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

ELYSIAN BREWING COMPANY, INC.

Employer

and **Case 19-RC-082934**

INTERNATIONAL ASSOCAITION OF OPERATING ENGINEERS, LOCAL 286, AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

The above-captioned matter is before the National Labor Relations Board (the Board) upon a petition duly filed under § 9(c) of the National Labor Relations Act (the Act), as amended. Pursuant to the provisions of § 3(b) of the Act, the Board has delegated its authority in this proceeding to me. Upon the entire record in this proceeding, I make the following findings and conclusions.[1]

I. SUMMARY

The Employer operates a number of breweries in Seattle, Washington. Petitioner filed the instant petition seeking to represent a bargaining unit (Unit) of two boiler operators and one maintenance mechanic at the Employer's brewery located in Seattle's Georgetown neighborhood (Georgetown facility). The Employer contends that the petitioned-for unit is inappropriate and the petition should be dismissed because the boiler operators are temporary employees who will certainly be laid off and because the boiler operators lack a community of interest with the maintenance mechanic.

Further, both parties seek to exclude Maintenance Supervisor Jason Mickelson from the Unit, although for different reasons. The Employer asserts Mickelson is a supervisor as defined in § 2(11) of the Act, and therefore properly excluded. Petitioner, which initially stipulated to Mickelson's supervisory status but later withdrew from that stipulation at the hearing, asserts Mickelson should be excluded from the Unit because he does not share a community of interest with the other maintenance mechanic.

[1] The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. 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. The labor organization involved claims to represent certain employees of the Employer and a question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of § 9(c)(1) and § 2(6) and (7) of the Act.

I have carefully reviewed and considered the record evidence and the arguments of the parties at both the hearing and in their post-hearing briefs.[2] Consistent with the Petitioner, I find that, based on the evidence and the Board's temporary employee standard, the boiler operators are not temporary employees, and I further find that the petitioned-for unit is an appropriate unit. Finally, I have considered Mickelson's status and determined he is a statutory supervisor and, therefore, is excluded from the Unit. Accordingly, I shall direct an election in the petitioned-for unit.

Below, I have set forth relevant record evidence regarding background on the Employer's operations, the purported temporary status of the boiler operators, community of interest factors relating to the boiler operators and the maintenance mechanics, and Mickelson's supervisory status. Following the record evidence, I have analyzed and applied the legal standards utilized by the Board regarding temporary employee, community of interest/appropriate unit, and supervisory determinations. Following the analysis, I have addressed the details of the directed election and the procedures for requesting review of this decision.

II. RECORD EVIDENCE[3]

A. BACKGROUND

The Employer operates four breweries in Seattle, Washington; in the Capitol Hill, Tangle Town, SODO, and Georgetown neighborhoods. The brewery located in Georgetown is the only facility at issue in this case.

The Employer began operation in 1996 at the Capitol Hill location, brewing its product for retail distribution and at its on-site restaurant. In the following years, the Tangle Town and SODO breweries were established, with each location including a restaurant space and a small brewery that supplied that restaurant space. In 2011, the Employer planned and opened the Georgetown location, which did not include a restaurant space, but did include a larger brewery, as well as bottling, labeling, and packaging capability that had previously been provided by a third party.

The Georgetown facility began production in December of 2011, and ran at a high level of production, brewing 4 or 5 days a week, in the first 6 months. This brewing pace was set in order to build up a retail supply for distributors, a supply that had dwindled when the outside contractor had stopped bottling the Employer's product in 2011. The record reveals that in the weeks before the hearing, the Employer had completed this build-up and returned to a "normal" level of production at the Georgetown facility, brewing 2 to 3 days a week.

The Georgetown facility includes a brew house, a production area, extensive storage areas, and offices. The brew house and production area are the focus of the instant case. The brew house is a room containing the Employer's high-pressure boiler and the brewing

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[2] Both parties filed timely briefs.

[3] The Employer called Vice-President David Buhler, Chief Executive Officer Joseph Bisacca, Maintenance Supervisor Jason Mickelson, and Operations Manager Scott LaRoy as witnesses. Petitioner called Training Director for Western Washington Stationary Engineers James Burnson, boiler operator Tom Gochanour, and boiler operator Dennis Tiscenco as witnesses.

equipment and it is here where the boiler operators operate the boiler and brewers brew the beer. The production area is a separate space containing the Employer's bottling, labeling, and packaging equipment, and is where the Employer employs its production employees, who are not at issue in this case. The production area is also where the maintenance mechanics primarily perform maintenance work. A firewall separates the brew house from the production area.

The high-pressure boiler in the brew house is used to generate steam, the primary heat source in the brewing process. It is undisputed that the beginning phases of the brewing process cannot take place without the heat provided by the boiler. Seattle ordinance requires that a licensed boiler operator be on-site when a high-pressure boiler is operating, specifically a boiler operator with at least a Grade IV boiler operator license. The record indicates a Grade I license is the highest level of such licenses. The high-pressure boiler at the Georgetown facility is classified as a "constant attendance" boiler, requiring the boiler operator to be within sight and earshot of the boiler at all times when in operation, as many potential problems are monitored by alarms, while others must be personally observed. All witnesses agree that the combination of the firewall and the high level of noise in the facility make it impossible to see or hear the boiler when in the production area.

The Employer's other breweries utilize low-pressure boilers, which are operated by the Employer's brewers and do not require a boiler operator's license for operation. The Employer maintains and Petitioner acknowledges that the Employer has planned since the inception of the Georgetown facility that the brewers at that location would eventually operate the high-pressure boiler. The progress of that plan and the boiler operators' role in that plan are central to the issue of temporary employee status raised in this case.

1. Opening of the Georgetown Facility

It is unclear whether the Employer was aware of the need for a licensed boiler operator at the time it purchased and installed the high-pressure boiler in the Georgetown facility. Regardless, in the fall of 2011, as the Employer prepared to begin operation at the Georgetown facility, Vice-President Buhler explored the different options available to the Employer regarding operating its high-pressure boiler. After several discussions and correspondence with Larry Leet, the Chief Boiler Inspector for the City of Seattle, John Glastra of Glastra Heating, which installed the boiler, and with others, Buhler explored having the brewers at the Georgetown facility licensed. When it became clear, after a review of the licensing requirements and the time necessary to obtain a Class IV boiler operator's license, that the brewers at the Georgetown facility could not be licensed by the start of production, Buhler decided to hire licensed boiler operators to operate the high-pressure boiler.

On October 18, 2011, approximately 2½ months before production started, Buhler sent an email to Petitioner stating, "Our brewing staff is not licensed yet however [sic] and we are looking for a short term (or maybe long term) boiler operator..." Petitioner then distributed a job posting to its members for a boiler operator position with the Employer. On October 24, current boiler operator Tom Gochanour, who holds a Grade II boiler license, responded to the job posting.

At approximately the same time, Buhler continued to work on a plan to have the brewers licensed, but this plan ran into a number of problems and/or delays. The Employer began working on a program with certified instructor Lily Tolisin, but she later took extended medical leave and was unable to continue working on the program with the Employer. The Employer then began seeking another instructor, but was unable to locate one with a pre-certified curriculum, which Tolisin had as a result of being an instructor at local technical schools. Consequently, the Employer stepped back from the process of developing a qualified curriculum, which could be submitted for approval by the appropriate licensing entities. Employer management testified that as these problems/delays occurred, the Georgetown facility neared production and Employer management and the brewers became very busy. Thus, the licensing plan became less of a priority for the Employer.

Employer management officials further testified, notwithstanding the problems/delays noted above, it is the Employer's preference to develop an individualized course of instruction that employees could participate in at the Employer's workplace. However, at the time of the hearing, the Employer did not have an approved curriculum, established training plan, or an instructor to follow through on this preference. The Employer's brewer at the Georgetown facility, Marcus Stinson, has received some on-the-job boiler training, which training might be accredited toward his boiler operator license. The Employer recently hired a new brewer, who was scheduled to start work shortly after the hearing and who had also received boiler training similar to Stinson. However, the nature, extent, or actual creditworthiness of this training was not detailed in the record.

2. Hiring of the Boiler Operators

As the opening of the Georgetown facility neared, the Employer's attention regarding operating the high pressure boiler turned to the short-term need to hire a Class IV boiler operator so the Employer could begin production. Operations Manager for the Georgetown facility, Scott LaRoy received Gochanour's application and in December interviewed him.

Both LaRoy and Gochanour testified regarding the interview, but the testimony varies a great deal and contains significant contradictions. Gochanour claims LaRoy told him the Employer was hiring for a joint boiler operator/maintenance position, and that Gochanour would be eligible for retirement benefits. Gochanour also claimed he specifically told LaRoy that he was looking for a job to keep until he retired in several years, and that LaRoy described the position as good place to grow. LaRoy denied describing the position as a joint boiler operator/maintenance position, denied saying the Employer provided retirement benefits (it does not), or that Gochanour said anything regarding wanting a job until retirement. Regardless, Gochanour and LaRoy both testified that whether the position was temporary or permanent was not explicitly discussed during the interview.

Gochanour and another boiler operator, Marino Peralta, were hired in time for the Employer to begin production in December. In March, Peralta ceased working for the Employer, which then hired Dennis Tiscenco to replace Peralta. Tiscenco testified at the time he was hired by LaRoy, he was told the job was that of a boiler operator and that he would perform minor maintenance work. As with Gochanour, Tiscenco and LaRoy agree that whether the position was temporary or permanent was not explicitly discussed during Tiscenco's interview.

B. COMMUNITY OF INTEREST FACTORS

1. Departmental Organization

The Georgetown facility has a fairly small staff and it is not highly stratified. Currently the Employer employs 16 hourly employees, the 3 employees at issue in this case, 2 employees who work in the "cellar" area, 7 employees employed on the bottling line, 2 employees employed in the keg washing and filling line, a warehouse employee, and a driver. The production area has a salaried supervisor, but the record does not indicate who specifically reports to this individual. Mickelson is the salaried Maintenance Supervisor, but the record indicates he only supervises Floyd Spato, the other maintenance mechanic. The Employer currently employs one salaried brewer, Stinson, but the record does not indicate whether any employees report to him as a supervisor. Some hourly employees, such as boiler operators Gochanour and Tiscenco, report directly to Operations Manager LaRoy, as do the salaried employees including Mickelson.

The Employer did not enter an organizational chart or other document in the record demonstrating departmental divisions and/or a managerial/supervisory hierarchy. While the record as a whole suggests some separation between the brewing house and the production area, this is suggested at a functional level, not demonstrated on an organizational level.

2. Skills and Training

Boiler operators Gochanour and Tiscenco hold Grade II and IV boiler operator licenses, respectively. No other employee employed by the Employer holds these licenses. Gochanour attended technical school for 2 years, obtaining certificates in Industrial Engineering and Commercial Engineering. Tiscenco similarly attended technical school for 2 years and, on the date of the hearing, was a day away from completing a Commercial Engineering program. This schooling for Gochanour and Tiscenco related to their boiler operator work. Tiscenco had the necessary education to qualify for his license, but at the time of his hire he had not worked with a boiler before. As such, at the beginning of his employment, it was necessary for him to work with Gochanour for a period of time in order to gain the practical experience necessary to operate the boiler independently. The record does not demonstrate Gochanour and Tiscenco possessing any particular skills outside boiler operation and boiler maintenance.

Spato possesses a mechanic's certificate, although the details of his education are not contained in the record. He and Mickelson both appear from the record to possess skills such as welding, wiring, and carpentry necessary to perform basic maintenance work. The record also contains evidence of Mickelson possessing more advanced mechanical skills, as he has rebuilt pieces of equipment and modified existing equipment to meet specific needs.

3. Job Functions

The boiler operators' primary function is operation of the boiler. At a minimum this involves starting the boiler, a 30 to 90 minute process depending on circumstances, and

periodic testing during its operation. While estimates in the record vary slightly, the testing requirement seems to involve a 10 minute process every 4 hours.

The witnesses' testimony is in conflict regarding what the Employer considers "operation of the boiler" and what Gochanour considers proper "operation of the boiler." Several of the Employer's witnesses testified that the boiler operator is present because the City of Seattle Code requires a licensed boiler operator to be present to operate a high-pressure boiler. Further, the boiler operator's responsibility is simply to start the boiler, stand by the boiler to monitor it for alarms or other indicators of malfunction, and then shut the boiler down when the need for hot water in the brew cycle is complete. If any problems arise requiring maintenance or repair of the boiler, the boiler operators are to contact John Glastra of Glastra Heating, as the boiler is under warranty.

Contrary to the Employer's witnesses, Gochanour testified that operating the boiler is a more involved process, requiring constant small adjustments and repairs simply to operate. Further, he maintains that when Glastra has been called, they have either directed Gochanour to complete repairs or Glastra has provided incorrect equipment requiring Gochanour to improvise repairs in instances where the Employer wanted the boiler to operate. In sum, Gochanour's testimony reveals that he simply does what, in his estimation, is necessary to keep the boiler operating to meet the Employer's needs and that he does not discuss such matters with management. Tiscenco, due to his relative inexperience and short duration of employment, did not testify as extensively regarding the operation of the boiler. Rather, Tiscenco, to the date of his testimony, primarily observed Gochanour and his operation of the boiler equipment.

In addition to operating the boiler, Gochanour also established the blow down schedule for the boiler, a necessary maintenance routine performed by Gochanour or Tiscenco. He and Tiscenco have also begun drafting standard operating procedures for the boiler at the Employer's direction.

Petitioner also asserts that Gochanour and Tiscenco have other maintenance responsibilities that are a secondary function of their position. Gochanour testified regarding the a number of maintenance functions he had performed, all in the production area: changing a belt on a conveyer, patching holes in a wall, building a guard rail for a de-palletizer, and sawing up a tree branch and removing the debris. Gochanour also testified that when he was not busy with the boiler, LaRoy had directed him to speak with Mickelson to determine if there was other work Gochanour could be doing.

Mickelson testified that the responsibility of the maintenance mechanics is to fix anything that breaks at the Georgetown facility, with the exception of the boiler, which by Mickelson's own admission he is not qualified to repair. According to Mickelson, almost all of the mechanics' work is in the production area on the bottling, labeling, and packaging equipment. Unlike the new brewing equipment and boiler, the bottling, labeling, and packaging equipment is a combination of used and rebuilt equipment that is not yet functioning optimally and that requires a great deal of work, which necessitated the hiring of Spato.

Mickelson and LaRoy testified that Gochanour had occasionally been given "make work" to give him something to do, but deny that Gochanour and Tiscenco have

maintenance responsibilities. Several of the Employer's witnesses testified the boiler operators should not be performing maintenance work, as this would take them away from the boiler, where they should be at all times when it is in operation. Even so, Mickelson testified that Gochanour did maintenance work, "on his own," and occasionally did it incorrectly, describing an example of wiring Gochanour attempted to connect while the circuit was live.

LaRoy testified that he had not assigned Gochanour maintenance work, but at the same time acknowledged that Gochanour is often away from the boiler much of his shift. LaRoy testified much of the work performed by Gochanour while not operating the boiler fell far short of anything described as "maintenance," and provided the example of Gochanour frequently performing ad hoc quality control on the bottling line, pulling bottles that the labeler had failed to properly label. Indeed, LaRoy testified on a number of occasions he had to find Gochanour on the bottling line and bring him back to the boiler when he heard an alarm unanswered or noticed unusual condensation on the boiler.

4. Functional Integration

In regard to the boiler, the boiler operators start, operate, and stop the boiler, without assistance. Either the boiler operators or Glastra Heating performs any maintenance necessary on the boiler, as the maintenance mechanics are neither qualified nor allowed to perform maintenance on the boiler. In regard to other maintenance functions, the record indicates Gochanour performed tasks such as changing a belt on a conveyer, patching holes in a wall, building a guard rail, and sawing a tree branch and removing the debris.

Similarly, the maintenance mechanics have their tasks to complete and are largely operating independently. The record does contain a few references to equipment in the production area breaking down but there is no testimony involving production employees being prevented from performing their work for any significant period of time due to necessary maintenance work, whether performed by the maintenance staff and/or the boiler operators.

5. Interchange and Contact

Petitioner acknowledges there is no permanent or temporary interchange between the boiler operators and maintenance mechanics. In regard to contact, the boiler operators and Mickelson testified they work in the same general area and will see each other on a daily basis, although the evidence regarding the nature and extent of their contact is in some conflict. For example, Mickelson testified that on one occasion Gochanour brought him a wrench and a torch when he was installing a vacuum pump on a filler machine. While Gochanour described this as working together to install the pump, Mickelson testified the contact was limited to Gochanour simply handing him the tools.

Gochanour also testified that he has had extensive contact with maintenance mechanic Spato, who is new and, according to Gochanour, has many questions. Gochanour testified that he has spoken to Spato for hours at a time explaining the operation of different equipment and answering questions. Spato did not testify at the hearing. The Georgetown facility has a shared break area, although Gochanour testified he usually takes his breaks in his car, not in the break area.

6. Terms and Conditions of Employment

Gochanour, Tiscenco, and Spato are all hourly employees, paid $20, $18, and $16 an hour respectively. Mickelson is a salaried employee, and is eligible for health insurance, while the hourly employees are not. Mickelson's salary was not entered into the record. The Employer does not offer retirement benefits to any employee, salaried or hourly, and all employees receive the same sick leave.

Mickelson and Spato are both full-time employees, generally working an overlapping daytime shift as Spato largely observes Mickelson's work. During the first few months of operation, the boiler operators were both working a full-time schedule, generally an overlapping daytime shift, as Tiscenco was observing Gochanour and it was necessary for them to both be on-site at the same time.

In the weeks prior to the hearing, however, the Employer notified the boiler operators their hours would be reduced, dividing a pool of hours between them, the effect of which has been to make them both part-time employees. Employer testimony discloses the decision to reduce the boiler operators to part-time status was based on two reasons. First, the Georgetown facility had been brewing 4 or 5 days a week for its first few months of operation in order to build up a retail supply that had diminished during the transition from an outside bottler to the Employer performing that work itself. Since building up that supply, brewing has been reduced. Second, Tiscenco had reached the point where he was qualified to operate the boiler independently, and it was no longer necessary for both Gochanour and Tiscenco to be scheduled on the same shift.

7. Shared Supervision

It is not disputed that Gochanour and Tiscenco report directly to LaRoy, and that Spato reports to Mickelson, who in turn reports to LaRoy. The record does not detail the full extent and nature of LaRoy's supervision, if any, over the maintenance staff.

C. MICKELSON"S SUPERVISORY STATUS

Mickelson began working for the Employer prior to the opening of the Georgetown facility. The record clearly reveals that he is a skilled mechanic, and while the details of his work prior to starting at the Georgetown facility are not addressed in the record, it does appear that he travels to the Employer's other breweries to address mechanical problems. However, the regularity and frequency of such travelling is not detailed in the record.

1. Hire

At the time the Georgetown facility began production, Mickelson was the only maintenance employee at that location. During the spring of this year, however, LaRoy determined the amount of work, particularly in regard to the bottling, labeling, and packaging equipment, was more than Mickelson could perform on his own. LaRoy and Mickelson were aware that Floyd Spato was looking for work, and that he had previously worked at Longview Fiber, which utilizes equipment similar to the Employer's packaging equipment. Both Mickelson and LaRoy separately met and toured the Georgetown facility with Spato, and discussed his qualifications prior to Spato's eventual hire. After confirming

his qualifications, LaRoy asked Mickelson if the wanted to hire Spato. Mickelson said he did, and Spato was hired. LaRoy testified that if Mickelson had said "no" to hiring Spato, LaRoy and Mickelson would have continued the candidate search. However, when Mickelson said "yes," Spato was hired without further discussion. Spato started work at the Georgetown facility approximately 2 weeks before the hearing.

2. Assign/Discipline/Responsibly Direct

Once hired, Spato began working with Mickelson on a daily basis. Mickelson testified that he works closely with Spato because he is new and learning the Employer's equipment. Mickelson provided examples of replacing sprayer and water pumps where he discussed the mechanical problem with Spato and the resolution, and then either Spato or Mickelson would perform the repair, Spato, if it was within his ability, otherwise Mickelson with Spato observing.

Mickelson testified, when questioned, that his understanding was that he had the authority to discipline Spato, if warranted. Mickelson further testified that he would be held accountable if Spato completed his work in an unacceptable manner, but Mickelson said neither situation had occurred. No further details regarding the authority to assign, discipline and/or to responsibly direct were provided in the record.

3. Secondary Indicia

The record reveals that Mickelson's job title is "Maintenance Supervisor." Further, the Employer pays Mickelson a salary, rather than the hourly wage rate paid to Spato and the boiler operators. Additionally, Mickelson receives health care benefits that the hourly paid employees do not receive.

III. ANALYSIS

A. TEMPORARY EMPLOYEE STATUS

When faced with the issue of employees who are asserted to be "temporary," hired either expressly or impliedly as less than permanent workers, the Board has applied a "date certain" test; "temporary employees, who are employed on the eligibility date, and whose tenure of employment remains uncertain, are eligible to vote." *Personal Products Corp.*, 114 NLRB 959, 960 (1955). "The 'date certain' test, however, does not necessarily require that the employee's tenure is 'certain to expire on an exact date'; it is only necessary that the 'prospect of termination [is] sufficiently finite on the eligibility date to dispel reasonable contemplation of continued employment beyond the term for which the employee was hired.'" *MJM Studios of New York, Inc.*, 336 NLRB 1255 (2001), citing *St. Thomas-St. John Cable TV*, 309 NLRB 712, 713 (1992); see also *New World Communications of Kansas City*, 328 NLRB 3 (1999). Thus, the critical inquiry here is whether the boiler operators' tenure of employment remains uncertain. *Marian Medical Center*, 339 NLRB 127, 128 (2003).

The record clearly reveals that the boiler operators are currently employed and the Employer does not assert they have been given a date certain when their employment will end, either at the time they were hired or at any point since. This alone may be sufficient to discount any assertion of temporary status, as the cases cited above suggest that a finite

termination prospect at some point during the term of employment is a condition precedent for finding temporary status. However, I have addressed the Employer's argument in this regard in full as Petitioner acknowledges the Employer's plan has always been that the brewers at the Georgetown facility would eventually operate the high-pressure boiler in the same manner brewers at other locations operate the low-pressure boilers.

The essence of the Employer's argument is that while it has not provided a date certain for the end of the boiler operators' employment, it has demonstrated a condition that, once reached, will trigger the end of the boiler operators' employment, namely its brewers at the Georgetown facility obtaining Grade IV boiler licenses. By necessity then, the Employer is asserting its intention, to have the brewers licensed, creates sufficient certainty regarding the end of the boiler operators' employment to dispel reasonable contemplation of continued employment beyond the term for which they were hired.

In support of this argument, the Employer cites to *Marian Medical Center*, supra, and argues that "whether employees are considered 'temporary' depends on whether the termination of their employment is reasonably ascertainable, either by reference to a calendar date or to the completion of specific jobs or events, or the satisfaction of the condition or contingency for which the temporary employment was created." In *Marian Medical Center*, the Board addressed the voting eligibility of a maintenance employee (Montoya), employed by a multi-facility employer, who was temporarily transferred to a location where the election was taking place, but who was to return to his home location after renovations to that location were complete. *Id.* at 129. The Board concluded that while the specific completion date of the renovations was not known, the term of Montoya's temporary assignment was "finite and reasonably ascertainable," as it was clear that his temporary assignment would end with the reopening of his home facility, and as such he was a temporary employee ineligible to vote. *Id.*

Although not cited by the Employer, the Board faced a similar issue in *MJM Studios of New York, Inc.*, supra, and reached a different conclusion. There, the Board addressed a group of temporary carpenters and welders hired under a 6-month agreement to complete two projects. The evidence disclosed that the 6-month agreement had subsequently been extended a number of times, the employer had assigned the disputed "temporary" employees to work on other projects not specifically covered by the agreement, the employer at no time notified the temporary employees that their tenure was coming to an end, the employer's project completion dates were subject to change and remained uncertain, and the prospect of termination was not certain, even at the end of a particular project. *Id.* at 1257. Accordingly, the Board held the disputed temporary employees should be included in the unit and were eligible to vote.

Here, the record clearly reveals that the Employer cannot say with any certainty when the brewers will be licensed, as the Employer has not yet even begun to take concrete steps towards creating and implementing an actual, approved plan through which the brewers could obtain their boiler operators licenses. While it is true the Employer has made contacts and collected information regarding licensing, the facts remain that it does not have a concrete or approved training program, schedule, curriculum, and/or certified instructor. While it is also true that Stinson and other brewers may have some on-the-job experience applicable toward obtaining their licenses, as the Employer maintains, it is merely a fortuitous benefit of working in a brewing system connected to a boiler; such

experience had not been obtained by design. Moreover, the extent and nature of that experience has not been quantified with respect to the training credit Stinson or the others might receive for such experience.

Thus, the instant record reveals this case is more akin to the open-ended situation present in *MJM Studios*, and dissimilar to the finite renovation project present in *Marian Medical Center.* Put simply, the Employer does not know when its brewers will obtain the necessary licensing, and it is clear from the record that it is a complicated and time-consuming process, either by classroom instruction at a technical college, or by a specialized course of instruction created and implemented for the Employer. Additionally, as in *MJM Studios*, the Employer, here, never notified the purported temporary employees that their employment tenure was coming to an end.

Accordingly, I find that the record evidence is insufficient to support a "date certain" for the termination of the boiler operators or to dispel reasonable contemplation of continued employment beyond the Employer's tenuous and vague term for which the boiler operators were hired.

B. APPROPRIATE UNIT DETERMINATION -- COMMUNITY OF INTEREST FACTORS

In determining whether a proposed unit is appropriate for collective bargaining, consistent with § 9(a) of the Act, the Board's "focus is on whether the employees share a 'community of interest.'" *Specialty Healthcare and Rehabilitation Center of Mobile*, 357 NLRB No. 83, slip op. at 9 (2011), quoting *NLRB v. Action Automotive, Inc.*, 469 U.S. 490, 491 (1985). In determining whether a group of employees possesses a community of interest, the Board examines such factors as:

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

Specialty Healthcare at 9; quoting *United Operations, Inc.*, 338 NLRB 123, 123 (2002).

The Board has long held in representation cases that a petitioned-for unit need only be *an* appropriate unit for purposes of collective-bargaining within the meaning of the Act, the unit need not be the only appropriate unit or the most appropriate unit. *Barron Heating and Air Conditioning, Inc.*, 343 NLRB 450, 452 (2004), citing *American Hosp. Ass'n v. NLRB*, 499 U.S. 606, 610 (1991); *Overnite Transportation Co.,* 322 NLRB 723 (1996). Thus, in determining whether a unit is appropriate, the Board first examines the petitioned-for unit, and if the petitioned-for unit is *an* appropriate unit, the inquiry ends. *Barlett Collins, Co.*, 334 NLRB 484, 484 (2001). If it is not an appropriate unit, the Board then examines whether an alternative unit suggested by the parties or another unit not suggested by the parties is appropriate. *Overnite Transportation Co.*, 331 NLRB 664, 663 (2000).

At hearing, the Employer indicated the petitioned-for unit may be inappropriate because it failed to include additional employees. However, it appears this was an offhand

comment as the Employer did not introduce any evidence in support of such a position or maintain such on brief. Nevertheless, Petitioner argues its opposition to such a position on brief, citing to *Specialty Healthcare* and its holding that, where a party objects to the petitioned-for unit on the basis it fails to include additional employees, it is insufficient for the objecting party to merely show the employees share a community of interest with other employees, or even that there is a more appropriate unit. Rather, the objecting party must show the petitioned-for unit is "clearly inappropriate" by demonstrating included and excluded employees share an overwhelming community of interest. *Specialty Healthcare* at 10-13. *DTG Operations*, 357 NLRB No. 175, slip op. at 5 (2011); *Odwalla, Inc.*, 357 NLRB No. 132, slip op. at 5 (2011). While Petitioner's legal argument has merit, the Employer has not pursued this line of argument. Accordingly, I have not applied the overwhelming community of interest standard, as the Employer has apparently dropped any objection to the petitioned-for unit on the basis it fails to include additional employees. I now turn to an analysis of the record and the Board's community of interest factors.

1. Departmental Organization

The record provides some evidence of a division between the brew house and production area. To the extent such a division exists, it does appear the boiler operators are physically located with the employees on the brew house side of the operation, and the maintenance mechanics on the production side. Ultimately, however, this appears to be a functional division, as there is no evidence in the record to suggest the Employer is organizationally divided upon these lines. Further, as discussed in the sections that follow, the boiler operators are frequently in the production area. The reality of the Georgetown facility is that it is simply not that large and accordingly clear lines of departmental organization do not exist.

In light of the above and the record as a whole, I find this factor is essentially neutral, and is not an impediment to finding the petitioned-for unit is an appropriate unit.

2. Skills and Training

The boiler operators and maintenance mechanics hold different licenses and certifications, and the evidence demonstrates their skills differ as well. Most importantly, the boiler operators, and only the boiler operators, possess the license necessary for the Employer to fire and operate its high-pressure boiler. The record also demonstrates that they are the only employees qualified to work on the boiler, as Mickelson, the most skilled maintenance mechanic at the facility, acknowledges he is not qualified to perform maintenance and repairs on the boiler.

Similarly, it appears that Mickelson, and to a lesser extent Spato, are the only employees qualified to perform certain other skilled maintenance work, such as maintaining, rebuilding, and modifying the production equipment. While Spato is not able to perform at the same skill level as Mickelson, he does hold a mechanic's certificate and is being trained to perform at Mickelson' level. To the extent Gochanour performed other non-boiler maintenance work, such work appears to fall short of the skill level possessed and complexity of work performed by Mickelson.

As for training, the boiler operators have completed an education program that has taught them how to operate, maintain and/or repair a boiler and has licensed them to do the same. The maintenance mechanics, whether by experience or education, have learned a different skill set. The record, as a whole, establishes that the boiler operators and maintenance employees similarly perform maintenance work to a degree. While recognizing this similarity, however, I find the distinct differences between the skills and training of the boiler operators and maintenance mechanics weighs against finding the petitioned-for Unit an appropriate unit.

3. Job Functions

The primary job functions of the boiler operators and maintenance mechanics are different, as the boiler operators operate the boiler and the maintenance mechanics repair the Employer's non-boiler or production equipment. However, the record discloses that the primary job function of the boiler operators actually takes a small portion of their work time when the boiler is in operation, leaving the boiler operators potentially hours per shift to engage in secondary job functions.

The question then is whether the boiler operators have a secondary job function of maintenance. Secondary job functions take on a greater importance in this case because, given the limited needs of the boiler, the boiler operators could potentially spend more time on their secondary duties than primary duties on any given shift. This is essentially the balance of job functions Gochanour details in describing his work. Specifically, he starts up the boiler and after an hour or so he testified that he is free to spend the rest of his shift performing maintenance work, only returning occasionally to perform minimal tests on the boiler.

LaRoy disputes that he ever told Gochanour he would be performing maintenance work when he was hired, that he ever told Gochanour to see Mickelson for maintenance work, and maintains that he has actually sent Gochanour out of the production area and back to the boiler on numerous occasions. Mickelson, for his part, strongly suggested by his testimony that he would prefer Gochanour not perform maintenance work. Employer witnesses testified the boiler operators *should* not be performing maintenance work, and on brief the Employer states the requirement of constant attendance under the city code "does not appear to even allow" the boiler operators to perform maintenance work. Ultimately, however, the record reveals that the boiler operators actually have spent significant time away from the boiler, whether performing low level maintenance work or other work unrelated to boiler operation.

While recognizing the differences in the primary job functions of the positions, I find the evidence of the boiler operators working as a low skill maintenance employee weighs in favor of finding the petitioned-for unit an appropriate unit.

4. Functional Integration

The record does not contain evidence of functional integration to any notable degree. Specifically, the operation of the boiler is separate from any repair work performed by the maintenance mechanics, and there is no significant evidence of any interdependence between the two. Indeed, it is undisputed that the boiler operators, alone, operate,

maintain, and/or repair the boilers to the exclusion of all other employees. On the other hand, there is some evidence of the boiler operators performing some non-boiler maintenance work and/or assisting the maintenance mechanics in the performance of their work. However, the evidence does not establish that the maintenance mechanics are unable to perform their primary functions without the work and/or assistance of the boiler operators. While Petitioner appears to assert on brief that some functional integration exists in that the Employer's ultimate product could not be produced without the boiler operators, and that the maintenance mechanics work would be unnecessary without the brewing process, such an assertion defines functional integration so broadly as to be non-probative. Rather, the record reveals that at the more critical level, the boiler operators' and the maintenance mechanics' respective roles are largely separate at the Georgetown facility. *See DTG Operations, Inc.*, 357 No. 175, at slip op. at 7 (2011).

In sum, I find the separate roles played by the boiler operators and the maintenance mechanics weighs against finding the petitioned-for unit constituting an appropriate unit.

5. Interchange and Contact

Clearly, no permanent interchange exists between the positions. The record arguably indicates some temporary interchange with boiler operators performing some non-boiler maintenance tasks. In this regard, I recognize the Employer's Georgetown facility is relatively new and small. Thus, any significant interchange could be impacted by such circumstances but that was not fully explored in the record. On the other hand, the significant training, certification, or licensing involved in boiler operation appears to prevent maintenance mechanics from temporarily filling in on boiler operations. In light of the above and the record as a whole, I find this factor to be neutral in addressing the petitioned-for unit's appropriateness.

As for contact, the record reveals a significant degree of contact between the boiler operators and maintenance mechanics. In particular, the record clearly reveals that the boiler operators spend much of their time away from the boiler, providing an extensive opportunity for contact with the maintenance mechanics. While the record suggests that this contact may have been somewhat limited in regard to Mickelson, even Mickelson acknowledges contact such as Gochanour bringing him tools when installing the vacuum pump. The more persuasive evidence of contact, however, is Gochanour's testimony regarding his extensive conversations with, and assistance to, Spato. While Spato is a new employee, and therefore this extensive contact is a recent development, I find it nonetheless significant and such contact was not rebutted in the record.

I recognize that the lack of interchange tips against finding the petitioned-for unit appropriate. Evidence of contact, on the other hand, weighs in favor of finding the petitioned-for unit an appropriate unit.

6. Terms and Conditions of Employment

Gochanour, Tiscenco, and Spato are all hourly employees, paid a wage within a few dollars per hour of each other, and all lack health insurance coverage. Gochanour, Tiscenco, and Spato appear to work the same daytime shift, although this is not entirely

clear from the record, and the recent changes in the boiler operators' hours, makes it difficult to rely on this evidence to a large degree.

Regarding the Employer's recent action to reduce both boiler operators to part-time status, Petitioner explicitly argues that the recent reduction was in response to the filing of the instant petition, and both parties introduced evidence in the record regarding the timing of the reduction vis-à-vis receipt of the petition. However, claims of this nature are tantamount to unfair labor practice allegations, which generally are not to be litigated in representation proceedings of this nature. See *Virginia Concrete,* 338 NLRB 1182 (2003). Accordingly, I shall not consider and/or give any weight to Petitioner's brief to the degree that it attempts to litigate and/or allege unfair labor practices in this proceeding.

While Mickelson is a salaried employee and receives different benefits from Gochanour, Tiscenco, and Spato, I find this likely a result of his supervisory status, which I address below. I do note that the maintenance mechanics travel to the Employer's other breweries and perform maintenance work, or more accurately that Mickelson has done so and Spato is expected to do so in the future, and that the boiler operators do not travel to other facilities at all. However, the frequency and regularity of this maintenance mechanic travel is not quantified in the record and the Employer's other breweries are all located in the city of Seattle within about 10 miles of one another.

On balance I find the similarities between the terms and conditions of the boiler operators and the maintenance mechanics tilts in favor of finding the petitioned-for unit an appropriate unit.

7. Shared Supervision

I have concluded in the following section that Mickelson is a statutory supervisor within the meaning of § 2(11) of the Act. Consequently, the boiler operators and maintenance mechanic Spato do not share immediate supervision at the first level. I do note, however, that this is mitigated by the boiler operators' first line supervisor, LaRoy, being the second level of supervision for the maintenance mechanics, above Mickelson. I also find that the small size of the Employer's facility and the lack of a strict organizational division mitigate the lack of shared supervision to some degree.

Mitigated as this factor is, I find a consideration of shared supervision to essentially be a neutral factor.

8. Conclusion Regarding Community of Interest

The record reveals that the petitioned-for Unit contains a readily identifiable group of employees who share a sufficient community of interest. As for the readily identifiable group, the petitioned-for unit is composed of all employees in two classifications or crafts working at the same location and receiving similar wage rates and no health care or pension benefits. Regarding the community of interest factors, I have found some factors weigh against the petitioned-for Unit, namely dissimilar skills and training and functional integration. I have also found that the overlap in job functions, contact, and similar terms and conditions of employment weigh in favor of the petitioned-for Unit. I further found other factors (departmental organization, interchange, and supervision) to be neutral factors in the

circumstances of this case. In light of the above and the record as a whole, I find the boiler operators and maintenance mechanics share a sufficient community of interest.

In reaching this finding, I further note both boiler operators and maintenance employees have been treated as crafts and included in combined craft units by the Board. See *Oroply Corp.*, 121 NLRB 1067, 1072 (1958); *Dierks Paper Company,* 120 NLRB 290 (1958). Ultimately, in the face of some distinguishing factors regarding community of interest, my decision also factors in that the Board has long held that the petitioned-for unit need only be *an* appropriate unit, not the only appropriate unit or the most appropriate unit.

Having weighed the record evidence and the parties' arguments, I find the petitioned-for unit is an appropriate unit for the reasons described above. Accordingly, I shall direct an election in the petitioned-for unit.

C. MICKELSON'S SUPERVISORY STATUS

1. Legal Standards

§ 2(3) of the Act excludes any individual employed as a supervisor from the definition of "employee." § 2(11) of the Act defines "supervisor" as:

> any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

In *Oakwood Healthcare, Inc.*, 348 NLRB 686, 687 (2006), the Board, citing *NLRB v. Kentucky River Community Care*, 532 U.S. 706, 713 (2001), iterated its three-part test, which finds individuals to be statutory supervisors if:

(1) they hold the authority to engage in any 1 of the 12 supervisory functions (e.g., "assign" and "responsibly to direct") listed in Section 2(11);

(2) their "exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment"; and

(3) their authority is held "in the interest of the employer."

The Board has also established that the burden to prove supervisory authority, by a preponderance of the evidence, is on the party asserting it. *Croft Metals, Inc.*, 348 NLRB 717, 721. (2006). See also *Loyalhanna Health Care Associates t/d/b/a Loyalhanna Care Center*, 352 NLRB No. 105 (2008). Here, that burden is on the Employer.

The Board has held that "purely conclusory" evidence is not sufficient to establish supervisory status, and a party must present evidence that the employee "actually possesses" the § 2(11) authority at issue. *Golden Crest Healthcare Center*, 348 NLRB 727, 731 (2006). To qualify as a supervisor, it is not necessary that an individual possess all of the criteria specified in § 2(11), instead, possession of any one of them is sufficient to confer supervisory status. *Lakeview Health Center*, 308 NLRB 75, 78 (1992). Finally, "whenever the evidence is in conflict or otherwise inconclusive on particular indicia of supervisory

authority, [the Board] will find that supervisory status has not been established, at least on the basis of those indicia." *Phelps Community Medical Center*, 295 NLRB 486, 490 (1989).

In this case, Petitioner initially stipulated to Mickelson's supervisory status, then withdrew from that stipulation during the hearing. Petitioner does not dispute that Mickelson holds the title "Maintenance Supervisor," and the reasons for the withdrawal from the stipulation are not detailed in the record or in Petitioner's brief. However, Petitioner agrees with the Employer as to Mickelson's exclusion, but bases that exclusion on Mickelson lacking a community of interest with Spato. The Employer asserts such a community of interest analysis within a petitioned-for classification is erroneous. I agree with the Employer that Petitioner's community of interest argument regarding Mickelson is certainly questionable in the circumstances of this case. Regardless, I will not decide this particular community of interest issue. Rather, I will determine Mickelson's supervisory status, which resolves whether he is to be excluded from the Unit.

2. Hire

The record reveals that the Employer has met its burden of demonstrating Mickelson is a statutory supervisor, based both on his hiring authority and his ability to assign work to Spato. Regarding hiring authority, the record clearly indicates that when it was determined another maintenance mechanic should be hired, Mickelson interviewed Spato, toured the facility with Spato, and became familiar with his abilities. When the time came to make a decision whether to hire Spato, LaRoy clearly vested the ultimate decision with Mickelson. Indeed, LaRoy testified if Mickelson had said no to hiring Spato, LaRoy and Mickelson would have continued the candidate search, and if Mickelson said yes, which he did, Spato would be hired without further discussion. See *Sheraton Hotel,* 350 NLRB 1114, 1117 – 1118 (2007).

On the basis of the foregoing and the record as a whole, I find that Mickelson possesses the authority to hire within the meaning of § 2(11) of the Act.

3. Assign

Assign is defined as the "giving [of] significant overall duties, i.e., tasks, to an employee", as well as "designating an employee to a place (such as a location, department, or wing), [and] appointing an employee to a time (such as a shift or overtime period)." *Oakwood Healthcare*, 348 NLRB at 689, 695. Assignment may include designating an employee to a place such as a department or wing or even a specific defined location within a department, such as an area within an emergency room. *Oakwood Healthcare*, 348 NLRB at 689, 695. When assignment to a place is at issue, the question is whether the assignment is of the type that "determines what will be required work for an employee during the shift, thereby having a material effect on the employee's terms and conditions of employment." *Id.*

Every instruction in the workplace is not, however, an assignment, as "significant overall duties" do not include "ad hoc instructions to perform discrete tasks;" these instructions are considered "direction" of a non-supervisory nature. *Id.* Similarly, working assignments made to equalize work among employee's skills, when the differences in skills are well known, are routine functions that do not require the exercise of independent

judgment. *Providence Hospital*, 320 NLRB 717, 727, 731 (1996), overruled in part by *Oakwood Healthcare*, 348 NLRB at 686, fn.29.

Here, the record reveals that after Mickelson decided to hire Spato, he began working with Mickelson on a daily basis, and the record evidence demonstrates Mickelson assigns work to Spato as contemplated by §2(11). Mickelson described their work in his testimony, and he described how, with each task they work on, Mickelson presents the maintenance problem they are confronting to Spato, they discuss how they will approach the problem, and then, if he agrees with the approach Spato has described and the task is within what Mickelson deems to be Spato's abilities, Spato then actually performs the work. If the task is above Spato's current ability level, Mickelson explains what he is going to do and then makes the repair with Spato observing. Mickelson testified this approach has been applied in replacing sprayer pumps, water pumps, and other pieces of equipment.

The question with assignment is whether the assignment determines what will be required work for an employee during the shift, thereby having a material effect on the employee's terms and conditions of employment. Here, I find the process described by Mickelson answers this question in the affirmative and, thus, I find that Mickelson possesses the authority to assign within the meaning of § 2(11) of the Act.

4. Secondary Indicia

Nonstatutory indicia may be used as background evidence on the question of supervisory status but are not themselves dispositive of the issue in the absence of evidence indicating the existence of one of the primary or statutory indications of supervisory status. See *Training School of Vineland,* 332 NLRB 1412 (2000), and *Chrome Deposit Corp.*, 323 NLRB 961, 963 fn. 9 (1997). Here, the record reveals that Mickelson's job title is "Maintenance Supervisor" and that he receives a salary rather than the hourly wage received by Spato. Further, Mickelson receives health care benefits, something non-salaried employees do not receive. In view of the above and the record as a whole, I find that Mickelson's job title, salary, and additional benefits are secondary indicia of his supervisory authority.

5. Conclusion Regarding Supervisory Status

I have considered the Employer's arguments regarding Maintenance Supervisor Mickelson's asserted role in the hiring process, and his ability to assign work to Spato, both of which have evidentiary support in the record. I do not find it necessary to fully address Mickelson's purported authority to discipline or responsibly direct Spato, as these § 2(11) indicia are not sufficiently detailed in the record.

In view of the above and the record as a whole, I find that the Employer has met its burden of showing that Mickelson possesses the authority to hire and assign, and thus, should be excluded from the Unit as he falls within the definition of supervisor as defined in § 2(11) of the Act.

IV. CONCLUSION

I find the petitioned-for unit, composed of the boiler operator and maintenance mechanics positions, constitutes an appropriate unit for the reasons stated above. For these reasons, and in view of the record evidence, I shall direct an election in the following appropriate Unit:

> All full and regular part-time boiler operators and maintenance mechanics employed at or working out of the Employer's facility located at 5510 Airport Way South in Seattle, Washington; excluding all other employees, the Maintenance Supervisor, guards and supervisors as defined by the Act.[4]

There are approximately 3 employees in the Unit found appropriate.

V. DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the Unit at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the Unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. 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 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 collective bargaining purposes by International Association of Operating Engineers, Local 286, AFL-CIO.

A. LIST OF VOTERS

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that an election eligibility list, containing the alphabetized full names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 19 within 7 days of the date of this Decision and Direction of Election. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. The Region shall, in turn, make the list available to all parties to the election.

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[4] The Unit found appropriate conforms substantially with the unit Petitioner sought at hearing.

In order to be timely filed, such list must be received in Region 19 of the National Labor Relations Board, 915 Second Avenue, Suite 2948, Seattle, Washington 98174 on or before **July 20, 2012.** 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 filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission to (206) 220-6305. Since the list is to be made available to all parties to the election, please furnish a total of 4 copies, unless the list is submitted by facsimile, in which case only one copy need be submitted.

B. NOTICE OF POSTING OBLIGATIONS

According to Board Rules and Regulations, § 103.20, Notices of Election must be posted in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of election. Failure to follow the posting requirement may result in additional litigation should proper objections to the election be filed. § 103.20(c) of the Board's Rules and Regulations requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

C. RIGHT TO REQUEST REVIEW

Under the provisions of § 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street NW, Washington, DC 20570. This request must be received by the Board in Washington by **5:00 p.m. (ET) on July 27, 2012.** The request may be filed through E-Gov on the Board's web site, ***http://www.nlrb.gov***, but may not be filed by facsimile.[5]

DATED at Seattle, Washington on the 13th day of July, 2012.

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

[5] To file a request for review electronically, go to www.nlrb.gov and select the "File Case Documents" option. Then click on the E-file tab and follow the instructions presented. Guidance for E-filing is contained in the attachment supplied with the Regional office's original correspondence in this matter, and is also available on www.nlrb.gov under the E-file tab.