

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 06**

**HIGHLINE WARREN LLC**

**Employer**

**and**

**Case 06-RC-354972**

**TEAMSTERS LOCAL UNION NO. 697 A/W  
INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

**Petitioner**

**REGIONAL DIRECTOR'S SECOND SUPPLEMENTAL DECISION AND ORDER ON  
CHALLENGED BALLOTS**

Pursuant to a Stipulated Election Agreement, an election was conducted on December 17 and 19, 2024 in the following unit of employees employed by Highline Warren LLC (Employer):

All full-time and regular part-time production and maintenance employees, drivers, and yard jockeys employed at the Employer's facility located at 601 Baltimore Avenue, Glen Dale, West Virginia, but excluding all office clerical employees, managers, guards, and professional employees and supervisors as defined in the Act, and all other employees.

At the conclusion of the election, the tally of ballots showed that of the approximately 185 eligible voters, 79 votes were cast for and 70 votes were cast against representation by Teamsters Local Union No. 697 a/w International Brotherhood of Teamsters (Petitioner) and there were 15 determinative challenged ballots. The Petitioner subsequently withdrew its challenges to 4 of the ballots<sup>1</sup> and the parties agreed that a ballot cast by another challenged voter whose name did not appear on the voter list should not be counted because he was not employed by the eligibility date. After resolution of these five challenged ballots, the revised tally of ballots showed 79 cast ballots for Petitioner and 74 cast ballots against representation and there were 10 determinative challenged ballots.

The Region conducted a hearing by Zoom videoconference on February 3 through February 6, 2025. Both parties were given the opportunity to call witnesses, elicit testimony and enter evidence into the record. Post-hearing briefs were filed by both parties. On April 30, 2025,

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<sup>1</sup> The Petitioner withdrew its challenges to four shag drivers- Robert L. Bowen, Duke Hartung, Fred Schultz and Randy Williams, whom Petitioner initially claimed were not employed at the Employer's Glen Dale, West Virginia facility.

the hearing officer issued his Hearing Officer's Report on Challenged Ballots (Report) recommending that the Petitioner's challenges to the four shag drivers<sup>2</sup> be overruled and that the challenges to the ballots cast by the remaining six voters be sustained. On May 14, 2025, the Employer filed exceptions to the hearing officer's recommendations to sustain the ballots to five of the six voters. On May 21, 2025, the Petitioner filed a Brief in Opposition to the Employer's Exceptions. None of the parties filed exceptions to the hearing officer's recommendations that the challenges to the ballots cast by the four shag drivers be overruled and that the ballot cast by the Environmental, Health and Safety (EHS) Coordinator be sustained. Consequently, on June 3, 2025, I issued a Supplemental Decision And Order On Certain Challenged Ballots In The Absence of Exceptions ordering that the ballots cast by the four shag drivers be opened and counted and the ballot cast by the EHS Coordinator Austin Vandergrift remain unopened and not counted. On June 6, 2025, a Second Revised Tally of Ballots issued which shows that of 185 eligible voters, 80 votes were cast for and 77 votes were cast against representation by Petitioner with 5 determinative challenged ballots.

## **I. INTRODUCTION**

After careful review of the record evidence and the parties' briefs, I conclude that the hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. I have considered the evidence and the arguments presented by the parties and, as discussed below, I find merit to the Employer's exceptions and overrule the hearing officer's recommendations to sustain the challenges to the ballots cast by Warehouse Office Clerks Anthony Cox and John Durig; Department Coordinators Elizabeth Sears and Loren Uhrig, and; Maintenance, Repair, and Operations (MRO) Buyer Mark Constantine based on the three-prong test set forth in *Caesar's Tahoe*, 337 NLRB 1096 (2002). In this regard, I find that the unit description contained in the Stipulated Election Agreement is ambiguous; that there is insufficient extrinsic evidence to determine the parties' intent regarding these disputed classifications; and, that the disputed classifications should be included in the unit based on community of interest factors.

## **II. THE CHALLENGES AND THE PARTIES' EXCEPTIONS**

The Petitioner challenged the below five voters on the basis that each is employed as an office clerical employee and therefore covered by an excluded classification of office clerical employees. Alternatively, the Petitioner asserts that the five challenged voters are plant clerical employees, as determined by the hearing officer, and therefore covered by the "all other employees" in the excluded classifications. The name of each challenged voter and their job title is as follows:

<b><u>Name of Challenged Voter</u></b>	<b><u>Job Title</u></b>
Elizabeth Sears	Department Coordinator

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<sup>2</sup> The four challenged shag drivers are Robert Gilmore, Timothy Shorts, John Stokes and James Barlip and Petitioner argued that these four drivers were not employed at the Employer's Glen Dale, West Virginia facility but, rather, were employed at the Employer's other facility located in Shadyside, Ohio.

Loren Uhrig  
Mark Constantine

Anthony Cox  
John Durig

Department Coordinator  
Maintenance, Repair, and Operations (MRO)  
Buyer  
Warehouse Office Clerk  
Warehouse Office Clerk

The Employer contends in its exceptions that (1) the hearing officer erred in concluding that the Stipulated Election Agreement unambiguously excludes the department coordinators, warehouse office clerks and MRO buyer for three reasons. First, the hearing officer erred in not finding “production and maintenance employees” ambiguous under *Caesars Tahoe*, 337 NLRB 1096 (2002). Second, the hearing officer erroneously excluded department coordinators, warehouse office clerks and MRO buyer under *Bell Convalescent Hospital*, 337 NLRB 191 (2001). Third, the hearing officer erred in not finding that the explicit exclusion of “office clericals” creates ambiguity. (2) The hearing officer’s interpretation of the Stipulated Election Agreement excluding “plant clericals” from “production and maintenance employees” is inconsistent with established Board policy. (3) The hearing officer erred in not finding that the MRO buyer employee is unambiguously included in “maintenance employees.”

The Petitioner, in its opposition brief to the Employer’s exceptions, argues that the Employer’s exceptions are without merit and that the hearing officer’s application of the analytical framework set forth in *Caesars Tahoe*, *supra*, was correct. Specifically, the Petitioner asserts that the hearing officer correctly found that department coordinators, warehouse office clerks and the MRO buyer are plant clericals and the Stipulated Election Agreement does not clearly establish that the parties’ intent was to include plant clericals under “production and maintenance employees.” Rather, as determined by the hearing officer, plant clericals are more appropriately covered by the excluded grouping of “all other employees” as established in *Bell Convalescent Hospital*, *supra*.

### **III. FACTS**

#### **The Employer’s Operations**

The Employer manufactures and distributes various motor oil products at its facility in Glen Dale, West Virginia (Glen Dale facility); the only facility covered by the petition. The Employer has a warehouse and distribution facility located about eight miles away in Shadyside, Ohio. The Glen Dale facility includes the Main Building where the production process takes place and the Glen X Building where the product is stored for one of its major customers. Shipping and receiving occurs at both buildings. The Glen Dale facility has at least seven departments including packaging, manufacturing, blow mold, blending, maintenance, warehouse, shipping and receiving. The Employer’s operations involve producing the oil products, manufacturing the bottles and packages for these products, bottling and packaging the finished product, transportation of product and materials between its facilities and preparing the product for shipment to its customers. At the Main Building, there are nine production lines that perform various functions which include construction and preparation of cartons and bottles (referred to as “components”) and bottling and packaging of oil products.

The employees use walkie-talkies to communicate while working and departments use radio channels to silo communications. Radio channel 1 is the blending department; channel 2 is primarily the packaging department; and channel 3 is the shipping department. Other departments and classifications may also use these channels such as maintenance, blow mold, and production lines on channel 2 and shag drivers and the warehouse on channel 3.

The Plant Manager is Nathan Pletcher and he is responsible for all operations. Below Pletcher are the managers and supervisors for the various departments. All employees at issue in this case are paid hourly and receive paid overtime. The record contains some details that the Employer provides benefits to its employees, presumably all employees, such as health, dental, vision and life insurance, paid time off and a 401(k) plan. All employees have access to a smartphone application, an ADP app, that allows them to view their worked hours and some of their benefits and to request time off. The Glen Dale facility has multiple breakrooms and restrooms and employees may use any that they wish.

#### **Department Coordinators Elizabeth Sears and Loren Uhrig**

Elizabeth Sears and Loren Uhrig are employed as department coordinators in the packaging department. They each have an office in the main building where the packaging work is performed. Sears, Uhrig and the supervisors in the packaging department report to Operations Manager Jason Menendez. Sears' and Uhrig's primary duties involve ensuring that the packaging lines have the resources that they need to operate, including materials and staff. More specifically, their job duties include inspecting lines at the beginning of a shift to make certain that the lines have sufficient materials to run (this is called a "case check"); communicating the needs of the packaging lines to other departments; meeting with managers, supervisors, operators, zone leads and workers to get information about the lines; communicating information about the lines to the Employer's corporate scheduler in its Omaha, Nebraska office to get a determination on what each line will do; and relaying the corporate scheduler's information on running the lines to the appropriate people. Sears and Uhrig do not make any recommendations on running the lines but, rather act as a liaison between the Employer's corporate office and its Glen Dale facility regarding the running of the packaging lines.

Sears and Uhrig spend about 30 to 35 percent of their time in their offices where they closely monitor the Employer's computer systems to track what the lines are working on; what the lines will be working on; and where all the necessary materials and products are. They regularly communicate with the Employer's corporate office throughout the day. Sears and Uhrig will print out and take updated schedules to the packaging lines. The remainder of Sears' and Uhrig's day is spent on the plant floor where they are in constant contact with the line workers.

Sears and Uhrig both have prior experience as packaging line workers at the Glen Dale facility and will fill in whenever necessary to cover employees' breaks and unexpected absences. The record is not clear how frequently this occurs. However, on a somewhat regular basis Uhrig operates the carton-making line on his own. The carton-making line puts a client's name on a carton to be used for packing an oil product. This more frequently occurs when, during the

previous night's shift, the corporate scheduler makes a change or an addition to a line that will run at 6:30 a.m. Additionally, Uhrig drives a forklift on at least a weekly basis. Uhrig's main reason for driving the forklift is to handle the "quarantine" products which is product that has errors or is defective. This is one of Uhrig's regular job duties. An example of this work involves taking incorrectly packaged products, making the correct boxes and then repacking it. Another example is moving product that is leaking so that it can be dumped and reclaimed. In each of these examples, the supervisors, zone leads or operators decide how to handle the quarantine product and communicates that decision to Uhrig who then uses the forklift to move the product to the designated quarantine area. Finally, Uhrig drives a forklift at least once per month to fill in for either a line worker or a material handler.

Sears and Uhrig work Monday through Friday starting between 4:00 and 4:30 a.m. and work at least eight-hour days as their shift ends when their work is complete. They are paid an hourly rate between \$25.31 and \$27.86.

### **MRO Buyer Mark Constantine**

Mark Constantine is the Employer's only MRO buyer and works in the maintenance department. According to Nathan Pletcher, Plant Manager, there are 28 employees in the maintenance department and Constantine works closely with Maintenance Planner Kyle Bonar and Maintenance Storeroom Clerk Marissa McCleary. Both Bonar and McCleary were included on the Employer's voter list and were not challenged by the Petitioner, although the record does not reflect whether either employee voted. The maintenance employees, including Constantine, report to Maintenance Supervisor Doug Meager. The record reflects that Constantine makes purchases for the maintenance department and projects. Specifically, Constantine makes purchases based either on requests from the maintenance technicians, or to keep a minimum quantity of items for the Employer's inventory. The Employer's maintenance technicians communicate their requests for items through the Employer's computer system and Constantine will work with the technicians to assist with their requests. If the Employer does not have a requested item in stock, Constantine uses one of two ordering systems to purchase the item. One purchasing system, referred to as the computer maintenance system, involves items that the Employer keeps in its inventory. Items purchased through this system require the approval of Constantine's department manager and the plant manager. The second system Constantine uses for purchases is called the MP2 system. Constantine has pre-approval to use this system to make purchases that do not exceed \$500. Any purchase greater than \$500 requires approval by the plant manager. The record does not contain examples of which types of items are purchased on each of these two systems.

Constantine monitors inventory levels to maintain minimum and maximum levels of maintenance supplies. Constantine places an order using the computer maintenance management system when the system shows that the quantity of an item has fallen below the established minimum level. Management reviews the order and sometimes will deny Constantine's request and instead, have him adjust the minimum level to zero so that the Employer does not keep a particular item in stock. The record does not reflect how often this happens.

Constantine spends about 20 percent of his time performing maintenance technician duties. Additionally, Constantine repairs some maintenance supplies while in his office. Examples of these in-house repairs include rebushing a roller and repairing an air cylinder. Constantine puts the repaired item in stock for use by the maintenance technicians. The record is not clear on how Constantine becomes aware of the need to repair an in-stock item, the frequency that he does in-house repairs and the skills needed for in-house repairs compared to the skills needed for the work performed by the maintenance technicians.

Constantine fulfills the role of the Employer's local computer maintenance management system administrator for the Employer's Glen Dale and Shadyside operations. This involves Constantine creating login accounts for employees in the computer maintenance management system which are distinct from login accounts that may be used in other computer systems. Maintenance Manager Ken Williams also has this administrator's access. Constantine is also the backup for the Employer's maintenance planner. According to the voter list, the Employer only has one maintenance planner. One of the tasks Constantine performs when backing up the maintenance planner is to maintain the preventive maintenance schedule.

### **Warehouse Office Clerks Anthony Cox and John Durig<sup>3</sup>**

The Employer employs five full-time warehouse office clerks at its Glen Dale facility- Anthony Cox, John Durig, Kyland Evans, Brittany Morris and Dan Welsh. All five employees were included on the Employer's voter list but there is not any record evidence on whether all five employees voted with the exception of Cox and Durig. Durig works in the Main Building and is part of the receiving and warehouse department. Cox works in the Glen X Building and is part of the shipping and warehouse department. Cox and Morris report to Warehouse Supervisor Crystal Yoho; Durig reports to Warehouse Supervisor Carmela Rose; and, Evans and Welsh report to Warehouse Supervisor Jeni Morris.

The position description for Warehouse Office Clerk<sup>4</sup> states that the person "is responsible for performing administrative and clerical duties in support of warehouse operations." Plant Manager Pletcher testified that the warehouse office clerks interact with external carriers, the Employer's shag drivers, warehouse material handlers and management "to make sure that all inbound and outbound materials are processed correctly, including the data collection and then the distribution of packing slips and tickets and so on." It is noted that the Employer's voter list contains about 50 warehouse material handlers and five warehouse leads, none of whom were challenged.

Warehouse material handler Dorothy Cook works in the Glen X Building with Cox and testified regarding her interactions with him and her observations of Cox. Each day after Cook has obtained her fork truck and safety gear, she goes to the shipping office to ask the available warehouse office clerk, i.e. Cox or Kyland Evans, what she will be working on that day. Cook

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<sup>3</sup> Neither Anthony Cox nor John Durig testified at the hearing. The facts were obtained from the testimony of employees who work with either Cox or Durig, Plant Manager Nathan Pletcher and the position description.

<sup>4</sup> Employer Exh. 9.

testified that she receives verbal instructions from either Cox or Evans on where to work and what to do which may involve either loading or unloading a truck or picking an order.

When Cook is picking an order, which is about 50 percent of her work day, she is gathering products and arranging them for shipping. Cook knows what to pick and the order in which to pick an item based on how the warehouse office clerks have arranged the work. Inside the shipping office, the warehouse office clerks maintain a rack of plastic containers with orders and labels inside them. The warehouse office clerks arrange these containers from right to left, the order in which orders are to be picked to ensure that those orders that are needed the soonest are completed first. The record is not clear as to how the warehouse office clerks know how to arrange the orders.

Cook testified that if she observes an issue when opening a trailer, she reports it to the warehouse office clerk. For example, Cook described an incident in which she was to load a trailer and upon inspection, saw that it was loaded with skids. Cook informed Cox who then informed the driver that they would not be loading the trailer. The record does not reflect how Cox decides to reject the trailer and the frequency that this occurs.

Warehouse lead Lewanna Blake who works in the Main Building, testified about her interactions with and observations of warehouse office clerk Durig. Durig works in the north-end shipping office of the Main Building. When a customer's driver arrives at the Glen Dale facility the driver takes the bill of lading to the shipping office. Durig examines the bill and after confirming that the delivery is for the Employer, Durig writes down the date of delivery, the driver's name and last four digits of the driver's license, the purchase order information and the time the driver clocks in. Durig then directs the driver to a loading dock and announces the arrival of the delivery, referred to as a "live load", over the radio. Durig posts a copy of the bill of lading on a board for that dock so that the material handlers will know what is in the trailer. Durig places another copy of the bill of lading in a box and the material handlers sign that copy and return it to the driver after the delivery has been unloaded. Once the paperwork is complete it is left in the box. Blake testified that the material handlers or warehouse leads will perform the intake process in Durig's absence.

Blake also testified that daily, Durig spends about one to two hours on the floor and the remainder of his day is spent in the shipping office. Blake explained that Durig counts what is available in the warehouse, goes to his office to determine how the count aligns with the reports and researches any discrepancies. During that time, Durig may leave his office to look for missing items. Plant Manager Pletcher testified that Durig takes inventory and performs cycle counts. The record does not describe with specificity what each of these tasks entails.

As the hearing officer noted there was some conflicting testimony on Cox and Durig driving a forklift and the hearing officer concluded that the record lacks sufficient detail on this task. Specifically, warehouse material handler Cook testified seeing Cox drive the forklift on one occasion in the past year and Plant Manager Pletcher testified seeing Cox drive a forklift "as needed" to help process inbound finished goods but did not state how frequent this occurs. In contrast, warehouse lead Blake testified to observing Durig drive a forklift about one to two hours per day when he is counting or tracking inventory. However, Blake also testified that she did not

recall seeing Durig drive the forklift in the six month period prior to the hearing. Plant Manager Pletcher testified to Durig drive a forklift on a daily basis to help the material handlers with loading and unloading tasks. However, the record is not clear as to the amount of time Pletcher observes Durig driving the forklift. Finally, the hearing officer noted that the Employer's position description for warehouse office clerk does not list forklift driving as one of the tasks or, the requirement of licensure or certifications for certain machinery, including a forklift. Plant Manager Pletcher testified that "other duties as assigned" in the job description allows for the employee to perform other activities and the Employer could update the job description should such activity become best practices or long-term.

#### **IV. APPLICABLE BOARD LAW**

The issue presented in this case is the application of the Board's three-prong analysis set forth in *Caesar's Tahoe*, 337 NLRB 1096 (2002) to the five challenged voters. Under this three-prong test "the Board must first determine whether the stipulation is ambiguous. If the objective intent of the parties is expressed in clear and unambiguous terms in the stipulation, the Board simply enforces the agreement. If, however, the stipulation is ambiguous, the Board must seek to determine the parties' intent through normal methods of contract interpretation, including the examination of extrinsic evidence. If the parties' intent still cannot be discerned, then the Board determines the bargaining unit by employing its normal community-of-interest test."

##### *a. Whether the stipulated unit is ambiguous*

To determine whether the stipulated unit is ambiguous under the first prong of *Caesar's Tahoe*, the Board compares the express language of the stipulated unit with the disputed classifications. *Bell Convalescent Hospital*, 337 NLRB 191 (2001) (citing *Viacom Cablevision*, 268 NLRB 633 (1984)). The Board will find a clear intent to include those classifications that match the express language in the stipulated unit and will find "a clear intent to exclude those classifications not matching the stipulated bargaining unit description." *Bell Convalescent Hospital*, supra at 191.

None of the parties excepted to the hearing officer's conclusion that the five challenged voters occupy positions that are, essentially, plant clericals. The Union contends that the five challenged voters are excluded because plant clericals are not mentioned as an included classification and are therefore, as found by the hearing officer, properly excluded under "all other employees" citing *Bell Convalescent Hospital*. I find that this case is factually distinguishable from *Bell Convalescent* because the language in the stipulated unit does not name any classifications that match those used by the Employer. In *Bell Convalescent*, the stipulated unit listed specific job titles which gave greater meaning to the "all other employees" phrase in the excluded classifications.

I find merit to the Employer's exception and overrule the hearing officer's conclusion that the stipulated bargaining unit is unambiguous. I make this determination primarily on the fact that none of the job titles used by the Employer, match the stipulated unit description. For example, the included classifications in the stipulation list "drivers and yard jockeys" and the Employer uses



the job title of “shag drivers.” Similarly, the stipulated unit description includes “production and maintenance” employees and does not list any specific positions that would be covered by this broadly worded grouping. In this regard, the voter list contains positions that would most likely be included under this general grouping such as “maintenance technician I,” “maintenance technician II,” and “production worker.” But the voter list also contains positions that are located in the shipping and receiving area of the Employer’s operations such as “warehouse material handler” and “warehouse lead” and the record does not contain any evidence that either party objected to the inclusion of these positions in the stipulated “production and maintenance” unit. Thus, I find that the stipulated unit is unclear as to the parties’ intent regarding the placement of the five challenged voters. See also, *USF Reddway, Inc.* 349 NLRB 329, 300 (2007) and *CVS Albany, LLC d/b/a CVS*, 364 NLRB 141 (2016).

*b. Is there evidence of sufficient extrinsic evidence to determine the parties’ intent*

The record does not contain sufficient extrinsic evidence to determine the parties’ intent regarding the placement of the five challenged voters. In determining a parties’ intent based on extrinsic evidence, the Board may consider changes in the language from the original petition to the stipulated unit description. *CVS Albany, LLC*, 364 NLRB 141, 142 (2016); *Gala Food Processing*, 310 NLRB 1193, 1194 (1993). In this case, the language on the Petition<sup>5</sup> matches almost exactly the stipulated unit, the only change is the addition of “managers” to the excluded group. While I find that the Employer’s voter list is consistent with the Employer’s position that the five challenged voters should be included in the stipulated unit, I do not find that I may rely on it to determine the parties’ intent since it is not a *Norris-Thermador*<sup>6</sup> final and binding eligibility list. Accordingly, in the absence of extrinsic evidence to determine parties’ intent, I now turn to the third prong under *Caesar’s Tahoe*.

*c. Application of the community of interest standard*

As correctly stated by the hearing officer, an assessment of whether employees share a community of interest involves the weighing of many considerations. These factors include (a) the degree of functional integration (*Casino Aztar*, 349 NLRB 603, 605 (2007)); (b) common supervision (*United Rentals, Inc.*, 341 NLRB 540, 541-542 (2004)); (c) the nature of employee skills and functions (*United Operations, Inc.*, 338 NLRB 123, 125 (2002), and *Overnight Transportation Co.*, 331 NLRB 662 (2000)); interchange and contact among employees (*Casino Aztar, supra*, at 605-606); worksite (*R-N Market*, 190 NLRB 292 (1971)); general working conditions (*United Rentals, Inc., supra*); fringe benefits (*Allied Gear & Machine Co.*, 250 NLRB 679 (1980)); and the employer’s administrative organization (*Gustave Fischer, Inc.*, 256 NLRB 1069, fn. 5 (1981)). The question of whether a particular classification shares a community of

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<sup>5</sup> The unit description on the Petition is:

Included: All full-time and regular part-time production and maintenance employees, drivers, and yard jockeys employed at the Employer’s Glen Dale, West Virginia facility;

Excluded: All office clerical employees, professional employees, guards, and supervisors as defined in the Act, and all other employees.

<sup>6</sup> *Norris-Thermador Corp.*, 119 NLRB 1301 (1958).

interest is resolved by weighing all the relevant factors against the major determinant of community of interest. See *Publix Super Markets*, 343 NLRB 1023, 1027 (2004); *Bradley Steel, Inc.*, 342 NLRB 215 (2004). Applying these factors to each of the challenged classifications, I find that each challenged voter shares a sufficient community of interest with the petitioned-for-unit warranting inclusion.

*i. Department Coordinators Elizabeth Sears and Loren Uhrig*

I find that the record contains clear evidence that the work performed by the department coordinators is functionally integrated with the work of the line workers in the packaging department. The record testimonies of both Sears and Uhrig indicate that the line workers in the packaging department would not be able to perform their jobs without the input from the department coordinators. In this regard, the department coordinators, at the start of each shift, ensure that the packaging lines have sufficient materials and personnel to operate. Throughout the shift, the packaging line workers depend on the department coordinators' relaying to them the corporate schedulers' determinations about what each line will do. Thus, I find that the factor of functional integration weighs in favor of the department coordinators sharing a community of interest with the packaging department employees.

The Department Coordinators are directly supervised by Operations Manager Jason Menendez whereas the packaging line employees report to supervisors who then report to Operations Manager Jason Menendez. Thus, I find that this factor weighs against the department coordinators having a community of interest with the packaging department.

The nature of skills and functions factor examines whether the employees can be distinguished from one another based on their job duties, functions or the work they perform. Additionally, consideration is given to whether the employees work together as a group and whether their jobs require similar skills, use similar equipment and have similar job descriptions.

I find that this factor weighs against the inclusion of the department coordinators with the line workers in the packaging department. The work of the department coordinators requires the use of a computer and strong communication skills as compared to the line workers that primarily operate machinery to package the Employer's product. Sears and Uhrig use the Employer's computer system to track the work of the packaging line workers and to email the information received from the Employer's corporate office in Omaha, Nebraska to the departments in the Employer's Glen Dale facility. They also have regular communications throughout the shift with the Employer's corporate office, their direct supervisor, department heads and the plant manager regarding the work of the packaging department. In comparison, the work of the employees on the packaging lines does not require the use of a computer or to communicate with the Employer's corporate office.

I find that there is some interchange and significant contact between the department coordinators and the line workers. According to Sears and Uhrig they spend about 30 to 35 percent of their time in the office and the rest of the shift they are on the plant floor communicating with the packaging line workers. Although the record is not clear about the frequency, Sears and Uhrig

are each capable of performing the packaging line work and will fill in when a line worker goes on break or for an unexpected absence. Uhrig also drives a forklift on a weekly basis as he is responsible for the “quarantine” product and he operates the carton-making line about three times per month. Thus, I find the factor of interchange and contact among employees weighs in favor of the department coordinators having a sufficient community of interest with the stipulated unit employees.

Regarding work site and general working conditions, I find this factor weighs in favor of inclusion with the stipulated unit. According to the record testimony, the department coordinators spend about a third of their shift in the office and the rest of the shift is spent on the plant floor where the other employees work. Sears and Uhrig work in separate offices that are located on the plant floor. They are each paid an hourly wage rate and overtime pay although the record is not clear as to how their pay compares to that of the stipulated unit employees. All employees, including the department coordinators, have access to the same benefits such as healthcare, dental, vision, 401(k) plan and paid time off.

The department coordinators are in the same administrative unit with the stipulated unit as they are all included in the packaging department. The packaging department is overseen by Jason Menendez, Manager, Operations (MFG) (See Employer Exh. 5). The direct reports to Menendez include Sears, Uhrig, four Supervisors, and one Replenishment Buyer<sup>7</sup>. The packaging line workers report to one of the four Supervisors.

Accordingly, I find that department coordinators Sears and Uhrig share a sufficient community of interest with the stipulated unit based on functional integration with the packaging department, interchange and contact with the line workers and Uhrig’s handling of quarantine product, common work site and working conditions and administrative organization with the packaging department. Thus, the challenges to the ballots cast by Elizabeth Sears and Loren Uhrig are overruled.

*ii. MRO Buyer Mark Constantine*

I find that work performed by MRO buyer Mark Constantine is functionally integrated with the work performed by the maintenance employees who are covered by the stipulated unit. Specifically, Constantine works closely with Maintenance Planner Kyle Bonar and Maintenance Storeroom Clerk Marissa McCleary, both of whom were included on the Employer’s voter list and were not challenged by the Petitioner, although the record does not reflect whether either employee voted. Constantine’s primary responsibility is to purchase supplies for the maintenance department in response to requests made by the maintenance technicians or to maintain a minimum inventory of certain supplies.

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<sup>7</sup> There is not any record evidence about the Replenishment Buyer and the person in this position, Andrew Strobe, was not included on the Employer’s voter list.

It is undisputed that Constantine has common supervision with the other maintenance department employees. There are about 28 employees in the maintenance department and all of them, including Constantine, report directly to Maintenance Supervisor Doug Meager.

I find that some of the skills and functions performed by Constantine are similar to the work performed by the maintenance technicians. There is record testimony that Constantine spends about 20 percent of his time performing maintenance technician work and will perform some in-house repairs of supplies.

As MRO buyer, Constantine has regular interaction with the maintenance technicians in ordering supplies. He also serves as backup to the maintenance planner and one of the duties of this position is to maintain the preventive maintenance schedule. According to the position description, the MRO buyer is expected to “move about the manufacturing facility to observe and effectively communicate with team members and perform job duties.” Although the record is not clear the percentage of Constantine’s time that is spent in the office and the percentage of time that is spent on the plant floor.

Constantine works in an office in the Maintenance Department. Constantine is paid an hourly wage rate and overtime pay. He also has access to the same Employer offered benefits that are available to the other maintenance employees.

Finally, the MRO buyer is indisputably part of the Maintenance Department which encompasses the maintenance employees who are included in the stipulated unit. The Employer’s organization chart shows Doug Meager as the Maintenance Supervisor and below him are 18 maintenance technicians, two engineering technicians, the maintenance storeroom clerk and the MRO buyer. The maintenance planner reports directly to Ken Williams, Maintenance Manager as does Doug Meager.

Accordingly, I find that MRO buyer shares a sufficient community of interest with the stipulated unit warranting inclusion based on functional integration, common supervision, the fact that Constantine spends about 20 percent of his time performing maintenance technician duties, regular interaction, common work site and similar employment terms and part of the same administrative unit as the maintenance employees. Thus, the Petitioner’s challenge to the ballot cast by Mark Constantine is overruled.

*iii. Warehouse Office Clerks Anthony Cox and John Durig*

I find that the work performed by warehouse office clerks Anthony Cox and John Durig is functionally integrated with the work of the unit employees in the shipping and receiving areas of the warehouse department. The job description states that the warehouse office clerk is responsible for “performing administrative and clerical duties in support of warehouse operations.” Cox works in the shipping area located in the Glen X Building and Durig works in the receiving area in the Main Building. With regards to the shipping area, the warehouse office clerks organize the order in which orders are picked and arranged for shipping. In the receiving area, the warehouse office clerks complete the bills of lading when a delivery arrives and directs the driver to the loading

dock. The warehouse office clerk then announces the arrival of a “live load” over the radio and posts the bill of lading by the loading dock so the material handlers<sup>8</sup> will know what is in the trailer.

There are five warehouse office clerks and they each share common supervision with the material handlers. Specifically, Cox, warehouse office clerk Brittany Morris, 12 material handlers, and three warehouse leads are directly supervised by Warehouse Supervisor Cystal Yoho. In the receiving area, Durig reports to Warehouse Supervisor Carmela Rose who also supervises four material handlers and two warehouse leads.

The nature of skills and functions of the warehouse office clerk are distinct from that of material handlers and warehouse leads which appear to be included in the stipulated unit. The work performed by both Cox and Durig are administrative tasks that are mostly performed in an office while the other employees are more directly involved in the loading and unloading of goods. However, it appears from the record testimony that the warehouse office clerks, material handlers and warehouse leads would all have general knowledge of the Employer’s inventory and the shipping and receiving process.

I find that the warehouse office clerks, including Cox and Durig, have regular interactions and contact with the employees working in the warehouse. Specifically, Cox interacts with the material handlers and warehouse leads as these employees go to Cox’s office in the warehouse to retrieve the orders and labels used for shipping. Material handler Cook testified that she interacts with the warehouse office clerks, including Cox, because on a daily basis she visits their office to retrieve her orders and daily work assignments. Similarly, Durig and the other warehouse office clerk in the receiving area regularly interact with the material handlers regarding incoming orders. Record testimony from warehouse lead Blake describes that Durig and the material handlers sign the bill of lading as the delivery is processed. Also, a material handler or warehouse lead will fill in for the warehouse office clerk in their absence.

The warehouse office clerks, including Cox and Durig, work in an office in the warehouse area of the Employer’s facility. However, the material handlers and warehouse leads visit the warehouse office during their shift. The record is not clear regarding the amount of time Cox and Durig spend outside their offices on the plant floor but, it appears that Durig may spend up to two hours per day on the plant floor. All employees, including Cox and Durig, are each paid an hourly wage rate and overtime pay although the record is not clear as to how their pay compares to that of the stipulated unit employees. All employees, including the warehouse office clerks, have access to the same benefits such as healthcare, dental, vision, 401(k) plan and paid time off.

The warehouse office clerks, including Cox and Durig, are part of the warehouse administrative unit of the Employer’s operations. According to the Employer’s organization chart (Employer Exh. 3), Josh McCord is the Manager of the Distribution Center and below him are four

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<sup>8</sup> There were 185 names on the Employer’s voter list and 50 names had a job title of material handler. Since 162 employees cast votes, it is presumed that some of the material handlers voted, none of whom were challenged by the Petitioner.

warehouse supervisors- Tom Updegraff, Eric Fahey, Crystal Yoho and Jeni Morris. Each warehouse supervisor directly supervises the work of material handlers, warehouse leads and the warehouse office clerks.

Accordingly, I find that the warehouse office clerks, specifically Cox and Durig, share a sufficient community of interest warranting inclusion with the stipulated unit based on functional integration, common supervision, regular contact and interactions with the unit employees, common work site and similar employment terms, and they are part of the same administrative unit as the stipulated unit employees who work in the warehouse. Thus, the Petitioner's challenges to the ballots cast by Anthony Cox and John Durig are overruled.

## **V. CONCLUSION**

Based on the above and having carefully reviewed the entire record, the hearing officer's report and recommendations, and the exceptions and arguments made by the Employer and the Petitioner, I overrule the challenges to the ballots cast by Elizabeth Sears, Loren Uhrig, Mark Constantine, Anthony Cox and John Durig. Accordingly,

**IT IS ORDERED** that the ballots of Elizabeth Sears, Loren Uhrig, Mark Constantine, Anthony Cox and John Durig be opened and counted by an agent of the undersigned in the offices of Region Six at William S. Moorhead Federal Building, 1000 Liberty Avenue, Rm. 904, Pittsburgh, PA 15222 on **Friday, August 22, 2025 at 10:00 a.m.** If any party cannot be present in-person for the opening and counting of the ballots, then a virtual option will be available upon request.

**IT IS FURTHER ORDERED** that following the count a third revised tally of ballots will be prepared and issued to the parties.

## **VI REQUEST FOR REVIEW**

Pursuant to Section 102.69(c)(2) of the Board's Rules and Regulations, any party may file with the Board in Washington, DC, a request for review of this decision. The request for review must conform to the requirements of Sections 102.67(e) and (i)(1) of the Board's Rules and must be received by the Board in Washington by **Wednesday, August 20, 2025**. If no request for review is filed, the decision is final and shall have the same effect as if issued by the Board.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the Request for Review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining the circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Dated: August 6, 2025

*/s/ Nancy Wilson*

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NANCY WILSON  
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National Labor Relations Board  
Region 06  
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