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

In the Matter of ICELANDIC USA, INC., d/b/a COLDWATER TERMINAL & WAREHOUSE[1] Employer and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 25, AFL-CIO Petitioner	Case 1-RC-21876

DECISION AND DIRECTION OF ELECTION[2]

This case concerns scope of unit issues at Icelandic USA, Inc., d/b/a Coldwater Terminal & Warehouse, a public cold storage and distribution center, serving containerized vessels, as well as rail cars and trucks, from its location at 60 Commercial Street in Everett, Massachusetts. The Petitioner asserts that a unit consisting only of

[1] The name of the Employer appears as corrected at hearing.

[2] Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board. In accordance with the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the Regional Director.

Upon the entire record in this proceeding, I find that: 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 in this matter; 3) the labor organization involved claims to represent certain employees of the Employer; and 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.

employees who work in the warehouse and freezer areas of the Employer's operations is appropriate for representation purposes.[3] The Employer contends that the only appropriate unit is a wall-to-wall unit. Thus, there are four classifications, encompassing a total of sixteen employees, at issue in this case: twelve part-time vessel-terminal employees, four of whom also regularly work in the warehouse in addition to performing vessel loading and unloading;[4] one terminal driver; two full-time maintenance employees; and one part-time maintenance employee.

I find, in agreement with the Employer, that all of the Employer's non-supervisory employees share a community of interest such that the smallest appropriate unit must include them, and, therefore, I find that a wall-to-wall unit is the only appropriate unit. This conclusion is primarily supported by the high degree of functional integration, discussed in detail below, that characterizes the Employer's operations.

FACTS

Background

George R. Gordon is the Vice-President of Icelandic operations in Everett, Massachusetts, and the General Manager of the Coldwater Terminal and Warehouse in Everett. Gordon has been employed at the Everett facility since 1976, at which time he was the Assistant Manager of the facility. During Gordon's tenure, this Region has

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[3] The Union seeks to represent a bargaining unit composed of all full-time and regular part-time warehouse employees, all checkers, the dispatcher, the quality control employee, and three vessel-terminal employees who perform work in and around the freezers, and excluding all other employees, managers, guards, and supervisors, as defined in the Act.

The Union initially petitioned for a unit that would include "all full-time warehouse and freezer employees," and exclude all others. However, at the hearing, the Union amended its petition a number of times. Shortly after the start of the hearing, the Union sought to enlarge the unit by including part-time warehouse and part-time freezer employees along with their full-time counterparts. Subsequently, the Union modified its description of the unit sought by stating that it should include "full-time warehouse employees, part-time warehouse employees, part-time checkers, only three of the vessel-terminal employees, and the full-time quality control person." Thereafter, in its brief, the Union proposed inclusion of the following classifications in the petitioned-for unit: full-time warehousemen, part-time warehousemen, part-time checkers, three [named] part-time vessel-terminal employees, the full-time dispatcher, and the full-time quality control employee. The Union took the position that the remaining vessel-terminal employees, the maintenance workers, and the terminal driver do not share a community of interest with the petitioned for employees and should be excluded, along with managers, guards, and supervisors, as defined in the Act.

[4] The Petitioner claims that only three of the vessel-terminal employees perform work in the warehouse, while the Employer contends that at least four of them do so.

issued two decisions concerning the appropriate scope of the unit at this location.[5] On January 17, 1979, the Region issued a Decision and Direction of Election, finding that the only appropriate unit included all employees, except for "office clerical employees, laboratory employees, confidential employees, managerial employees, guards and supervisors as defined in the Act."[6] In 1980, the Region conducted a hearing in connection with Case 1-RC-16877, a representation petition also filed by the Petitioner in this case. At that time, the Petitioner wished to exclude part-time warehousemen and warehousemen-unloaders from the unit, while the Employer wished to include them.[7] On August 12, 1980, the Region issued a detailed Decision and Direction of Election and concluded that the classifications at issue should be included in the unit. Thus, in Case 1-RC-16877, the Region found that the only appropriate unit included all non-supervisory employees,[8] and would exclude, as the Regional Director previously found in Case 1-RC-10626, "office clerical employees, laboratory employees, confidential employees, managerial employees, guards and supervisors as defined in the Act."[9]

In the intervening years since the issuance of these earlier decisions, there have been a number of noteworthy changes in the Employer's operations, none of which alter the conclusion that the smallest appropriate unit remains a wall-to-wall unit. In the past, some of the seafood received at the Employer's facility was processed there. However, the food processing operation has been eliminated, and the area previously used for this purpose has been converted into additional freezer space. Another change concerns the way in which cargo is moved in and out of the Employer's facility. Over the years, the shipping industry has moved from bulk shipping to container-based shipping. Whereas, in earlier times, cargo arrived in cases that needed to be loaded or unloaded one-by-one, the cases are now placed into large containers that are moved as one unit. In addition, the Employer's overall operations have decreased in volume. In 1980, the Employer received approximately 33 vessels on an annual basis, while now it receives 26 vessels per year. As a result of this reduction in volume and the elimination of the food processing component of the Employer's operation, there has been a concomitant reduction in staffing. Thus, the facility currently employs a total of approximately 45

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[5] Although the record contained copies of these decisions as Exhibits, the record did not disclose whether an election followed in either case. Nor did the record indicate whether there was any collective-bargaining history at the Employer's facility.

[6] 1-RC-16026. The Petitioner in that case was the Seafood Workers Union, Local 1572-2, International Longshoremen's Association. A copy of the Decision is part of the record and appears as Board Exhibit 2b.

[7] Employees in the classification known as "warehousemen-unloaders" in 1980 are currently called "vessel-terminal employees."

[8] "All full-time and regular part-time production and sanitation employees, janitors, inventory clerks, stock room clerks, cafeteria employees, warehousemen, warehousemen-unloaders, and maintenance department employees, including engineering assistants employed by the Employer at its Everett, Massachusetts facility…."

[9] A copy of this Decision is part of the record and appears as Board Exhibit 2a.

employees, compared to the approximately 250 employees who were working at that location in 1980.[10]

Organization of Current Operations

Cargo moves in two directions at the Employer's cold storage terminal and distribution center. Containerized cargo is delivered to the Employer's facility and unloaded from vessels, rail cars, and trucks; however, products are also moved out of the Employer's storage areas and loaded onto vessels, rail cars, and trucks for delivery elsewhere. The delivery and loading process for each type of transportation is outlined below.

Vessels: Vessels arrive at the Employer's facility once every two weeks, typically on a Sunday. Thereafter, employees unload the vessel on Monday and Tuesday, and it sails again on Tuesday afternoon. Fifty percent of the cargo the Employer receives is transported to the facility by container vessel.

The process of unloading containers from the vessels is primarily carried out by vessel-terminal employees, who work under the supervision of two Vessel Operations Managers. However, employees in various classifications work together in the process of unloading and are reassigned from one area to another based upon current demands of the operation. For example, warehouse and maintenance employees, as well as vessel-terminal employees, assist in handling the lines as vessels arrive and depart. Shipping containers are hoisted off of the vessels and onto the wharf area at the facility by cranes that are operated by vessels' crew members. The Employer's vessel-terminal employees tell the vessels' crane operators which containers to unload, and then guide each container onto a chassis. Once the containers are mounted on a chassis, they are transported by truck to the facility's container terminal area or to the loading dock area for immediate unloading. The truck is ordinarily driven by the terminal driver, but it may also be driven by vessel-terminal employees or even one of the maintenance employees.

The container terminal area is used to store containers that hold cargo not intended to be brought into the Employer's warehouse facility. This area is also used to temporarily store containers when the unloading process is moving so quickly that the process of unloading cargo from containers and moving it into the warehouse has backed up. In such cases, maintenance and vessel-terminal employees stack containers on top of one another so that they can be held in this location temporarily.

When containers are brought to the loading dock area, they are backed into one of the facility's 10 receiving doors. The Warehouse Manager supervises the process of unloading cargo from containers and storing it in the warehouse. Part-time warehouse employees use forklifts to remove cargo from containers and place it in the dock area. The cargo is then sorted by part-time warehouse employees, full-time warehouse

[10] The details concerning the Employer's organizational structure, including supervisory and non-supervisory classifications, are set forth at pages 8-11.

employees, maintenance employees, and vessel-terminal employees and counted and marked for inventory purposes by checkers. [11]

If cargo needs to be relabeled or resorted, this is done in the dock area by part-time warehouse employees, full-time warehouse employees, maintenance employees, vessel-terminal employees, checkers, and the quality control employee. Once this has been accomplished, the cargo is moved from the dock area into freezers, coolers, or dry storage areas by means of electric pallet trucks driven by part-time warehousemen, full-time warehousemen, vessel-terminal employees, maintenance employees, or the quality control employee.

After the vessel has sailed, part-time warehouse employees, checkers, and vessel-terminal employees continue to unload containers and then sort, label, mark, and move cargo into the warehouse. This process can continue for several days because containers are unloaded from vessels faster than cargo can be removed from the containers and properly stored inside the warehouse.

In anticipation of the arrival of each vessel, part-time warehouse employees, full-time warehouse employees, part-time maintenance employees, full-time maintenance employees, and vessel-terminal employees load the containers that are to be shipped out by vessel. Loaded containers are then brought from the container terminal area to the wharf by trucks driven by vessel-terminal employees, maintenance employees, or the terminal driver. Outgoing containers are loaded onto vessels while they are docked and at the same time as incoming containers are being unloaded.

Trucks: Trucks deliver forty percent of the cargo received by the Employer. Trucks arrive at the Employer's facility on a daily basis and, upon arrival, are assigned by the dispatcher to one of ten receiving doors on the facility's loading dock. Trucks back into the assigned receiving door and are unloaded by part-time warehouse employees, full-time warehouse employees, and vessel-terminal employees. The unloading process is supervised by the Warehouse Manager. As is done in connection with unloading vessels, the cargo coming off trucks is identified, counted, and marked with a lot number before being transported to coolers, freezers, or other locations within the Employer's facility. When checkers are available, they assist in this process.

Most of the cargo that leaves the Employer's facility is transported by truck, a process that is also supervised by the Warehouse Manager. Based on orders received from its customers, the Employer determines which cargo will be loaded onto trucks. Thereafter, the dispatcher prepares "pick orders," which are then distributed to full-time warehouse employees, part-time warehouse employees, vessel-terminal employees, or the quality control employee. Using lifting equipment, these employees retrieve cargo from freezers and other storage areas so that the orders can be assembled and loaded onto a truck.

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[11] Casual labor is also used to accomplish these tasks, but the parties have stipulated to the exclusion of these employees from the unit, and, therefore, they will not be discussed here.

Railroad: Railroad deliveries constitute ten percent of the cargo received by the Employer. Approximately ten times each month, trains pull into the facility on a railroad spur that runs past the terminal building to either pick up or deliver cargo. The Warehouse Manager, assisted by the Maintenance Manager, supervises part-time warehouse employees, full-time warehouse employees, and vessel terminal employees as they unload cargo from the rail car directly into the dock area.

Orders being shipped out of the Employer's facility by rail are picked and assembled as described above under the truck shipping section. Rail cars are loaded by full-time warehouse employees, part-time warehouse employees, full-time maintenance employees, and the part-time maintenance employee. This process is supervised by the Maintenance Manager.

Organizational Structure

The Employer's organizational structure is, for the most part, reflective of the functions assigned to each element within the facility. There are a total of 34 non-supervisory employees at the Everett location.[12] Employees in part-time classifications are scheduled to work in conjunction with the arrival of vessels every other week. Once a vessel has been unloaded and re-loaded, it sets sail and most of the part-time employees also depart. However, some of the part-time employees continue to work for a few more days, e.g., four of the vessel-terminal employees, the terminal driver, checkers, and part-time maintenance and warehouse workers.

The Duties of the Classifications in Dispute

As noted above**,** there are four classifications, encompassing a total of 16 employees, at issue in this case, i.e., the twelve part-time vessel-terminal employees;[13] the terminal driver; the two full-time maintenance employees; and the part-time maintenance employee.[14]

The vessel-terminal employees regularly work two or more days every two weeks when a vessel comes into port. They are primarily employed to assist with the lines as vessels pull into port and then to unload containers from the vessels. Vessel-terminal employees are positioned in the vessel and on the dock, but some are also required to be in the container terminal area, and there is some rotation among these locations. Vessel-terminal employees are also responsible for loading containers onto the vessel when

[12] Temporary employees are not included in this total.

[13] The Petitioner claims that only three of the vessel-terminal employees perform work in the warehouse, while the Employer contends that at least four of them do so.

[14] In the prior decision, dated August 12, 1980, the vessel-terminal employees (then called "warehousemen-unloaders") and the maintenance employees were included in the unit. Apparently, there was no terminal driver at the facility at that time.

cargo is being shipped out. They are supervised in performing these duties by the Vessel Operations Managers.

Four of the twelve vessel-terminal employees -- Daniel Moore, Daniel Thomann, Angel Arietta, and John Miles — also regularly work in the warehouse when there is no vessel in port.[15] When working in the warehouse, these vessel-terminal employees are paid at the lower, warehouse pay scale, they are supervised by the Warehouse Manager, and they perform the same functions and operate the same equipment as warehouse employees do. At least three of these four vessel-terminal employees access the freezers and coolers on a regular basis.

The terminal driver is responsible for moving and transporting containers throughout the facility so that they are in the proper position for loading or unloading in the dock area and on the wharf. He works two or more days every two weeks and, for the most part, reports to either of the Vessel Operations Managers. While working in and around the warehouse — which was estimated to be about ten percent of his working time -- the terminal driver reports to the Warehouse Manager.

The three maintenance employees are responsible for maintaining the Employer's physical plant, including the building and grounds. In addition, they are charged with maintenance of lifting equipment used throughout the facility for the purpose of loading and unloading cargo. These employees are also responsible for ensuring that the refrigeration equipment is working properly so that the coolers and freezers are kept at the required temperatures. In the course of performing their duties, maintenance employees enter the freezer areas on a regular basis. In addition, these employees are regularly called upon to assist with the loading, unloading, and handling of cargo at the wharf, as well as in the container terminal area and the dock area.

Supervision

Two Vessel Operations Managers supervise twelve part-time vessel-terminal employees and one part-time terminal driver. The Maintenance Manager supervises two full-time maintenance employees and one part-time maintenance employee. The balance of the Employer's workforce is supervised by the Warehouse Manager, with the assistance of two warehouse foremen, and is comprised of seven full-time warehouse

[15] The Petitioner's position is that three of the four vessel-terminal employees who also regularly work in the warehouse--Daniel Moore, Daniel Thomann, and John Miles—should be included in the unit because they perform work in the warehouse and, thus, share a community of interest with other employees in the unit proposed by Petitioner. The Petitioner has taken the position that a vessel-terminal employee who also worked in the warehouse, Angel Arietta, is no longer employed by the Employer, but the record does not contain sufficient evidence to support this contention.

employees, three part-time warehouse employees, six part-time checkers, one dispatcher, and, when engaged in work inside the warehouse, one quality control employee.[16]

Interchange

Given the nature of the Employer's business, employees are expected to move from one task to another during the course of the workday in accordance with workload demands. In addition, there have been instances of part-time warehousemen moving into full-time warehouse positions. Moreover, one employee recently transferred from a full-time maintenance position to a full-time warehouse position at the facility.

Use of Equipment

Employees regularly use electric pallet trucks, forklifts, a pallet inverter, and a reach stacker machine in the course of performing their work. There is no assignment of particular types of equipment to certain classifications of employees. Approximately 75 to 80 percent of the facility employees are trained to operate at least some of the machinery and equipment at the facility, and all employees are permitted to operate the various kinds of equipment used to move cargo from one location to another at the facility.

Terms and Conditions of Employment

The Employer supplies similar safety equipment to all of its employees. For example, the Employer supplies hard hats to all employees when their duties require them. Regardless of job classification, all employees receive an allowance from the Employer for safety shoes; all employees who are exposed to the elements receive foul weather gear; and all employees who work in the freezer or dock area are supplied with cold weather gear.

The two parking areas at the facility are used by all of the employees without restriction. The lunch room, the two locker rooms, and the three rest rooms at the Employer's facility are open and available to all employees. Employees generally enter and exit the facility through the same door and punch the same time clock. All employees are invited to the Employer's annual holiday party each year. There are times when the General Manager has called all employees together for meetings, but meetings are also held with smaller groups of employees on an as-needed basis.

[16] The parties have stipulated to the exclusion of the four managers as statutory supervisors: the two Vessel Operations Managers (Bob Perrin and Charles Fricker), the Maintenance Manager (Jim Walker), and the Warehouse Manager (Dan Trafton). The Employer's witness testified that the two warehouse foremen (Al Saia and Sam Piscitelli) also function as statutory supervisors, and they will also be excluded on this basis, particularly in light of the absence of any controversy over their status, i.e., neither party has argued for the inclusion of the warehouse foremen in the unit.

The Employer's work rules and personnel policies apply to employees uniformly. The business hours of the facility are 8:00 a.m. until 6:00 p.m., Monday through Friday. Employees begin work, on a staggered basis, between 5:00 a.m. and 9:30 a.m. The Employer's wage rate chart reflects a range of pay that is fairly consistent across all classifications, with the exception of the vessel-terminal employees. The hourly pay rates for each classification are, as follows: part-time warehousemen: $10.25-$12.55; full-time warehousemen: $12.15-$13.95; checkers: $10.95-$12.25; full-time and part-time maintenance: $11.55-$18.65; dispatcher, quality control, and terminal driver: $12.55-$14.30; and vessel-terminal employees: $19.90. The notably higher wage paid to vessel-terminal employees is based on the higher market rate paid for such work. All non-supervisory employees are paid overtime after eight hours of work on any weekday and for all work performed on weekends. The Employer's part-time employees do not receive fringe benefits. However, all of the Employer's full-time employees receive the following fringe benefits, regardless of classification: paid holidays, paid vacation time, health insurance, illness and accident insurance, life insurance, and a pension.

DISCUSSION

It is well settled Board law that a union need not seek to represent only the most appropriate unit or most comprehensive unit, but only an appropriate unit. Transerv Systems;[17] Morand Bros. Beverages Co.[18] In determining unit scope, the Board first considers the petitioning union's proposals. If the unit sought is appropriate, the inquiry ends. If it is inappropriate, the Board will scrutinize the employer's proposals. Dezcon, Inc.[19] In deciding whether a unit is appropriate, the Board weighs various factors, including differences or similarities in the method of wages or compensation, hours of work, employment benefits, supervision, working conditions, job duties, qualifications, training, and skills. The Board also considers the degree of integration between the functions of employees, contact with other employees, and interchange with other employees, as well as history of bargaining. Overnite Transportation Co.[20] The Petitioner's desire as to the unit is a relevant consideration, though not dispositive. Florida Casino Cruises.[21] For the reasons set forth below, I find that, in this case, a wall-to-wall unit is the only appropriate unit.

The commonality of wage rates, work schedules, work rules, benefits, and facilities used by employees support my finding that the employee classifications in dispute share a community of interest with the petitioned-for unit such that they should be included in the unit. All of the Employer's employees are paid hourly wages; and, with

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[17] 311 NLRB 766 (1993).

[18] 91 NLRB 409 (1950).

[19] 295 NLRB 109, 111 (1989).

[20] 322 NLRB 723, 724 (1996), citing Kalamazoo Paper Box Corp., 136 NLRB 134, 137 (1962).

[21] 322 NLRB 857, 858 (1997), citing Airco, Inc., 273 NLRB 348 (1984).

the exception of the vessel-terminal employees, the pay ranges are quite similar. Full-time employees work during the day, Mondays through Fridays, while part-time employees work in conjunction with the arrival of a vessel every other week. All full-time employees receive the same fringe benefits, while none of the part-time employees receive any fringe benefits. Personnel policies and work rules apply across-the-board. The Employer's facilities, such as its lunch room, parking areas, and rest rooms, are available to all employees.

The conclusion that the classifications in dispute share a community of interest with the petitioned-for employees is buttressed by the fact that there is a certain amount of fluctuation in work location and supervision for employees which brings them into regular contact with one another. For example, the vessel-terminal employees and the terminal driver work primarily out of doors and report to one of two Vessel Operations Managers when engaged in loading or unloading containers from vessels. However, when the terminal driver or any of the vessel-terminal employees perform tasks related to the Employer's warehouse operations, these same employees report to the Warehouse Manager. Warehouse employees, checkers, the quality control employee, and the dispatcher work primarily indoors and report to the Warehouse Manager and two warehouse foremen. However, these employees are nevertheless subject to cold temperatures by virtue of repeated trips to the facility's freezers. Maintenance employees perform work throughout the facility, including the maintenance of the refrigeration equipment, and they are also involved in handling cargo.

The similarity of employee duties among all classifications is striking in that virtually all employees are called upon to lift and move cargo and, therefore, further supports my conclusion that a wall-to-wall unit is the only appropriate unit. Moreover, a large majority of the employees have been trained to use, and do work with, the Employer's lifting equipment in the course of a workday. Thus, whether an employee is focused on loading and unloading vessels, trucks, or rail cars, the training and skills required to perform the jobs are not all that different and, often, are identical. The record also contains evidence of interchange among classifications in that a number of employees have moved from part-time to full-time warehouse positions. In addition, one employee recently transferred from a full-time maintenance position to a full-time warehouseman position.

While the majority of the vessel-terminal employees perform work outside the warehouse rather than inside it, there are at least four vessel-terminal employees who function much like warehousemen and are, in fact, paid at the warehouseman rate when performing such duties for the Employer. The Petitioner argues that these "dual function" employees should be included in the unit, while the remaining vessel-terminal employees, the terminal driver, and the maintenance employees should be excluded. In a less tightly integrated work setting, this argument might have merit. However, as discussed more fully below, in the context of this employer's closely connected operations, such fragmentation of the workforce would not be appropriate.

Most of the cargo handled by the Employer arrives by ship in large containers which are unloaded by vessel-terminal employees. The containers are transported to the dock area or the container terminal by the terminal driver, where they are then unloaded by part-time warehousemen. After the cargo is examined, sorted, and labeled by checkers, it is then moved into coolers and freezers by warehousemen and some of the vessel-terminal employees. Cargo arriving by truck and rail is unloaded by warehousemen and some vessel-terminal employees into one of two dock areas at the facility. The quality control employee and the maintenance employees are often called upon to work side by side in these operations, while the dispatcher is responsible for maintaining all paperwork associated with incoming containers.

After the dispatcher creates pick orders, these are given to full-time warehousemen who are primarily responsible for gathering the items slated to be shipped out of the Employer's facility. Transporting and loading cargo onto vessels, trucks, and rail cars is accomplished by warehousemen, vessel-terminal employees, maintenance employees, and the terminal driver. Thus, when a vessel is docked at the wharf, there is an almost constant flow of activity between the terminal warehouse and the wharf as cargo is simultaneously removed from the ship and taken inside and other cargo is transported to the wharf for loading onto the vessel prior to its departure. Trucks and rail cars are loaded and unloaded throughout the week. At all stages of these operations, the Employer uses employees flexibly in an effort to ensure that the work is accomplished quickly and efficiently.

The Employer's shipping and receiving functions are necessarily tied to its warehouse functions based on the fact that space, equipment use, and personnel assignments overlap on a regular and recurring basis. Given the fact that 50 percent of the cargo shipped to the Everett facility arrives on container vessels, the loading and unloading of these vessels every other week assumes a dominant role in the Employer's overall operations. Moreover, the Employer has a contractual obligation to the shipping line to unload Icelandic USA cargo and to return the empty containers to the vessel before it sails. Thus, the Employer must be able to deploy employees in a rapid and flexible fashion in order to meet critical deadlines, and because other operations continue unabated during the process of loading and unloading the vessels, coordination between and among all of the Employer's shipping, receiving, and warehousing functions is absolutely necessary.

In this case, although there is no history of collective bargaining, there is a history of prior unit determinations involving the same Employer. In each of two prior Decisions, the Region included "warehousemen-unloaders" (now called vessel-terminal employees) in the unit found appropriate. In concluding that these positions were properly included in the unit, the Region stressed the fact that the warehousemen-unloaders "are strongly functionally integrated in the flow of seafood from ships which arrive at the Employer's pier, to the warehouse, some 60 feet away." This statement is still an accurate reflection of the realities at the Employer's facility nearly 25 years later.

The very same reasoning applies to the unit placement of the terminal driver and the part-time and full-time maintenance employees in the petitioned-for unit. Not only do employees in these classifications have regular and recurring contact with all of the other employees in the proposed unit, but they routinely work along side other employees in the proposed unit. See Interstate Warehouse of Ohio[22] and American Parts System, Inc.[23]

Accordingly, based upon the foregoing and the stipulations of the parties at the hearing, I find that the following employees of the Employer constitute a unit appropriate for collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time warehouse employees, checkers, vessel-terminal employees, maintenance employees, the dispatcher, the quality control employee, and the terminal driver employed by the Employer at its facility in Everett, Massachusetts, but excluding temporary or casual employees, managers, and guards and supervisors as defined in the Act.

DIRECTION OF ELECTION[24]

An election by secret ballot shall be conducted by the Regional Director among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. As stipulated by the parties at hearing, eligible to vote are those employees in the unit who have worked at least three days, in whole or in part, in the three months preceding the election eligibility date, including employees who did not work during that 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 which 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. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll

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[22] 333 NLRB 682 (2001).

[23] 254 NLRB 901 (1981).

[24] As the Petitioner has indicated its desire to represent employees in the unit I have determined to be appropriate, which is broader than the petitioned-for unit, in accordance with the Board's usual practice, I shall provide the Petitioner a reasonable period of time, not to exceed ten days, from the date of this Decision and Direction of Election in which to demonstrate the requisite showing of interest among employees in the unit found appropriate. In the event that the Petitioner does not submit such additional evidence within ten days, the Direction of Election shall be vacated. Alternatively, the Petitioner will be permitted to withdraw its petition without prejudice upon written notice to me within 10 days from the date of the Direction of Election.

period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date, and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for purposes of collective bargaining by the International Brotherhood of Teamsters, Local 25, AFL-CIO.

LIST OF VOTERS[25]

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of the statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. Excelsior Underwear, Inc.;[26] NLRB v. Wyman-Gordon Co.[27] Accordingly, it is hereby directed that within seven days of the date of this Decision, two copies of an election eligibility list containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the Regional Director, who shall make the list available to all parties to the election. North Macon Health Care Facility.[28] In order to be timely filed, such list must be received by the Regional Office, Thomas P. O'Neill, Jr. Federal Building, Sixth Floor, 10 Causeway Street, Boston, Massachusetts, on or before March, 24, 2005. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

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[25] The Excelsior List may initially be used by the Regional Director to assist in determining whether there is an adequate showing of interest. The Regional Director shall make the list available to all parties to the election when and if she determines that the Petitioner has made an adequate showing of interest among the employees in the unit found appropriate.

[26] 156 NLRB 1236 (1966).

[27] 394 U.S. 759 (1969).

[28] 315 LRB 359 (1994).

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review this Decision and Direction of Election may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570. This request must by received by the Board in Washington by March 31, 2005.

/s/ Rosemary Pye_____
Rosemary Pye, Regional Director
First Region
National Labor Relations Board
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street, Sixth Floor
Boston, MA 02222-1072

Dated at Boston, Massachusetts
this 17th day of March 2005

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