and managers.

During an audit a QPS may find that a process, or a part of a process, is not in compliance with the governing standards set forth in the SOPs, SWIs, MQAS and/or MQGRs – this is called a non-conformance. For example, the record describes a non-conformance discovered by a QPS in the chassis department regarding HBU production employees performing an assembly connection at the wrong workstation contrary to the SOP in place for that process. The QPSs report such non-conformances via a corrective action request (CAR). In this regard, the QPS generates a CAR from a company intranet portal and completes the form on-line by documenting the non-conformance and requesting corrective action. The form contains drop-down auto-fill boxes for many items such as the requestor (i.e., QPS identity), the “assignee,” and the name of the department or area cited. There is also a drop-down menu for the assignment of a “priority code” as “1” (most serious), “2,” or “3” (least serious). Most CARs are coded by the QPS as level 3 or 2, and very few are coded as level 1. The CAR also provides the QPS an option to make a “short term recommendation” – for example, in the non-conformance referenced above, the QPS noted a brief short-term recommendation that “if connection has moved to [another workstation], have the SOP updated.” Upon completion, the QPS electronically issues and transmits the CAR to a designated “assignee” for review and corrective action regarding the non-conformance. The assignee is generally the department supervisor or the area PPS depending on the non-conformance (CARs involving human operator errors are assigned to department supervisors while CARs involving method errors are assigned to area

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<sup>11</sup> In this regard, checklists can range from 20 to 100 plus questions depending on the complexity of the audit.

PPSs). There is some limited record evidence that a CAR can be reassigned by the assignee to a different supervisor or a manager; however, the record reflects that this has only happened one time. At any rate, the QPSs have no authority to prohibit a CAR from being reassigned. While most CARs are resolved by the assignee in a timely manner and generated back to the QPS for “approval” and closure, some CARs remain open for a long time. The QPSs do not possess any authority to direct or compel an assignee to resolve a non-conformance cited in the CAR; at most, the QPS might nudge an assignee to resolve a CAR which remains open. When a CAR is left open too long, the system automatically transmits it to a higher level above the assignee for resolution. Before a QPS approves and closes a CAR he/she returns to the cited department to ensure the non-conformance is no longer present and the process is in compliance with governing standards. Besides the CAR process to address non-conformances, there is also record evidence that in some process audits a QPS might informally handle minor non-conformances by discussing compliance with the department supervisor, and/or HBU team leads and production employees without writing a CAR. A QPS might also informally handle a non-conformance by emailing the department or shift supervisors regarding minor process defects.

In addition to conducting assigned process audits on the floor and completing audit reports and CARs, QPSs are also responsible for attending regularly scheduled meetings. In this regard, the QPSs have attended and led daily information meetings (DIMs). Since about January 2020, the QPSs have been regularly rotated to lead DIMs. Before that time, they sporadically attended and/or led DIMs. The QPS leading a DIM attends a prep meeting a few days before the DIM with department supervisors and PPSs who choose three topics for presentation at the DIM. These topics are usually related to problem/loss areas. At the DIM, the supervisors and PPSs present their topics and the QPS merely acts as an emcee of the meeting by drafting and presenting a meeting agenda and introducing the presenters. The DIM is an open-invitation meeting that lasts about 30 minutes and is regularly attended by managers, department supervisor, resident engineers, QPSs, SBU engineers, and occasionally HBU team leads and production employees. The QPSs also attend a daily QPS team meeting led by lead QPS Rice which is held in a conference room to discuss pending process audits. The QPSs also attend team meetings held in the departments of their assigned audits as well as other meetings which are specific to their assigned department. For example, QPS Swiatowiec attends regularly scheduled “clean car” and customer product auditor (CPA) meetings held in the paint department which are led by CTVV Engineer Sims regarding defect issues in the paint shop. There is also some limited record evidence that QPS Swiatowiec has led meetings in the paint shop to address outstanding CARs. Besides these in-plant meetings, there is also record evidence that the QPSs have attended at least one meeting at JNAP with the JNAP QPSs and BAP and JNAP management to discuss existing standards and government regulations for process audits.

Except for QPS lead Rice, the QPSs have desks located in the CTVV area of the plant by the QVS and certification line leads. Rice’s desk is located in the administration building by some of the SBU engineers and quality management staff. QPSs work an average of 40 to 45 hours per week, Monday through Friday, generally starting about 6:30 a.m. to 7:00 a.m. and ending about 5:00 p.m. Regular plant hours for SBU and HBU employees are Monday through Friday, 6:00 a.m. to 2:00 p.m. (first shift), 3:00 p.m. to 11:00 p.m. (second shift). QPSs are paid for overtime hours starting at 45 hours per week at their straight time rate. Overtime hours for

QPSs are entered into the Employer's ESTARS system. QPSs are under the salaried non-bargaining unit wage scale which progresses from pay grade 89 to pay grade 97, and they are paid on either a bi-weekly or monthly basis. Two QPSs are pay grade 91, and two are pay grade 92. While QPS lead Rice's annual salary is at the top of her pay grade at \$108,000, the other QPSs average \$82,000. The QPSs receive three weeks of paid vacation, corporate health benefits, and are eligible for 401(k) benefits. Pay rates (including overtime) and benefits for SBU and HBU employees are negotiated per their collective bargaining agreements and overtime hours for union-represented employees are entered into the Employer's CATS (computer-aided time system). All employees are entitled to the same company car discount. There is some record evidence that QPSs are required to possess college degrees; QPS Swiatowiec possesses bachelor's degrees in information systems and biology. The record demonstrates that the QPSs all possess relevant work experience prior to becoming QPSs. The QPS dress code consists of light-colored pants and a polo shirt while the SBU engineer dress code is business casual. The record is silent as to other employees' dress codes. All employees are required to wear personal protective equipment (PPE) where required in the plant. The QPSs receive annual performance evaluations conducted by Reed. They are not involved in the performance appraisals of other employees. QPSs have been involved in the training of department supervisors regarding plant processes, who in turn train production employees often by providing a "one-point lesson" (OPL). QPSs have also provided some training to plant employees as "certified" trainers and have written and presented process improvement tools referred to as "Kaizen" training. All plant employees, including HBU production employees and team leads, SBU engineers, and department supervisors have similarly provided training as certified trainers and have written and presented Kaizen training to other employees. QPSs are prohibited from directly providing any training to HBU production employees per the "double supervision" provision in the HBU local collective bargaining agreement. QPSs are eligible for other job opportunities in the company via the Employer's internal and external job posting systems while union-represented employees are eligible to bid on other jobs through job posting procedures set forth in their collective bargaining agreements.

As noted, QPS lead Rice, the most senior QPS, performs process audits like the other QPSs, mostly in the stamping area. As a QPS lead, Rice manages data related to all ongoing process audits performed by the QPSs as well as corporate and government regulatory documents related to the MQAS and MQGRs. She also tracks open CARs issued by QPSs. There is limited record evidence indicating that Rice leads a weekly management meeting to address outstanding CARs.

While the QPSs perform process audits as described above, HBU production employees employed as customer product auditors (CPAs), also known as hourly inspectors, perform product audits/inspections on vehicles looking for vehicle defects. Like the QPSs, these hourly inspectors are assigned to inspect vehicles at different areas and workstations throughout the plant, complete final audit reports, and upload their findings into the CUPS audit system. The QPS and CPA jobs can converge when a non-conformance is found by a QPS in a process audit resulting in a vehicle defect being discovered by a CPA or vice versa. The record demonstrates that QPSs and hourly inspectors are also involved in "couch audits" related to plant employees violating company rules which forbid sitting in company vehicles and on boxes and racks and

walking in the plant with a personal cell phone exposed. Couch audits are not regularly scheduled audits, rather, they appear to happen spontaneously as the QPSs and hourly inspectors are conducting their official audit duties. Employees found to be in violation resulting from a couch audit are reported to the department supervisor. However, there is no record evidence that reporting the findings of a couch audit results in any discipline or adverse action to the offending employee.

#### E. The SBU Engineers

There are approximately 29 SBU engineers employed in the manufacturing engineering department at BAP. They are generally classified per their collective bargaining agreement as tool engineers; plant engineers; and material handling analysts. Record evidence further demonstrates they work as industrial engineers, facility engineers, manufacturing engineers and process engineers. As noted, these SBU engineers are directly supervised by PPSs in the plant who report to PIMs or and/Center Managers who report to Plant Manager Gebka.

Like the QPSs, the SBU engineers are assigned to production areas throughout the plant and spend a substantial part of their day on the plant floor. Also, like the QPSs, the SBU engineers perform audit work. Their work is related to work performed by the QPSs in that the SBU engineers inspect production procedures on the assembly line performed by HBU production employees to ensure that work is balanced throughout the line and they propose solutions when necessary. For example, industrial engineers determine total time to be allotted per process and steps per second needed for HBU production employees to complete processes on time. SBU industrial engineers also balance, or level, processes being performed by HBU production employees on the assembly line by moving workstations throughout the line or by determining where on the line to place new vehicle parts being introduced into the plant. Specifically, when new parts are being introduced on the line, SBU industrial engineers will consult with QPSs to ensure that any new processes involving new parts are in line with established standards for processes monitored by the QPSs.

The record also demonstrates that process engineers in the paint department have conducted audits related to paint processes performed by HBU skilled trades and production employees much like the process audits conducted by QPSs. In this regard, the process engineer uses a 270-question pre-determined checklist and follows established MQAS and MQGR standards to audit specific paint processes in areas of safety, critical process, standard process, environmental concerns and housekeeping. The process engineer submits a final report to the PIM in the paint department. In audits involving the discovery of a non-conformance, the process engineer will complete a non-conformance document similar to a CAR which is submitted to the paint department Center Manager for resolution.

As noted, SBU pay rates and benefits are negotiated per their collective bargaining agreements based on job classification and number of years worked. Per their collective bargaining agreement, SBU engineer salaries start at pay grade five and go to pay grade 18; the average maximum annual SBU engineer salary is approximately \$80,000. Some SBU engineers

have desks located in the area of the plant they work in, and some have desks located in the administration building. None of them have desks in the area of the QPSs' desks. As noted, SBU engineers attend some of the same management meetings, including DIMs, attended by QPSs and conduct similar Kaizen trainings for other plant employees.

As briefly noted above, in addition to SBU engineers who are part of the manufacturing/assembly organization, the Employer employs resident engineers who are part of the quality organization. They report to resident engineer leads who report to Resident Engineering Manager Kaempfer. The resident engineers act as a liaison between BAP and corporate regarding product and parts design, quality and improvement, whereas SBU engineers mainly work on the production floor in the plant addressing the same processes addressed by QPSs but from a different perspective as described above.

### III. BOARD LAW

Pursuant to Section 2(11) of the Act, the term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. To qualify as a supervisor, it is not necessary that an individual possess all of the powers specified in Section 2(11) of the Act. Rather, possession of any one of them is sufficient to confer supervisory status. *Chicago Metallic Corp.*, 273 NLRB 1677, 1689 (1985). The status of a supervisor under the Act is determined by an individual's duties, not by his title or job classification. *New Fern Restorium Co.*, 175 NLRB 871 (1969). The Board will refrain from construing supervisory status too broadly, because the inevitable consequence of such a construction is to remove individuals from the protection of the Act. *Quadrex Environmental Co.*, 308 NLRB 101, 102 (1992).

The burden of proving supervisory status within the meaning of Section 2(11) of the Act rests with the party asserting that such supervisory status exists. *Dean & Deluca New York, Inc.*, 338 NLRB 1046, 1047 (2003); *NLRB v. Kentucky River Community Care*, 532 U.S. 706, 121 S. Ct. 1861, 167 LRRM 2164 (2001). Thus, that party must show: (1) that the alleged supervisor has the authority to engage in any one of the supervisory functions enumerated above; (2) that the exercise of such authority is not of a merely routine or clerical nature, but requires the use of "independent judgment;" and (3) that the authority is exercised "in the interest of the Employer." *See Oakwood Healthcare, Inc.*, 348 NLRB 686, 687 (2006). The Board also held in *Oakwood* that to establish that an individual possesses supervisory authority with respect to any of the statutory functions, the individual must also exercise independent judgment in exercising that authority, which depends on the degree of discretion with which the function is exercised. The Board has explained that "to exercise independent judgment, an individual must 'at minimum act, or effectively recommend action, free of the control of others and form an opinion or evaluation by discerning and comparing data.' A judgment is not independent 'if it is dictated or controlled by detailed instructions, whether set forth in company policies or rules, the verbal

instructions of a higher authority, or in the provisions of a collective-bargaining agreement.” *Modesto Radiology Imaging, Inc.*, 361 NLRB 888, 888-89 (2014) (citing *Oakwood.*, supra at 687).

An *Armour-Globe* self-determination election permits employees sharing a community of interest with an already represented unit of employees to vote whether to join that unit. *Globe Machine & Stamping Co.*, 3 NLRB 294 (1937); *Armour & Co.*, 40 NLRB 1333 (1942). The Board has held that a self-determination election is the proper method by which an incumbent union may add unrepresented employees to its existing unit if the employees sought to be included share a community of interest with unit employees and constitute an identifiable, distinct segment so as to constitute an appropriate voting group. *St. Vincent Charity Medical Center*, 357 NLRB 854 (2011); *Warner-Lambert Co.*, 298 NLRB 993, 995 (1990), citing *Capital Cities Broadcasting Corp.*, 194 NLRB 1063 (1972).

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*, supra at 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 (2017) (emphasis in original). See also *Wheeling Island Gaming*, supra 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.*, supra at 13 (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.*, supra. 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, Id.* at 11 (citing *United Operations*, 338 NLRB 123 (2002)).

#### IV. APPLICATION OF BOARD LAW TO THE FACTS OF THIS CASE

##### A. The Supervisory Status of the QPSs

There is no claim that the petitioned-for QPSs possess authority to hire, transfer, suspend, lay off, recall, promote, discharge, or reward employees, or to adjust their grievances. The record is absent of any evidence that any employees report directly to the QPSs. Rather, the Employer primarily asserts that the QPSs are statutory supervisors based on their authority to assign work, by effectively recommending assignment of work, and their authority to responsibly direct other employees or effectively recommend the responsible direction of other employees, as well as their authority to effectively recommend the discipline of other employees. The Employer also argues that the QPSs possess authority to effectively recommend hiring of other employees and possess other secondary indicia of supervisory status. Finally, the Employer contends that QPS Rice's position as QPS lead is supervisory.

##### *Authority to Assign Work and Responsibly Direct Employees*

The Employer argues that the level of responsibility and expertise exercised by the QPSs in conducting process audits which requires them to report on the work of others impacts the terms and conditions of others and amounts to responsible direction of others in the interest of the Employer. However, the Board has long held that quality control work, *involving inspecting and reporting the work of others*, does not confer supervisory authority. *Cobra Gunskin*, 267 NLRB 264, 267 (1983) (emphasis added) (citing *Janesville Auto Transport Company*, 193 NLRB 874, 875 (1971) (“the authority of inspectors, who are primarily responsible for the quality of a product, to halt production and have employees make up defective work...does not require the conclusion that they are supervisors within the meaning of the Act.”)). See also, *Brown & Root, Inc.*, 314 NLRB 19, 21 fn. 6 (1994). Here, the function of the QPSs is one of inspection to ensure that the plant production processes are performed in compliance with pre-determined established standards set forth in the Employer's SOPs, SWIs, MQAS, and MQGRs. Any direction to other employees that results from the QPSs process audits is not given by the QPSs who merely report findings and non-conformances to a higher authority. Any recommendations for corrective action provided by the QPSs in a CAR is dictated solely and routinely by the pre-established and governing standards of each process. The QPSs' actions in this regard do not amount to authority to responsibly direct other employees, or effectively recommend the responsible direction of other employees. Moreover, the Employer acknowledges that the HBU local agreement prohibits “double supervision” noting that production employees are normally directed in the performance of their work by their team lead.

The Employer further contends that the QPSs exercise independent judgment in training department supervisors and coaching and mentoring HBU production employees and team leads in process changes and that such actions amount to responsibly directing others within the

meaning of Section 2(11). In this regard, the Employer raised two examples at the hearing. In the first example, a QPS addressed repeated non-compliance issues with a clip counter process in the chassis department. The QPS discussed the matter informally with HBU production employees, team leads and the department supervisor (via multiple emails) to determine why production employees were having problems following the process. The QPS recommended a temporary modified way for employees to perform the process (by modifying a tool used in the process) to ensure the process complied with established standards until the governing standards for the process could be modified by corporate.

In the second example, a QPS addressed non-compliance issues with a process in which production employees were improperly reusing hood prop bolts on an assembly line. The QPS discussed the matter with the line supervisor and encouraged the supervisor to have the production employees come into compliance with the process (by not reusing bolts) until the process could be changed by corporate. In both of these examples, process changes eventually took place by corporate which did not involve the QPSs.

In *Oakwood*, the Board found that the term “responsibly to direct” involves a finding of accountability, so that “it must be shown that the employer delegated to the putative supervisor the authority to direct the work and the authority to take corrective action, if necessary,” such that “there is a prospect of adverse consequences for the putative supervisor if he/she does not take these steps.” *Oakwood. Id.* at 692. The examples cited by the Employer do not demonstrate the QPSs’ responsible direction of others or that they effectively recommended the responsible direction of others. The record is absent of evidence that any QPS has experienced any material consequences to his/her terms and conditions of employment, either positive or negative, as a result of their performance in training department supervisors or coaching and mentoring HBU production employees and team leads in process changes. The evidence shows only that the QPS “are accountable for their *own* performance or lack thereof, not the performance of *others*, and consequently is insufficient to establish responsible direction.” *Oakwood, Id.* at 695.

The Employer additionally contends that by regularly leading management meetings such as DIMs, the QPSs are responsibly directing management in plant practices and procedures which is indicative of their supervisory status. As noted, the QPSs merely act as emcees at the DIMs and are only responsible for drafting and presenting a meeting agenda and introducing the presenters – they do not present on any topics to management nor do they provide any guidance or instruction in relation to topics presented. The QPSs’ actions as leaders of DIMs do not amount to responsible direction within the meaning of Section 2(11).

Finally, the Employer asserts that by reporting non-conformances and making recommendations for corrective action to supervisors via a CAR, or by informally addressing minor non-conformances with supervisors and production employees while on the plant floor, the QPSs exercise independent judgment in assigning and effectively recommending assignment of tasks and directing the Employer’s entire supervisory and HBU production workforce. As noted, reporting on the work of others does not automatically confer supervisory status. In *Oakwood*, the Board refined its analysis of the terms “assign,” and “independent judgment” in assessing supervisory status. The Board announced that it construes the term “assign” to refer to

"the act of designating an employee to a place (such as a location, department, or wing), appointing an employee to a time (such as a shift or overtime period), or giving significant overall duties, i.e., tasks, to an employee." *Oakwood*, supra at 689. That the QPSs *optionally* make recommendations for short-term recommendations also does not amount to an assignment of work or effective recommendation of an assignment of work to confer supervisory status. The QPSs do not possess any authority to direct or compel an assignee to resolve a non-conformance cited in the CAR. At most, the QPS might nudge an assignee to resolve a CAR which remains open. As a result, some CARs remain open for a long time. When a CAR is left open too long, the system automatically transmits it to a higher level above the assignee for resolution. Thus, the ultimate authority to resolve non-conformances rests with the assignee-supervisor or above. The QPSs' actions in reporting non-conformances and making recommendations for corrective action do not amount to authority to assign work to others, or effectively recommend assignment of work.

#### *Authority to Effectively Recommend Discipline of Employees*

The Employer argues that a CAR is a tool used for discipline, but the record does not support such argument in any regard. Above all, the record is absent of any evidence of issuance of employee discipline related to CARs or otherwise. The record is also devoid of evidence that the QPSs have directly made any recommendations for employee discipline. Rather, the Employer asserts that the QPSs effectively recommend discipline of other employees via their issuance of CARs as well as their informal discussions on the plant floor with production supervisors regarding non-conformances found during process audits. The Employer asserts that these actions by the QPSs are taken in the interest of the Employer and not only do they constitute effective recommendations regarding the discipline of production employees, but they also impact potential discipline for supervisors who are responsible to correct non-conformances.

The CAR is not a request to correct, or discipline, an employee. Rather, the CAR is a request to correct a process. The QPSs have no responsibility regarding whether or how the correction of that process is carried out by the assignee-supervisor of the CAR. Further, the record is absent of evidence demonstrating QPSs have been held accountable for a supervisor's failure to resolve a CAR including by failing to discipline employees whose deficient performance was related to the non-conformance. Rather, the assignee-supervisor is ultimately responsible for fixing non-conformances and bringing his/her department "up to code" and has final authority regarding action taken in resolving a CAR. The QPSs' addressing of non-conformances related to the performance of the production employees, without making any recommendation for future discipline, is even less than a reporting function, which is not supervisory authority. *Williamette Industries, Inc.*, 336 NLRB 743, 744 (2001). See also, *Lakeview Health Center*, 308 NLRB 75, 78-79 (1991) (an individual's mere reporting of misconduct without any recommendation of discipline is not an effective recommendation of

discipline under Section 2(11)). Contrary to the Employer's assertion, I find that the QPSs have no authority to effectively recommend discipline.<sup>12</sup>

*Authority to Effectively Recommend Hiring – Interviewing Prospective Employees*

In August 2018, shortly after leaving his former supervisory position as a CTVV Engineer/CPA coordinator,<sup>13</sup> QPS Swiatowiec sat in on three new hire interviews conducted by a BAP HR representative. The new hire candidates were interviewing for HBU production employee jobs. Following each interview, the interviewers collaboratively completed a short "score integration form" rating the candidate in six categories (motivational fit, adaptability, integrity, work ethic, communication and positive attitude). Swiatowiec was not specifically asked for a recommendation as to whether any of the interviewees should be hired. One of the three candidates was offered employment and hired by the Employer but Swiatowiec was unaware of such events. Besides these three interviews involving Swiatowiec, there is no record evidence that any other QPSs have similarly sat in on job interviews.

There is no claim that the QPSs possess supervisory authority to hire. Rather, the Employer asserts that the QPSs participate in interviews of prospective employees and make recommendations for hiring. However, the record evidence demonstrates that one QPS, Swiatowiec, sat in on 30-minute interviews conducted by a HR representative of three prospective new hire employees for one day one almost two years ago. The QPS provided minimal input on a short interview form with the interviewing HR representative and was not asked to provide any recommendation regarding the hiring of any of these candidates. The record is absent of evidence that any of the candidates interviewed were hired or not hired based on any input from QPS Swiatowiec. Moreover, there is no evidence that other QPSs have participated in prospective employees' interviews in any hiring processes. I find that the record does not support the Employer's arguments that the QPSs are statutory supervisors based on their authority to effectively recommend hiring.

*Other Secondary Indicia*

While the Board has held that secondary indicia can be a factor in establishing supervisory status, it is well established that where putative supervisors are not shown to possess any of the primary supervisory indicia, secondary indicia alone are insufficient to establish supervisory status. *Gold Crest Healthcare*, 348 NLRB 727 at 730 n. 10 (2006); *Ken-Crest Services*, 335 NLRB 777, 779 (2001).

The Employer submitted into evidence a document that it purports to be a QPS job description designating them as supervisors. However, this document appears to be a modified

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<sup>12</sup> Nor do the QPSs' actions in reporting "couch audit" findings constitute effective recommendation to discipline as the record demonstrates that HBU inspectors also perform such audits, and there is no record evidence that couch audits have resulted in any discipline to or adverse action against employees.

<sup>13</sup> Swiatowiec held this position, currently held by Sims, until he became a QPS in about July 2018.

template created by the Employer that has not been posted or issued as a current job description and is in conflict with a different job description submitted into evidence by Petitioner. At any rate, the Board has held that job descriptions, without more, do not establish actual supervisory authority. *Training School at Vineland*, 332 NLRB 1412, 1416 (2000) (“Job descriptions or other documents suggesting the presence of supervisory authority are not given controlling weight. The Board insists on evidence supporting a finding of actual as opposed to mere paper authority.”). It is well settled that job descriptions without more are not controlling to establish supervisory status. *K.G. Knitting Mills*, 320 NLRB 374 (1995). Similarly, the fact that some employees who perform unit work “receive a salary and do not punch a timeclock, receive different health insurance benefits from unit employees...and require less supervision than other unit employees are inadequate bases for their exclusion from the unit.” *Id.* at 374 (1995).

Besides limited record evidence regarding QPS Swiatowiec, the record is absent of evidence that the QPSs regularly substitute for supervisors. I find that QPS Swiatowiec’s limited substitution in August and December 2019 as CTVV Engineer, a supervisory position he previously held himself, does not confer supervisory status on the QPSs as the record is silent as to the nature of the purported authority exercised by QPS Swiatowiec while acting as CTVV Engineer. See, *Aladdin Hotel*, 270 NLRB 838, 840 (1984) (“the appropriate test for determining the status of employees who substitute for supervisors is whether [they] spend a regular and substantial portion of their working time performing supervisory tasks or whether such substitution is merely sporadic and insignificant”) (other citations omitted). That the QPSs have provided some training to plant employees as “certified” trainers and have written and presented process improvement tools referred to as “Kaizen” training is also not indicative of supervisory status. The Board has frequently found that employees with training or instructional duties are not supervisors within the meaning of the Act. See, *The Washington Post Co.*, 242 NLRB 1079, 1083 fn. 15 (1979) (citing *House of Mosaics*, 215 NLRB 704, 712 (1974) (“having the responsibility of training new employees does not invest employees with supervisory authority within the meaning of the Act.”). Moreover, all plant employees, including HBU production employees and team leads, SBU engineers, and department supervisors have similarly provided training as certified trainers and have written and presented Kaizen training to other employees. Finally, the QPSs’ attendance at the DIMs or other meetings, even if others perceived them to be supervisory, does not confer supervisory status. See, *GRB Entertainment, Inc.*, 331 NLRB 320, 321 (2000).

#### *QPS Lead Rice*

The record evidence does not demonstrate that QPS lead Rice possesses any additional authority to confer supervisory status. The record is devoid of any evidence that Rice has any supervisory authority over the QPSs or any other employees, including authority to assign, responsibly direct, discipline employees, or effectively recommend such actions. That her desk is located in the administration building near management employees and apart from the QPSs’ desks is not dispositive. Notably, the QPSs who have desks in the CTVV area are next to undisputed QVS supervisors and some SBU engineers also have desks in the administration building. Rice’s participation in meetings is no different than the participation of the other QPSs

in meetings as referenced above. Rice's lead duties are analogous to those of a non-supervisory team leader. Thus, I conclude that Rice, as QPS lead, is not a supervisor within the meaning of Section 2(11) of the Act.

#### B. Community of Interest Factors

There is little question or dispute that the petitioned-for QPSs constitute a distinct, recognizable voting group. All of the QPSs work exclusively at the BAP, report to a common supervisor, and are the sole employees involved in conducting process audits at that facility.

##### *Organization of the Plant*

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 Printers, 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).

Here, the petitioned-for QPSs are all part of the Employer's quality organization while the SBU employees are part of the Employer's manufacturing/assembly organization. The Employer argues that because its quality organization is centralized, reporting up to Auburn Hills, while its manufacturing/assembly organization is decentralized, reporting up to local BAP Plant Manager Gebka, the petitioned-for unit is not appropriate. However, the record demonstrates that BAP quality operations, like its assembly organization, is decentralized. Quality Control Manager Lara, the head of BAP quality operations and BAP Plant Manager Gebka both work at BAP and are responsible for all BAP employees who work toward the common goal of producing the Jeep Cherokee. Despite the distinction of some centralized reporting by BAP quality operations, I find that departmental organization weighs in favor of finding a shared community of interest between the petitioned-for QPSs and the SBU employees.

##### *Interchangeability and Contact among Employees*

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 Resource Associates*, 301 NLRB 400, 401 (1991), citing *Spring City Knitting Co. v. NLRB*, 647 F.2d 1011, 1015 (9th Cir. 1081). Also relevant is the amount of work-related contact among employees, including

whether they work beside one another. Thus, it is important to compare the amount of contact employees in the unit sought by a union have with one another. See for example, *Casino Aztar*, 349 NLRB 603, 605-606 (2007). Although the record fails to reveal evidence of significant employee interchange between the SBU engineers in the existing bargaining unit and the QPSs proposed to join with that unit, there is certainly some evidence of work-related contact between them. All employees work exclusively at the BAP, in close proximity to each other, addressing the same processes performed by HBU production employees.

Also relevant for consideration of 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*, supra at 360. In this matter, the record reveals no evidence of transfers between the employees; however, the SBU collective bargaining agreement provides language regarding transfers from non-bargaining unit positions to SBU engineer classifications.

#### *Common Supervision*

Another community-of-interest factor is whether the employees in dispute are commonly supervised. In examining supervision, most important is the identity of employees' supervisors who have the authority to hire, to fire or to discipline employees (or effectively recommend those actions) or to supervise the day-to-day work of employees, including rating performance, directing and assigning work, scheduling work providing guidance on a day-to-day basis. *Executive Resources Associates*, supra at 402; *NCR Corporation*, 236 NLRB 215 (1978). Common supervision weighs in favor of placing the employees in dispute in one unit. However, 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*, supra 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*, supra at 607, fn 11. Rather, more important is the degree of interchange, contact and functional integration. *Id.* at 607.

In this case, the record reveals that the QPSs are separately supervised from the SBU engineers. More specifically, Quality Assurance Manager Reed is the sole direct supervisor of the QPSs, and Reed reports to Quality Control Manager Lara, while the SBU engineers report directly to a PPS who reports to a Center Manager who reports to Plant Manager Gebka. The HR department for assembly quality at BAP is in charge of hiring assembly quality employees such as the QPSs, while the HR department for assembly production at BAP is in charge of hiring assembly production employees such as the SBU engineers. However, personnel files for all BAP employees are maintained electronically at corporate headquarters in Auburn Hills.

*The Nature of Employee Skills and Functions*

This factor examines whether disputed employees can be distinguished from one another on the basis of job functions, duties or skills. 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. Evidence that disputed employees have similar requirements to obtain employment; that they have similar job descriptions or licensure requirements; that they participate in the same Employer training programs; and/or that they use similar equipment supports a finding of similarity of skills. *Casino Aztar*, supra at 604-605; *J.C. Penny Company, Inc.*, 328 NLRB 766 (1999); *Brand Precision Services*, 313 NLRB 657 (1994); *Phoenician*, 308 NLRB 826 (1992). Where there is also evidence of similar terms and conditions of employment and some functional integration, evidence of similar skills and functions can lead to a conclusion that disputed employees must be in the same unit, in spite of lack of common supervision or evidence of interchange. *Phoenician*, supra at 827-828.

In this case, the record reveals some commonality in the skills and functions of the QPSs and the existing bargaining unit SBU engineers. Although focusing on different perspectives as noted, both classifications address the same plant processes performed by production employees. Additionally, both classifications often attend the same production-related meetings and training sessions.

*Degree of 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 as a group provides a service. Another example of functional integration is when the Employer's workflow 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 Systems*, 311 NLRB 766 (1993). On the other hand, if functional integration does not result in contact among employees in the unit sought by a union, the existence of functional integration has less weight.

In this matter, the record reveals that QPSs and SBU engineers in the existing bargaining unit are functionally related in that they are all involved in inspecting the Employer's manufacturing/assembly processes performed by production employees at BAP. More specifically, the QPSs and the SBU engineers inspect processes in departments throughout the plant and each functional department's role is necessary to the Employer's manufacturing process – the HBU production employees would not be able to perform their duties without them and vice versa. The work of the production employees is monitored and continuously improved by quality *and* engineering and all of the Employer's departments must

be viewed as pieces of the whole production process. See, *Keller Crescent Co., Inc.*, 326 NLRB 1158, 1159 (1998) (Although quality assurance monitors are in a separate department from the petitioned-for production and maintenance employees and at least one reports to a different supervisor, they share a community of interest with production employees, as their work is functionally integrated in the production operation and they have regular, daily contact with production employees.)

### *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. However, the facts that employees share common wage ranges and benefits or are subject to common work rules does not warrant a conclusion that a community of interest exists where employees are separately supervised, do not have sufficient interchange and/or work in a physically separate area. *Bradley Steel, Inc.*, 342 NLRB 215 (2004); *Overnite Transportation Company*, supra at 350. Similarly, sharing a common personnel system for hiring, background checks and training, as well as the same package of benefits, does not warrant a conclusion that a community of interest exists where two classifications of employees have little else in common. *American Security Corporation*, 221 NLRB 1145 (1996).

In the instant case, the record reveals that QPSs share many common terms and conditions of employment with SBU engineers who are in the existing bargaining unit. This includes similar uniforms, restrooms, parking lots, hours, and a Monday through Friday work schedule. Additionally, all of the employees are paid by annual salary and average wage ranges are similar, based on level of skill and experience between the two classifications. On the other hand, there are certainly some differences between the terms and conditions of employment between the QPSs and SBU engineers, particularly with regard to health care and other fringe benefits. However, these differences are likely the expected outcome of one group of employees (SBU engineers) being subject to a collective-bargaining process while the others (QPSs) are not and are instead covered by a broader non-bargaining unit corporate benefits program.

### **CONCLUSION**

In determining that the unit sought by Petitioner is appropriate, I have carefully weighed the community-of-interest factors cited in *United Operations*, supra. I conclude that the unit sought by Petitioner is appropriate because the record reveals that the QPSs are a distinct, recognizable group and share a community of interest with the SBU engineers. More specifically, the overall organizational structure of the Employer's BAP operations, the contact between the employees and commonality of skills and functions, the functional integration of the employees to the Employer's manufacturing operations, and the shared terms and conditions of employment among the two groups of employees strongly weigh in favor of finding a shared community of interest.

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

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce<sup>14</sup> 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.<sup>15</sup>
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time quality process specialists including quality process specialist leads employed by the Employer at its Belvidere Assembly Plant located at 300 Chrysler Drive, Belvidere, Illinois; but excluding all managers, guards and supervisors as defined in the Act and all other employees.

### **DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by International Union, United Automobile, Aerospace and Agriculture Implement Workers of America, AFL-CIO as part of the existing unit of employees in the following classifications:

The employees described in Appendix Schedule "A" of the Engineering, Office & Clerical collective bargaining agreement between the Petitioner and the Employer which was effective from October 22, 2015 to September 14, 2019.

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<sup>14</sup> The parties stipulated at the hearing that in conducting its operations during the 12-month period ending March 9, 2020, the Employer derived gross revenues in excess of one million dollars, and during the same period of time, the Employer sold and shipped from its Belvidere, Illinois facility goods valued in excess of \$50,000 directly to points outside the State of Illinois.

<sup>15</sup> The parties stipulated at the hearing that Petitioner is a labor organization within the meaning of the Act.

**A. Election Details**

The election details will be determined when able to be accommodated by the Regional Office after consultation with the parties. The date, time, and place of the election will be specified in the Notice of Election that the Board's Regional Office will issue subsequent to this Decision.

**B. Voting Eligibility**

Eligible to vote are those in the unit who were employed during the payroll period ending March 29, 2020, if they are paid on a bi-weekly basis, and those in the unit who were employed during the payroll period ending March 31, 2020, if they are paid on a monthly basis, including employees paid either bi-weekly or monthly who did not work during the specified period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

**C. Voter List**

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **April 17, 2020**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the

list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

The list must be electronically filed with the Region by using the E-filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The list must also be served electronically on the other parties named in this decision.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

#### **D. Posting of Notices of Election**

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election that will be issued subsequent to this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

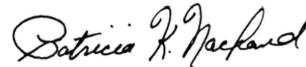
#### **RIGHT TO REQUEST REVIEW**

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review must be E-Filed through the Agency's website. 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.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated: April 15, 2020



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PATRICIA K. NACHAND  
REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS BOARD  
REGION 25  
575 N Pennsylvania St Ste 238  
Indianapolis, IN 46204-1520