

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

WASTE MANAGEMENT OF MICHIGAN, INC.
and OUTSOURCE INTERNATIONAL OF
AMERICA d/b/a TANDEM STAFFING¹

Joint Employers

and

CASE 7-RC-21669

JOINT COUNCIL 43, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS, AFL-CIO²

Petitioner

APPEARANCES:

Robert M. Vercruyse, Attorney, of Bingham Farms, Michigan, for Waste Management, Inc.
Thomas P. Brady, Attorney, of Detroit, Michigan, for Tandem Staffing.
Andrea F. Hoeschen, Attorney, of Milwaukee, Wisconsin, for the Petitioner.

DECISION AND DIRECTION OF ELECTIONS

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, hereinafter referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record³ in this proceeding, the undersigned finds:

¹ The names of the Employers appear as amended at the hearing.

² The name of the Petitioner appears as amended at the hearing.

³ All parties filed briefs in this matter, which have been carefully considered.

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 within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization involved 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.

The Petitioner seeks to represent a unit of sorters, equipment operators, mechanics and mechanic helpers working out of the Waste Management, Inc. (hereinafter Waste Management) facility located at 19200 West Eight Mile Road, Southfield, Michigan; but excluding all office clerical employees, guards, and supervisors as defined in the Act. There are approximately 35 employees in the proposed unit, 16 of whom are directly employed by Waste Management and 19 of whom are provided to Waste Management by Outsource International of America, Inc. d/b/a Tandem Staffing (hereinafter Tandem), a temporary service employment agency. Waste Management and Tandem maintain that the petitioned-for unit is not appropriate because neither one singly or jointly employs all of the petitioned-for employees. Additionally, the Employers contend that the 19 employees provided to Waste Management by Tandem are not appropriately includable in the petitioned-for unit because they are temporary and/or casual employees. Finally, the Employers contend that should the petitioned-for unit be found appropriate, it should include three additional non-supervisory employees employed by Waste Management as working foremen. The Petitioner argues that the working foremen are supervisors within the meaning of Section 2(11) of the Act and thus ineligible to vote.

Waste Management is a Delaware corporation engaged in commercial and residential recycling. The Southfield recycling facility has been in operation since 1994 and since then Waste Management has utilized a number of temporary service agencies to obtain service employees, the most recent being Tandem which has been utilized by Waste Management since 1997.

Tandem is a Florida corporation which provides human resource services from its facilities located in the Detroit and Flint, Michigan areas. Tandem employs about 45 "core" employees in the Detroit area, all of whom recruit, place, and administer service employees. Tandem provides service employees to about 100 companies in the Detroit area, and places about 1,500 service employees on a daily basis. Tandem supplies anywhere from 14 to 25 service employees specifically to Waste Management. Tandem handles the Waste Management account out of its Royal Oak, Michigan office.

About September 1, 1997, Waste Management and Tandem entered into a “Outsourced Labor Agreement” which provided that Waste Management would utilize the services of Tandem exclusively as its temporary service agency. This agreement was effective for a duration of three years. However, when Waste Management was purchased by USA Waste Service some time in 1998, the agreement was cancelled. Nevertheless, Tandem continues to be the exclusive supplier of employees to Waste Management and the agreement continues to be loosely applied between Waste Management and Tandem with respect to hours, wages and terms and conditions of employment of the employees supplied by Tandem.

Tandem generally recruits employees by newspaper advertisement, through community based service organizations, and by word of mouth. When prospective employees come into Tandem offices looking for work, they are given a standard Tandem application package consisting of a pre-qualification form, employment application, background information request, interview form, general safety rules, general employee policies, health information form, and tax forms. Tandem applications are reviewed by Tandem and applicants are interviewed by Tandem officials for hire. Placement of employees to a specific company is random, although if an employee requests to be placed with a certain Tandem client, Tandem will attempt to fulfill the request if there is work available. Tandem provides orientation to all its service employees regarding employment policies, and general health and safety training, before they are sent out on a job.

Tandem additionally provides employees who are to be placed at the Waste Management facility with a general information and safety package pertaining specifically to Waste Management practices and procedures regarding paycheck delivery rules, general safety orientation, Waste Management/Tandem Staffing new hire safety training, and Waste Management company rules and regulations. In addition, Tandem employees who are to be sent to Waste Management are shown a video at the Tandem office about Waste Management recycle operations. Tandem employees working at the Waste Management facility are subject to the same work rules as the Waste Management employees.

Once an employee is hired by Tandem and given a placement, the employee is instructed to report to Tandem about an hour prior to the start time of the job to complete paperwork and review general Tandem practices and procedures. In this regard, Tandem reviews starting and quitting times with the employees and tells them that if they are to be absent from or late to work for any reason, they are to contact Tandem who will then notify the company for whom they are working. Tandem also reviews with the employees who they will be reporting to and their pay rate. Tandem then sends the employee to the placement company either via his/her own vehicle or via Tandem transportation.

With regard to Waste Management specifically, a Tandem official regularly accompanies the Tandem employee on the first day of work to the Waste Management facility. The Tandem official makes sure the employee is issued proper safety gear, including an orange

hard hat,⁴ and obtains a time card. The Tandem official then introduces the employee to the appropriate supervisor or foreman and leaves the facility. Waste Management Maintenance Supervisor Dan Fulks makes sure that the Tandem employee has received his/her orientation package from Tandem containing the Waste Management work rules and either Fulks or a foreman assigns a work station and job to the Tandem employee. There are no Tandem officials who are regularly on site or have offices at the Southfield Waste Management facility. Tandem employees hired into the Waste Management facility all start out as sorters and may move into different non-supervisory positions at a later time. Waste Management provides on-the-job training to Tandem employees in all job classifications.⁵ Although, as stated above, Tandem employees are instructed at the time of hire to contact the Tandem office regarding absences or late occurrences, the record indicates that in practice Tandem employees working at the Waste Management facility generally contact the Waste Management facility regarding absences and tardiness, and that Waste Management accepts such calls without comment.

Tandem employees who are sent to Waste Management are paid a starting pay rate of six dollars per hour. This starting wage rate is determined by Tandem and Waste Management together per the terms of their labor agreement. There is no evaluation system in place at Waste Management for either Waste Management or Tandem employees. Tandem employees working at Waste Management are eligible for periodic wage increases at the discretion and direction of Waste Management officials Christopher Barbero and Fulks, who determine the amount and timing of the increases. In this regard, Barbero or Fulks will contact a Tandem official and request a specific employee receive a pay increase and provide the amount of the increase to Tandem. With respect to pay increases, the parties follow loosely the wage progression schedule as set forth in the parties' cancelled labor agreement in determining the amount of pay raises. Waste Management possesses the authority to change employee start and quit times as well as to require Tandem employees to work overtime. Tandem employees working at Waste Management can request vacation leave without pay from either Tandem or Waste Management officials.

Regarding payroll processing, Waste Management office clerical employees tally the hours worked by Tandem employees from timecards maintained at the Waste Management facility, transfer the information onto a time sheet, and fax the time sheet to Tandem every Monday for the issuance of checks.⁶ Tandem mails the paychecks to the Waste Management facility weekly for distribution by Waste Management personnel each Friday. Waste

⁴ Tandem employees working at Waste Management wear orange hard hats containing the Waste Management logo while Waste Management employees wear green hard hats containing the same logo. Additionally, Waste Management foremen and visitors wear white hard hats containing the same logo.

⁵ The record indicates that Tandem employees working at Waste Management who are trained in equipment operation are issued the same operator cards which are issued to Waste Management employees under the title of Waste Management.

⁶ The original time sheets of Tandem employees are retained by Waste Management at its facility for at least one year. Waste Management also keeps all Tandem employees time cards in a file cabinet on the premises.

Management keeps track of attendance for all employees and compiles monthly attendance sheets for Waste Management and Tandem employees working at the Southfield facility.

The Waste Management payroll consists exclusively of Waste Management employees. Paychecks are distributed to Waste Management personnel each Thursday by Fulks and part-time payroll clerk Lisa Bollenberg. Tandem employees punch a time clock located at the Waste Management facility which is separate from the time card swipe system used by the Waste Management employees.

Regarding on-the-job injuries that occur at the Waste Management facility, Tandem employees are instructed initially to contact a Waste Management supervisor for assistance. If the injury requires medical attention, a Waste Management official will notify Tandem of the injury and the employee is transported by either Waste Management or Tandem to a clinic chosen by Tandem. Tandem conducts an independent investigation of the circumstances surrounding the injury following the incident.

Site Manager Christopher Barbero is in charge of the Waste Management Southfield facility. Reporting to Barbero are Clerk/Maintenance Supervisor Dan Fulks and three foremen: Robert Turmel, Carl Scott and Sam Kirma. At the hearing, the parties stipulated that Barbero and Fulks are supervisors within the meaning of Section 2(11) of the Act.⁷ The Southfield facility is in operation generally from 6:00 a.m. to midnight and runs three separate shifts: first shift/paper line, 6:00 a.m. to 3:00 p.m.; second shift/paper line, 3:00 p.m. to midnight; and first shift/container line, 9:00 a.m. to 6:30 p.m. There are Waste Management and Tandem employees employed on all shifts. The foremen start one-half hour prior to the start of the official shift and the second shift foreman works one-half hour past the end of the official shift. Foreman Turmel is responsible for the first shift/paper line and works 5:30 a.m. to 3:00 p.m.; Foreman Scott is responsible for the second shift/paper line and works 2:30 p.m. to 12:30 a.m.; and Foreman Kirma is responsible for the first shift/container line and works 8:30 a.m. to 6:30 p.m. Barbero and Fulks generally work between 7:00 a.m. to 5:30 p.m. There are pre-scheduled lunch periods and breaks on each shift which apply to both Waste Management and Tandem employees. The employees employed directly by Waste Management earn about \$7.00 to \$15.00 per hour, while the Tandem employees working at the Waste Management facility earn about \$6.00 to \$7.25 per hour.

Waste Management hires its own employees either off the street or out of the pool of Tandem employees.⁸ In either case, prospective Waste Management employees are required to complete a Waste Management job application and interview with Barbero who hires exclusively for Waste Management. Tandem employees who are hired by Waste Management

⁷ As stated above, the supervisory status of Turmel, Scott and Kirma is in dispute.

⁸ Since 1997, Waste Management has hired on about six Tandem employees, four of whom are presently employed by Waste Management.

do not benefit from their work experience in any way and are subject to the same 60-day probationary period as are all new Waste Management hires. Unlike Tandem employees working at Waste Management who are not required to wear any type of uniform, Waste Management employees are required to wear company-issued uniforms. Waste Management also contributes up to \$90.00 toward employee purchases of work boots. Waste Management employees receive a benefit package upon hire including health insurance, life insurance, dental insurance, 401K retirement benefits, stock benefits, paid absence benefits and vacation benefits. Tandem provides health insurance and workers' compensation coverage for all of its employees. Tandem does not provide any additional benefits such as life insurance, vision and dental, retirement, stock purchase plan, paid leave of absence, or paid vacation.

Waste Management employees and Tandem employees are equally eligible to participate in a pay-for-performance bonus plan. Production bonuses are based on plant-wide productivity and Waste Management keeps track of all employee safety and attendance records for production bonus purposes. Waste Management keeps personnel files for all of its own Waste Management employees, but does not keep individual personnel files for the Tandem employees. Rather, Tandem keeps individual personnel files on all Tandem employees including employee addresses and phone numbers. However, Waste Management does keep a Tandem staffing file on its premises which contains personnel information for Tandem employees such as absentee and pay records and individual employee work history. Waste Management and Tandem employees working at Waste Management attend monthly safety meetings held at the Waste Management facility. These safety meetings are conducted by Barbero and Safety Manager Jim Flynn, who works out of the Waste Management Romulus home office, and all employees are required to sign in.

Waste Management has a written progressive disciplinary policy in effect for Waste Management employees and utilizes written warning forms to discipline Waste Management employees. While the record indicates Waste Management does not ever issue written discipline to Tandem employees, it has independently issued verbal warnings as well as suspensions to Tandem employees in consultation with Tandem officials. In this regard, Waste Management makes the decision to suspend Tandem employees based on attendance or work performance and merely contacts a Tandem official to notify Tandem of this decision. Tandem employees are instructed to direct any work disputes to Tandem officials rather than Waste Management officials, however, the record demonstrates that any employee disputes that occur on the floor are handled by Waste Management officials.

While the record indicates that the foremen are responsible for monitoring the work of the sorters, it is clear that the sorter jobs are repetitive in nature and do not require much direction as they vary insignificantly from day to day. The foremen likewise spend a significant portion of their time each day on the line performing sorter work. Foremen do not participate in employee hiring interviews, although they may be consulted regarding Tandem employees who are being considered for permanent hire by Waste Management. Foremen may also be consulted regarding employee attendance and job performance, however, Barbero also

independently observes employee work activities on a daily basis and is able to evaluate employee attendance and job performance without consultation with any foremen. Foremen do not make any recommendations regarding the pay of employees.

From 5:30 a.m. to 7:00 a.m. and from 5:00 p.m. to 12:30 a.m., foremen Turmel and Scott, respectively, are the highest-ranking officials present at the recycling facility. The record additionally indicates that during weekend work, a foreman may be the highest-ranking official at the plant. Foreman Turmel possesses the authority to request employees to report to work early before 5:30 a.m. and Foreman Scott possesses the authority to request employees to work overtime past midnight, based on production needs. The foremen earn about \$2.00 to \$3.00 per hour more than the highest paid petitioned-for employees at the facility. Regarding discipline, the record demonstrates that while the foremen may be consulted prior to issuance of discipline by Barbero, and may even draft written reprimands for signature by Barbero, all decisions to discipline, suspend and discharge Waste Management employees are made by and/or subject to the approval of Barbero.

The Petitioner primarily contends that a combined unit of Waste Management employees and employees supplied by Tandem is appropriate based on its assertion that Waste Management and Tandem are joint employers. Waste Management argues that the unit is not appropriate because the two employers are not joint employers, and the 19 employees supplied by Tandem are solely employed by Tandem. However, under current Board law, even if Petitioner is correct in its assertion that Waste Management and Tandem are joint employers, the Board will not include employees of joint employers in a unit with employees of a single employer, absent employer consent. *Hexacomb Corp.*, 313 NLRB 983 (1994). This principle is based on the general rule that employees will not be included in the same unit if they do not have the same employer. *Lee Hospital*, 300 NLRB 947 (1990). However, nothing prevents a union from representing employees employed by a joint employer in a separate unit. *Greenhoot, Inc.*, 205 NLRB 250 (1973). Since neither Waste Management nor Tandem has expressed its consent to multiemployer bargaining in the plant-wide unit sought by Petitioner, even if Waste Management and Tandem are found to be joint employers, the Board, under existing law, would not find appropriate the petitioned-for combined unit. Alternatively, the Petitioner is willing to represent employees in two separate units consisting of Waste Management employees singly employed by Waste Management. and Tandem employees jointly employed by Waste Management and Tandem.

There is no dispute that Waste Management singly employs the employees directly hired by Waste Management and placed on the Waste Management payroll. Tandem has no authority whatsoever regarding the hours, wages or terms and conditions of employment of these Waste Management employees. Thus, I find appropriate for purposes of collective bargaining a single unit consisting of sorters, equipment operators, mechanics and mechanic helpers employed by Waste Management and working out of the Waste Management facility located at 19200 West Eight Mile Road, Southfield, Michigan; but excluding all office clerical employees, guards, and supervisors as defined in the Act.

The next issue is whether the Tandem employees are jointly employed by Waste Management and Tandem and whether they constitute an appropriate unit. The Board finds that a joint employer relationship exists when two or more employers “co-determine those matters governing essential terms and conditions of employment.” *NLRB V. Browning-Ferris Industries*, 691 F.2d 1117 (3d Cir. 1982); *W.W. Grainger, Inc.*, 286 NLRB 94 (1987). The essential factor to be examined is whether one employer possesses sufficient control over the work of the employees of another employer. *Boire v. Greyhound Corp.*, 376 U.S. 473, 481 (1964). “There must be a showing that the employer meaningfully affects matters relating to the employment relationship such as hiring, firing, discipline, supervision and direction.” *Laerco Transportation*, 269 NLRB 324 (1984).

In the instant case, Tandem alone selects the employees for referral to Waste Management. They remain on Tandem’s payroll. Tandem pays the Tandem employees working at Waste Management, deducts the applicable taxes, provides unemployment and workers’ compensation insurance, and provides the Tandem employees with health insurance benefits. On the other hand, Waste Management alone directly assigns, directs and supervises the Tandem employees, establishes their rates of pay, evaluates their job performance for pay raise purposes, and establishes their hours of work and work rules, all of which establishes that Waste Management also determines significant terms and conditions of employment of the Tandem employees. Waste Management also effectively disciplines the Tandem employees by taking corrective actions related to its day-to-day direction. Indeed, Waste Management may effectively discharge any or all of the Tandem employees by simply requesting that Tandem remove them from Waste Management’s operations. In this regard, Waste Management may verbally counsel an unsatisfactory Tandem employee, and may request that Tandem not send that employee back to Waste Management, although Tandem determines whether the employee will be sent to another facility or terminated. Thus, I find that both Waste Management and Tandem exercise control over substantial terms and conditions of employment of the Tandem employees and are joint employers. *Flatbush Manor Care*, 313 NLRB 591 (1993); *Brookdale Hospital Medical Center*, 313 NLRB 592 (1993); *Capitol EMI Music*, 311 NLRB 997 (1993); *Windemuller Electric*, 306 NLRB 664 (1992).

Thus, I find appropriate for purposes of collective bargaining a separate unit consisting of sorters, equipment operators, mechanics and mechanic helpers jointly employed by Waste Management and Tandem, and working out of the Waste Management facility located at 19200 West Eight Mile Road, Southfield, Michigan; but excluding all office clerical employees, guards and supervisors as defined in the Act.⁹

⁹ Were it not for the Board’s decision in *Hexacomb*, supra, a case originally from this Region, I would find that a combined unit of all employees in the listed classifications employed singly by Waste Management, or jointly with Tandem, to be appropriate based on their overriding community of interest. Both groups of employees have regular and substantial contact, identical job duties and skills, common supervision and similar terms and conditions of employment, which includes the same work rules.

The Employers further contend that Tandem employees should not be included in any bargaining unit since their employment is temporary or casual. However, an employee is ineligible to vote as a “temporary employee” only if a definite termination date has been established. *United States Aluminum Corp.*, 305 NLRB 719 (1991); citing *NLRB v. New England Lithographic Co.*, 589 F.2d 29, 33-34 (1st Cir. 1978). Otherwise, temporary employees who are employed on the eligibility date, and whose tenure of employment remains uncertain, are eligible to vote. *Ameritech Communications*, 297 NLRB 654 (1990); citing *Personal Products Corp.*, 114 NLRB 959, 960 (1955); *New World Communications of Kansas City*, 328 NLRB No. 10 (April 7, 1999). In determining whether casual or on-call employees should be included in a bargaining unit, the Board considers whether the employees perform unit work, and those employees’ regularity of employment. The Board has found that regularity can be satisfied when an employee has worked a substantial number of hours within the period of employment prior to the eligibility date. Under the Board’s longstanding and most widely used test for voting eligibility, a casual or on-call employee is found to have a sufficient regularity of employment to demonstrate a community of interest with unit employees if the employee regularly averages four or more hours of work per week for the quarter prior to the eligibility date. *Trump Taj Mahal Associates*, 306 NLRB 294 (1992); citing *Davison-Paxon Co.*, 185 NLRB 21 (1970); *Sports Shinko (Waikiki) Corp.*, 316 NLRB 655, 666-667 (1995).

When hired, the Tandem employees are informed that their job at Waste Management is temporary, but of a long-term nature and may become permanent. Although the duration of their employment is dependent upon Waste Management’s production requirements, Tandem employees are not given hiring preference over other applicants, and they are not given credit for time worked if hired by Waste Management as a permanent employee, such factors standing alone are not dispositive of the employees’ status so as to exclude them from the unit as casuals. See *F.P. Packaging*, 238 NLRB 239 (1978); *Leaders-Nameoki, Inc.*, 237 NLRB 1269 (1978). Rather the Tandem employees’ relationship to the job must be examined to ascertain whether they perform unit work, and whether the employees obtain sufficient regularity of work to demonstrate a community of interest with the employees in the unit regarding wages, hours and working conditions.

Regarding regularity and continuity of employment, an examination of the payroll data discloses that a significant number of Tandem employees work on a regular basis. Another significant factor is that a number of the permanent Waste Management employees started out as “temporary” Tandem employees. I conclude that many of the Tandem employees have an employment history that is sufficiently substantial as to make them more than casual or temporary employees as the Board applies that term. However, the payroll data additionally shows that not all of the Tandem “temporary” employees have a history of sufficient past employment to justify their inclusion in the unit. Accordingly, applying the *Davison-Paxon* formula used by the Board involving casual and on-call employees, only those employees who regularly averaged four or more hours of work per week in the quarter preceding the eligibility date shall be eligible to vote.

Finally, the Petitioner contends that the foremen are supervisory because they possess the authority to assign and direct employee work, initiate disciplinary action and effectively recommend the discharge of employees.

In order to find an individual to be a supervisor, the individual must not only possess one of the supervisory indicia set forth in Section 2(11) of the Act, but such authority must also entail the exercise of independent judgment. In enacting Section 2(11) of the Act, Congress stressed that only persons vested with “genuine management prerogatives” should be considered supervisors, as opposed to “straw bosses, lead men,...and other minor supervisory employees”. *Chicago Metallic Corp.*, 273 NLRB 1677, 1688 (1985). Furthermore, the burden of finding supervisory status rests with the party asserting the same. *Clark Machine Corp.*, 308 NLRB 555 (1992).

With respect to the assignment and direction of work by the foremen, if the assignment or direction of other employees is merely routine, clerical or perfunctory in nature, it is not sufficient to confer supervisory status. *Somerset Welding & Steel*, 291 NLRB 913 (1988); *Bowne of Houston*, 280 NLRB 1222, 1223 (1986). The foremen act mainly as conduits between management and the plant employees. They are primarily responsible for assuring that the work of the plant is completed properly and on schedule. However, such responsibility is not, of itself, sufficient to confer supervisory status. *Hydro Conduit Corp.*, 254 NLRB 433, 438 (1981). The foremen engage in routine direction which requires no independent judgment. The general job tasks required for sorting recycled materials are constant and repetitive. The assignment of tasks to the recycling employees exhibits no more than the knowledge of an individual with experience regarding which employees can most competently and efficiently perform particular jobs. *Quadrex Environmental Co.*, 308 NLRB 101 (1992); *Clark Machine Corp.*, 308 NLRB 555, 555-556 (1992).

As to whether the foremen possess the authority to independently discipline employees, or to effectively recommend such action, I find that they do not possess such independent authority, but rather perform only a reporting function to Barbero, who decides what, if any, disciplinary action should be taken. The foremen’s involvement in such matters is more akin to an administrative function of documenting employee performance without having any real impact on the eventual action to be taken with regard to employee terms and conditions of employment. *Passavant Health Center*, 284 NLRB 887, 889 (1987). The Petitioner’s contention that the foremen possess the authority to actually issue disciplinary reprimands is not established by the weight of the evidence. Even assuming such authority exists, the foremen have never independently exercised such authority, nor is there any evidence that such reprimands, even if given, would have an adverse effect on an employee’s job status or tenure. *S.S. Joachim & Anne Residence*, 314 NLRB 1191, 1195 (1994).

The Petitioner also relies on several secondary indicia of supervisory status. However, the existence of secondary indicia of supervisory status such as the possession of keys, title,

higher pay, and the like are, standing alone, insufficient to demonstrate supervisory status. *Shen Automotive Dealership Group*, 321 NLRB 586, 594 (1996); *Billows Electric Supply*, 311 NLRB 878 fn. 2 (1993). The fact that the foremen train new employees does not confer supervisory status. The training does not involve the exercise of independent judgment, but is merely the authority of more skilled and experienced employees over unskilled and inexperienced employees. *First Western Building Services*, 309 NLRB 591, 601 (1992). The coordination of breaks and lunches does not require any independent judgment because they are determined by the production flow and employees generally use their own initiative to avoid any disruptions.

Accordingly, I conclude the foremen are not supervisors within the meaning of Section 2(11) of the Act, and thus are appropriately included in the unit and eligible to vote in the election herein.

5. For the above reasons, and based on the record as a whole, the following employees of the Employers constitute units appropriate for the purposes of collective bargaining within Section 9(b) of the Act:

UNIT A: All full-time and regular part-time sorters, equipment operators, mechanics, mechanic helpers and foremen employed by Waste Management, Inc. at its facility located at 19200 West Eight Mile Road, Southfield, Michigan; but excluding all office clerical employees, guards and supervisors as defined in the Act.

UNIT B: All full-time and regular part-time sorters, equipment operators, mechanics and mechanic helpers jointly employed by Waste Management, Inc. and Outsource International of America, d/b/a Tandem Staffing at the facility located at 19200 West Eight Mile Road, Southfield, Michigan; but excluding all office clerical employees, guards and supervisors as defined in the Act.

Those eligible shall vote as set forth in the attached Direction of Elections.

Dated at Detroit, Michigan, this 5th day of November, 1999.

(SEAL)

177-8501-4000
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/s/ William C. Schaub, Jr.
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