

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

GEORGIA-PACIFIC WEST, INC.

Employer-Petitioner¹

and

Case 19-UC-704

ASSOCIATION OF WESTERN PULP AND
PAPER WORKERS, LOCALS 194 AND 309

Unions

REGIONAL DIRECTOR'S DECISION AND ORDER

The Employer, Georgia-Pacific West, Inc., is a State of Oregon corporation engaged in the manufacture and non-retail distribution of pulp and paper products in several states, including the facilities in Bellingham, Washington, involved in this matter. Between 1964 and 2001, the Employer operated both a pulp mill and a tissue mill on its Georgia-Pacific West campus located in Bellingham. Since 1964, Association of Western Pulp and Paper Workers Local 194 ("Local 194") has represented a unit of the Employer's pulp mill employees, and Association of Western Pulp and Paper Workers Local 309 ("Local 309") has represented a unit of the Employer's tissue mill employees. The most recent collective-bargaining agreements between the Employer and Locals 194 and 309 are effective from May 1, 1996 through April 30, 2002.

On March 30, 2001, the Employer announced the cessation of its pulp mill operations at that location effective May 31, 2001. The Employer filed the instant petition with the National Labor Relations Board pursuant to Section 9(b) of the National Labor Relations Act, as amended, seeking to clarify the existing unit represented by Local 194 to exclude the pulp warehouse crew employees,² utility operators, store employee, and office janitor, and, simultaneously, accrete them to the unit represented by Local 309. A hearing officer of the Board held a hearing and the parties filed timely briefs with me.

As evidenced at the hearing and in the briefs, the Employer and the Unions disagree on whether the existing units should be clarified to have the 5 pulp warehouse crew employees, 5 utility operators, 1 store employee, and 1 office janitor excluded from the Local 194 unit and accreted to the Local 309 unit. The Employer contends that because of the shutdown of the pulp mill and reorganization of its operations, the employees at issue now support only the ongoing tissue mill operation and share a community of interest with the bargaining unit employees historically represented by Local 309. Contrary to the Employer, the Unions argue that I should dismiss the petition because it seeks to undermine 68 years of bargaining history in which Local 194 and its predecessor

¹ The Employer's name appears as stipulated at the hearing.

² Also referred to as "pulp receiving employees."

union have represented those classifications, and because the cessation of the pulp operations has not substantially changed the duties and functions of the 12 employees so as to warrant exclusion from the Local 194 unit. At the time of the hearing, the Local 194 unit included approximately 57 employees, including the 12 employees at issue, and the Local 309 unit included approximately 190 to 195 employees.

I have considered the evidence and the arguments presented by the Employer and the Unions concerning whether the 12 employees should be excluded from the Local 194 unit and accreted to the Local 309 unit. As discussed below, I have concluded that the change in the Employer's operations has not substantially altered the duties and responsibilities of the pulp warehouse crew employees, utility operators, stores/receiving employee,³ and office janitor to warrant their exclusion from the unit in which they have been historically included. I have further found that these employees do not share an overwhelming community of interest with the employees represented by Local 309 as a result of the Employer's cessation of its pulp mill operations. Accordingly, I have concluded that the Employer's petition to clarify the existing units should be dismissed. In order to provide a background for the discussion of this issue, I shall provide a brief overview of the Employer's operations and the parties' bargaining history. I shall then focus on the facts concerning the 12 employees at issue before and after the Employer's closure of its pulp operations. Such detailed discussion is necessary because of the underlying, somewhat unusual factual situation present here, which then dictates my legal conclusion. Finally, I shall set forth the legal reasoning that supports my conclusion.

I. Background

In 1964, the Employer acquired the pulp mill from Puget Sound Pulp and Timber Company. In that same year it acquired the tissue mill from Pacific Coast Paper Mills. The pulp mill processed wood chips into wood pulp in the form of "slush" or "sludge" pulp, and "bale" pulp. The Employer pumped approximately 80 to 120 tons of the sludge pulp produced in the pulp mill to its tissue mill each day, and delivered another 100 to 150 tons of bale pulp from the pulp mill to its tissue mill. That represented almost all of the tissue mill's raw material needs, though the Employer sporadically purchased a very small percentage of the tissue mill's pulp needs from outside sources depending on market prices. The Employer shipped the bulk of the bale pulp produced in its pulp mill to external customers via truck and rail car. The tissue mill processed (and continues to process) the pulp into various forms of tissue. Since the closure of its pulp mill operations the Employer now brings in bale pulp exclusively from outside sources.⁴

Upon the closure of the pulp mill operations in May 2001, the Employer shut down several departments that were connected with the processing of wood chips into wood pulp.⁵ In those areas of the pulp mill that continued to operate, the Employer also made several modifications of equipment and space. For example, it modified a beater situated at the end of the pulp dryer, which it no longer needed, so that the beater would "rewet" or "repulp" the pulp bales being brought in from outside sources for use in the tissue mill,

³ Although the parties refer to the disputed classification as a "stores" employee, it is clear as explained below that the individual in question primarily performs receiving duties. As such, and for purposes of clarity, because the Employer also employs at least one "stores clerk," I shall refer to this disputed classification as "stores/receiving employee."

⁴ The outside sources include Georgia-Pacific pulp mill operations located elsewhere, which account for 70% to 80% of the pulp furnished to the tissue mill.

⁵ Those departments included the alcohol plant, lignin plant, sulfuric acid plant, chlorine plant, debarking/chipping plant, and bleach plant.

shut down boilers used for steam, and consolidated its parts stores and receiving area into one operation located in the tissue mill. The Employer also significantly reduced the number of personnel from approximately 800 (600 covered by collective-bargaining agreements) to approximately 295 (250 covered by collective-bargaining agreements). Bargaining-unit employees, whose jobs had ceased, received either a severance package or the right for preferential hiring into remaining positions based on their seniority.

Since the Employer acquired the two Bellingham mills in 1964, Local 194 has represented the pulp mill employees and Local 309 has represented the paper and tissue making employees. In fact, the Unions presented evidence showing that the predecessors to those two locals have represented the employees of the predecessor employers at that location since 1934. Representatives of both local unions testified that the autonomy of the two locals is very important to both, and emphasized that their respective collective-bargaining agreements with the Employer contain many dissimilar provisions.

As a result of the elimination of jobs when the Employer's pulp operation ceased in May 2001, Local 194 represented only 57 employees at the time of the hearing. Of those 57 employees, 45 are craft maintenance employees and the remaining 12 are the employees at issue in this matter.⁶ The maintenance personnel have historically performed their functions in both the pulp and the tissue mills. The maintenance functions have changed somewhat due to the elimination of certain pulp mill machinery when pulp operations ceased, but they still perform traditional millwright, pipefitting, and electrical work. They are separately supervised by Bill Bond. The Employer does not seek to clarify the existing Local 194 unit to exclude the maintenance employees.

II. THE DISPUTED EMPLOYEES

A. Pulp Warehouse Crew Employees

While the Employer manufactured pulp, it employed a pulp warehouse crew consisting of approximately 10 employees.⁷ Crew employees handled the pulp bales for delivery to the tissue mill and for shipping to outside customers. Local 194 represented the warehouse crew and Donald Zangari, who was in charge of the pulp dryer and was a supervisor in the pulp mill, supervised them. Crew employees took the pulp bales off the finishing line of the pulp dryer and moved them by forklift into a storage area in the pulp mill warehouse. The stored pulp was destined for delivery to either outside customers or to the tissue mill. When pulp was sent to customers, the pulp warehouse crew employees had the responsibility to move the pulp bales to the shipping area and load them into railcars and trucks for shipment. When the bales were destined for delivery to the tissue mill, the pulp warehouse crew removed the bales from storage and placed them near the "beaters," i.e., vat-type machines that beat the pulp into "slush" form for use in the tissue mill. The pulp warehouse crew was not responsible for placing the pulp into the beater vats; rather, employees called "beater men" performed that task and, additionally, determined the right mixture of pulp type depending on the tissue or paper being made. Local 309 has historically represented the beater men.⁸

⁶ The maintenance employees are also referred to in the record as mechanics.

⁷ The record indicates that there were 8 regular employees and 2 day-shift employees, one of whom was a lead person. As noted earlier, these employees are alternatively referred to as "pulp receiving employees".

⁸ Although the pulp mill also regularly supplied slush pulp directly to tissue plant machines via a series of pumps and piping, such quantities were insufficient to meet the tissue mill's needs. The

At the time the Employer ceased manufacturing pulp at its Bellingham location, the pulp warehouse crew no longer had any bales to remove off the pulp dryer finishing line, or bales to ship to outside customers. Instead, the Employer began acquiring all of its pulp (in bale form) from outside sources through rail and truck shipment. Pulp warehouse crew employees - - who no longer had bales from the now closed pulp mill to deal with - - were assigned to unload the incoming bales. As a result of such changes, crew duties basically changed from loading bales, to unloading bales. This change apparently gave rise to the term "pulp receiving employees." Although currently charged with primarily unloading duties, the involved employees continue to work in the same area.

Crew employees place unloaded bales in the tissue mill warehouse for storage, or move them near the beaters for beating into pulp slush.⁹ As before the closure, the beater men move the pulp placed near the beaters into the beater vats and adjust the mixture of different types of pulp. Both the beater men and the pulp warehouse crew employees use forklifts and clamp trucks to move the pulp bales, and both have certifications to operate that equipment. Jonathan Beal has supervised the pulp warehouse crew employees and the beater men since the closure of the Employer's pulp operations. Prior to that Beal was the supervisor of the bleach plant and steam plant in the pulp mill. At the time of the hearing the Employer employed four regular pulp warehouse crew employees and one relief person.

B. Utility Personnel

Before the cessation of the Employer's pulp operations, it employed 16 regular and 3 relief utility personnel. These employees were responsible for monitoring incoming water quality, steam and energy production, air quality, and the effluent stream that was produced in both mills' operations. In order to accomplish these tasks, the utility personnel reviewed the distributive control system (DCS) computer screens that were located in the control room of the steam plant in the pulp mill. These screens gave the utility personnel information about water flow, for example, and steam pressure and whether equipment was malfunctioning. The utility personnel were also responsible for making rounds throughout the pulp and tissue mills to inspect the equipment.

After the cessation of the pulp operations and at the time of the hearing, the Employer employed four regular and one relief, utility operators. Jonathan Beal also supervises the utility personnel. As a result of the cessation of the pulp manufacturing operation, the amount of resources and type of equipment that the utility personnel monitored has changed. Thus, the Employer now requires only 4 and ½ million gallons of water per day for the tissue operation, as opposed to the 30 million gallons per day required for both operations. The Employer no longer uses its boilers to produce steam, but the utility personnel still monitor and control the steam that is pumped in through a pipeline from a separate company called Cogen. The utility personnel still monitor the effluent stream, though the amount produced is much less since the closure of the pulp operations. The

resulting shortfall required pulp bales to be turned into slush via the above-described beater process. The pulp warehouse crew, as noted, was responsible for transporting those bales destined for conversion to slush; in contrast, they had no responsibility concerning the direct transfer of slush to the tissue mill by pump.

At least one of the beater men represented by Local 309 is also referred to as a "stock prep operator." That particular position is further discussed in the following section.

⁹ Incoming pulp bales (called "wet lap") differ somewhat from the pulp bales previously produced by the Employer's now-closed pulp mill, i.e., the moisture content is much greater and requires less beating to convert the bales into slush form for use in the tissue mill.

Employer has also added a 10-megawatt gas turbine, which the utility personnel monitor, to produce electricity.

Following closure of the pulp operations, the Employer also installed DCS computer screens in the stock prep area in the tissue mill. The computer screens installed in the stock prep area are identical to the computer screens in the pulp mill, which the Employer has retained. The stock prep operator, whose main job is handling the pulp in the beater, must now contact the utility personnel by radio if the new DCS computer screens installed in his area send out an alarm showing that a system has shut down.¹⁰ Although the Employer wants the utility personnel to consider the stock prep area as their “home base” for monitoring the DCS computer screens, testimony of the utility personnel showed that was not the case. They testified that they spent most of their time watching the original computer screens located in the pulp mill. They also testified that, twice during their 12-hour shifts, they spend approximately 15 to 30 minutes at the stock prep operator area. Utility personnel still make rounds to inspect equipment throughout the pulp and tissue mill areas. Estimates for time spent on rounds varied. One witness called by the Employer stated that utility personnel make rounds during 80% to 90% of their shift, while a utility operator called by the Unions estimated that he spends 50% of his time making rounds and 50% of his time monitoring the computer screens.

C. Stores/Receiving Employee

Prior to the closure of its pulp operations the Employer had two “stores” areas and one “receiving” area at its Bellingham campus. One of the two stores areas was the “main” store, located in the pulp mill. Such store stocked approximately 17,000 items that were used in both the pulp and tissue mill operations.¹¹ Four store clerks represented by Local 194 staffed this store. Job duties of the clerks included inventory of items received into the store, placement of the items on the shelves, and issuance of parts to employees. Primarily, maintenance personnel came to the store to request parts from the clerks. One of the clerks was a driver who often left the Employer’s campus to pick up parts. In addition to the main store, the Employer also operated a smaller store in the tissue mill. The smaller store stocked approximately 5,000 items solely for use in the tissue mill operation. One clerk represented by Local 309 staffed that store.

The Employer also maintained a receiving area that received most incoming supplies used in both the pulp and tissue mill operations. This area was located just outside of the tissue mill. Local 194 represented these 4 receiving clerks.¹²

After closure of the pulp mill operation, the Employer closed the two above-described stores, as well as the receiving area. It then consolidated the store and receiving functions into a building (the “D” building) located at the edge of the tissue mill. At that location, the Employer stocks approximately 14,000 to 15,000 items and employs two employees to handle the consolidated functions: a stores clerk and a stores/receiving clerk. The stores clerk, who is represented by Local 309, is located at one end of the building approximately 280 to 300 feet away from the other employee. The other employee, i.e., the stores/receiving clerk, performs his duties at the receiving dock edge of

¹⁰ As noted, Local 309 represents the stock prep operator. The Unions have filed a grievance over the Employer’s assignment of the mentioned computer monitoring function to the stock prep employee.

¹¹ This main store also stored large equipment such as pumps and motors for use in the pulp mill operations, and converting equipment used in the tissue mill operations.

¹² The record is silent as to who supervised the receiving clerks.

the “D” building. The stores/receiving clerk is currently represented by Local 194 and, as noted, is the employee whom the Employer seeks to accrete to the Local 309 unit.

The primary responsibility of the stores/receiving clerk is to receive all supplies that are delivered to the Employer’s Bellingham operation and record them into the computer. The current stores/receiving clerk, who used to be a clerk in the pulp mill’s main store, received training from former receiving clerks regarding the computer program associated with the receiving duties. After tagging the items, the stores/receiving clerk takes the larger items for storage to a storage area that is located in the pulp mill. He places the other items on a cart, which the stores clerk then takes to his side of the building in order to place the items on the shelves for issuance to employees. This is when most of the interaction between the stores/receiving clerk and the stores clerk occurs. The stores/receiving clerk testified that besides the store clerk, most of his interaction occurs with maintenance employees who come to him looking for parts that he has stored, and with outside personnel not employed by the Employer.

There are occasions on which the stores/receiving clerk and the stores clerk do not work at the same time. For example, the record contains evidence that on a plant holiday when the stores function was not needed and the stores clerk therefore was absent, the receiving clerk was required to work because other businesses continued to ship items to the Employer’s receiving docks for receipt by the clerk.

Although the receiving clerk’s primary job is to receive items, he will occasionally assist the stores clerk by locating parts and issuing parts to employees if the stores clerk is on a break. There is no evidence that the stores clerk performs any of the receiving duties. The stores/receiving clerk may not formally relieve the stores clerk if the latter is absent, and vice versa, because they are represented by different locals and covered by separate agreements. Rather, a Local 194-represented employee must relieve the stores/receiving clerk and a Local 309-represented employee must relieve the stores clerk. The stores/receiving clerk takes his break in his work area and it appears that the stores clerk takes his break in his work area. The stores clerk supervises himself and the stores/receiving clerk.¹³

D. Janitor

The janitor is responsible for cleaning the main administrative office building (“the White House”), which is located in the pulp mill. The Employer’s management team, which handles all administrative matters for the Bellingham operations, has worked in that main administrative building both before and after closure of the pulp mill operation. The janitor has cleaned this building for approximately 15 years. Prior to the closure of the pulp mill operation, she worked on the swing shift. After the closure of the pulp mill operation, she moved to the day shift. Her cleaning duties did not change after the closure of the pulp operations, except to the extent that she had fewer offices to clean. Local 194 has historically represented this janitor.¹⁴

¹³ The record is silent as to what type of supervision the stores clerk can offer in light of the stores/receiving clerk’s separate duties. The stores/receiving clerk also testified without contradiction that the stores clerk has not previously performed the store clerk duties in either the pulp or tissue mill.

¹⁴ The record contains evidence that Local 309 used to represent two janitors who cleaned restrooms located in the tissue mill. The Employer eliminated their jobs approximately 2 months before the hearing and those classifications are not at issue here.

III. LEGAL ANALYSIS

Unit clarification is appropriate to resolve the unit placement of individuals where their classification is newly created, or where substantial changes in duties and responsibilities have occurred in an existing classification creating a real doubt as to whether historically excluded employees should now be included in a unit. *Union Electric Co.*, 217 NLRB 666, 667 (1975). Thus, the Board has accreted employees from a separate unit into an existing bargaining unit only where the historical basis for the exclusion of those employees has ceased to exist.¹⁵ In general, the Board follows a restrictive policy in finding accretion because it forecloses the employees' basic right to have a bargaining representative of their own choice. *Towne Ford Sales*, 270 NLRB 311 (1984). As a result, the Board has stated it will find a valid accretion only when: 1. employees have little or no separate group identity and, thus, cannot be considered a separate appropriate unit; and 2., where they additionally share an overwhelming community of interest with the pre-existing unit of employees to which they are accreted. *Compact Video Services*, 284 NLRB 117, 119 (1987). The Employer contends that because of the significant changes in the Employer's operations occasioned by the closure of the pulp mill, the reason for including the 12 employees at issue in the Local 194 unit has ceased to exist. It further argues that the 12 employees should be accreted to the tissue mill unit represented by Local 309 because they now support only the tissue mill operation.

Initially, I reject the Employer's argument that the 12 employees at issue now share a community of interest with the Local 309-represented employees because they currently "support" only the tissue mill. I do not find that factor persuasive for two reasons. First, the classifications at issue have always supported the tissue mill operations to some degree, even while the Employer operated the pulp mill. Thus, pulp warehouse crew employees received pulp from the pulp plant, but also moved pulp so that it could be used in the tissue mill. Similarly, utility operators monitored equipment, resources, and effluent stream that were related to the manufacturing of pulp, but were also related to the tissue mill operation. Although the stores employees received and stocked parts necessary for the pulp manufacturing operations, they also received and supplied parts that were used in the tissue mill operation. In addition, even though the administrative offices that the janitor cleaned were located physically within the pulp mill area, it is beyond dispute that those administrative offices provided support for the Employer's tissue mill operations as well as its pulp manufacturing operations. Second, even assuming that all of these classifications now "support" only the tissue mill operations, because the pulp manufacturing operations have ceased, the same is true with respect to the 47 maintenance employees that the Employer continues to employ. The Employer has not sought, however, to exclude those employees from the Local 194-represented unit.

I next find that the record evidence also fails to establish that the disputed employees' duties and responsibilities have substantially changed because of the changes in the Employer's operations. Similarly, I further find that contrary to Employer assertions, the evidence does not establish that the disputed employees now share an overwhelming community of interest with employees historically represented by Local 309. In short, despite operation changes, the employees in question have neither lost their status as

¹⁵ Compare *U.S. West Communications, Inc.*, 310 NLRB 854 (1993) (accretion appropriate where technological/operational changes eliminated distinction in job duties with other employees) and *Southwestern Bell Telephone Company*, 254 NLRB 451 (1981) (accretion found where apparent sole basis for exclusion, i.e., departmental lines, eliminated in reorganization) with *Northland Hub, Inc.*, 304 NLRB 665 fn. 1, 676-677 (1991) (no accretion where employee relocation and operational changes insufficient to eliminate separate, distinct identity).

members of a preexisting unit, nor gained a community of interest-based affiliation with employees in Local 309's unit.

The pulp warehouse crew employees still perform primarily the same duties, use the same skills and equipment, and perform their duties in the same area as they did prior to the closure. Thus, their primary duties still entail handling pulp bales and moving them to storage or to the beaters. Although they now move the bales from (rather than onto) trucks and railcars, it is beyond dispute that the same skills are required.¹⁶ Crew employees are also still required to use forklifts to move the pulp. Finally, such employees still work in the same area receiving and moving the bales that they did prior to the closure of the pulp operations.

The Employer has also not shown that the pulp warehouse crew employees share an overwhelming community of interest with employees represented by Local 309. Although such employees interact with the beater men when they move pulp bales to the beaters, that interaction also occurred prior to the closure of the pulp operations. Further, although crew employee supervisor Jonathan Beal also supervises the beater men/stock prep employees represented by Local 309, common supervision alone is insufficient under the circumstances here to grant the unit clarification sought by the Employer. See, e.g., *Steelworkers Local 392 (BP Minerals)*, 293 NLRB 913, 916 (1989).

The utility operators also continue to perform the same general duties that they performed prior to the cessation of the pulp operations. Thus, they still monitor water quality, steam flow, air quality, and effluents, even though the amount to be monitored is significantly less than when both mills operated. The utility personnel also continue to monitor computer screens and still make rounds to inspect equipment in order to accomplish their functions. They also still primarily perform these functions in the same areas as before, though they now spend some time in the stock prep area because the Employer has installed the DCS system in that location. There is also insufficient evidence to establish that these employees share an overwhelming community of interest with Local 309-represented employees. Although the utility personnel now interact with the stock room operator on a regular basis, I find that the amount of time they spend interacting with that person is relatively insignificant. I am also not persuaded, for the reasons set forth above, that Beal's common supervision of utility personnel and the stock prep operator warrants, without substantially more, accretion of utility personnel into the Local 309 unit.

Although it is a closer question than the other classifications involved, I also find that the evidence is insufficient to warrant the accretion of the stores/receiving position into the Local 309 unit. The record is clear that the duties of the stores/receiving classification primarily entail receiving items to be stocked for later issuance to employees. That is the same receiving function previously performed by the receiving clerks, whom Local 194 has historically represented. Thus, the Employer's closure of the pulp operation, and subsequent consolidation of the stores and receiving functions, have not substantially changed the duties of the receiving clerk because this is not a case where store clerk duties have changed/merged into receiving duties as a result of that consolidation. Instead, the record establishes that the store clerk duties have been essentially transferred to the stores clerk, whose unit placement is not at issue. There are some changes that have resulted from the consolidation. The stores/receiving clerk now performs the receiving duties in a different area than the receiving clerks did, receives

¹⁶ The same is true even though they are no longer unloading the bales from the finishing line but unloading them from trucks and railcars.

fewer and different items than were received before the closure of the pulp operation, and has common supervision with the Local 309-represented employee. I find, however, that these are not substantial changes that require the exclusion of this classification from the Local 194 unit with which it has long been traditionally associated.

The evidence also fails to establish that the stores/receiving clerk shares an overwhelming community of interest with the stores clerk represented by Local 309. Both classifications have some daily interaction and common supervision, and the stores/receiving clerk has occasionally assisted the stores clerk in finding parts. On the other hand, the stores/receiving clerk also interacts frequently with the Local 194-represented maintenance employees, takes breaks separately from the stores clerk, and has worked a different schedule from the stores clerk because of their separate functions. In sum, the evidence does not convince me that the stores/receiving clerk has such an overwhelming community of interest with the stores clerk that the stores/receiving clerk must be accreted into the Local 309 unit.

As with the other disputed classifications, the Employer's change in operations also fails to establish that the janitor should be excluded from the Local 194 unit and accreted to the unit represented by Local 309. The Employer failed to produce any evidence that the janitor's duties have changed in any manner except that she cleans fewer offices in the administrative area and performs her duties on the day shift rather than the swing shift. Indeed, the janitor still performs the same cleaning work, using the same equipment, and in the same area as she did prior to the closure. Although the Employer argues that the janitor's work now supports only the tissue mill operation, I have, as noted above, rejected that factor as sufficient grounds for allowing accretion in the instant case. As the Employer has failed to present any meaningful evidence that the janitor now shares an overwhelming community of interest with the Local 309 unit employees, or otherwise should now be excluded from the Local 194 unit, I similarly find no other convincing reason to clarify the existing Local 194 unit to exclude the janitor.

The cases cited by the Employer in support of its petition do not require different results. *New York Trap Rock Corp.*, 285 NLRB 1009 (1987), is clearly distinguishable from the situation here. The Board in that case clarified the existing multi-facility unit to exclude two of the facilities that had ceased operations. As there were no longer any employees at the closed facilities who shared a community of interest with the other unit employees at the remaining facilities, the reason for grouping the employees into that unit had ceased to exist. By contrast, the Employer's closure of its pulp mill operations did not eliminate the reason for grouping them together because they continue to perform their same general duties and continue to perform them in pulp mill as well as the tissue mill. The *New York Trap* case is also distinguishable because, unlike here, the employer in that case was not seeking to accrete the closed facilities into a separate existing unit. *Wisconsin Electric Power Co.*, 193 NLRB 316 (1971), is also distinguishable. The Board clarified the existing units in that case because the employer's reorganization of its operations had resulted in the placement of employees with virtually identical job functions, but different bargaining representatives, together in the same division under common supervision. In contrast, the 12 employees at issue here do not have virtually identical job functions with employees in the Local 309 unit as a result of the Employer's change in its operations.

Finally, the Employer's reliance on *Ameron, Inc.*, 288 NLRB 747 (1988), and *Rock-Tenn Co.*, 274 NLRB 772 (1985), is also misplaced. The Board in those cases had clarified the existing historical single unit into two separate units because the employers' reorganization of their operations had so substantially changed the existing unit that it no

longer conformed to normal standards of appropriateness. As shown above, the Employer's closure of its pulp operations has not substantially changed the duties and functions of the Local 194-represented employees so as to render that historical unit inappropriate.

CONCLUSIONS AND FINDINGS

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 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 in this case.
3. The Unions are labor organizations within the meaning of the Act.
4. There is insufficient evidence to establish that significant changes in the duties of the Employer's pulp warehouse crew employees, utility operators, stores/receiving employee, and janitor warrant clarification of the existing units so as to exclude them from the unit represented by Local 194, and insufficient evidence exists to show that they share an overwhelming community of interest with the Local 309 unit employees to warrant their accretion to that unit.

ORDER

IT IS HEREBY ORDERED that the Employer's petition seeking clarification of the existing units is dismissed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision and Order may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 – 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington, D.C. by 5 p.m. EST on November 26, **2002**. The request may **not** be filed by facsimile.

DATED at Seattle, Washington, this 12th day of November 2002.

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