IN THE MATTER OF THE ARBITRATION BETWEEN

ARCELORMITTAL STEEL COMPANY USA
INDIANA HARBOR WORKS

And

Award No. 21

UNITED STEELWORKERS, USW
LOCAL UNION 1010

OPINION AND AWARD

Introduction

This case from Indiana Harbor Works concerns the Union's claim that the Company improperly assigned MTM and MTE craftsmen to do work outside their traditional craft boundaries. The case was tried at the Company's offices in East Chicago on April 14, 2007 and January 7, 2008. Patrick Parker represented the Company and Bill Carey presented the Union's case. The parties submitted the case on final argument.

Background

This is one of several cases between the parties concerning the meaning of the contract negotiated in 2005, and the effect it had on traditional craft boundaries and jurisdictional local working conditions. No one questions that prior to 2005, various seniority sequences had the right to perform certain work to the exclusion of other employees. In crane repair, for example, work was either performed by one of the mechanical crafts or by one of the electrical employees, depending on the kind of work involved. Although there were probably some minor exceptions,

prior to 1999, mechanical craft employees did not perform electrical craft work on the cranes and electrical craft employees did not do maintenance work.

This changed in 1999 when the parties entered into an Addendum to the Mega Maintenance Agreement the parties had negotiated in 1993. The Addendum created the crane repairman position which was a combination of several mechanical and electrical crafts. The crane repairmen were cross-trained and, per the Addendum, were to "perform all mechanical, electrical and welding work on cranes ...." These craftsmen, then, were permitted to cross traditional jurisdictional lines and perform work of another craft. The parties agree that neither the Mega Maintenance Agreement nor the Addendum survived the 2005 collective bargaining agreement. The Company argues, however, that the 2005 contract permits it to assign a composite crew of MTM and MTE employees to crane repair and that when there is a composite crew on a particular crane, MTM employees can perform electrical work and vice versa. The Union says the Company tried to bargain for that result in negotiations, but was not successful. The elimination of the Addendum, it says, resulted in the restoration of jurisdictional concepts existing before 1999.

As noted above, there have been previous cases concerning similar issues. One of those was Mittal Award No. 8, which explained the general facts as follows:

> There were significant changes in the basic steel industry between 2000 and the time this case arose in 2005. LTV Steel Company, located adjacent to the Company's operations in northwest Indiana, went bankrupt and ceased operations. ISG Steel purchased the assets of LTV and negotiated a new agreement with the Union. That agreement made significant changes in basic steel language and created more flexibility in job assignments. Similar language was introduced in the 2003 Basic Agreement between United States Steel Corporation and the United Steelworkers, USW. In late 2004, Ispat International acquired ISG, including the old LTV location in East Chicago, which resulted in the creation of Mittal Steel Company USA. In October 2004, the Company and Union agreed that if the Company acquired ISG, the production and maintenance bargaining unit from Ispat Inland would be covered by the ISG/USWA Agreement, with appropriate supplements covering various subjects, including seniority. Negotiations

over those supplements culminated in a new Agreement between USW and Mittal Steel that became effective on November 13, 2005....

In this case, the Company points to revisions to both the seniority structure and the local working conditions language to justify this change, as well as a reduction in the number of jobs. Prior to the current Agreement, there were hundreds of jobs in the plant, each grouped in a seniority sequence. Each seniority sequence was itself a seniority unit that could have jurisdiction over certain work. In some departments, there were a dozen or more seniority sequences, each of which, as recognized in Article 13, Section 3, was "intended to provide definite lines for promotion and demotion, insofar as practicable, in accord with logical work relationships, supervisory groupings and geographic locations...." The seniority unit was defined differently in the 2005 Agreement in Article 5, Section E:

> 2. Determination of Seniority Units
>
> > a. Seniority shall be applied on a job and departmental or larger unit basis, as agreed upon. A job may be in one seniority unit for one purpose and in a different unit for another.
> >
> > b. The seniority units, lines of progression, departments and rules for the application of seniority factors in effect as of the Effective Date shall remain in effect unless modified by a local written agreement signed by the Grievance Chair.
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> ****

Mittal No. 8 and Mittal No. 22 both dealt with job assignments of non-craft employees, unlike the present case, which deals with craft jurisdictional rules. Although the location of a particular duty in a particular craft is sometimes a matter of dispute, that is not an issue in this case. The parties agree that with respect to crane repair, there were overlapping duties that could be performed by either craft. But they also agree that there are some duties that belong to the electrical craft and some that belong to the mechanical craft. The issue in the case is whether there are circumstances that permit employees from one craft to be assigned work that belongs to the other craft.

Prior to 2005, there were at least 10 different mechanical crafts in the plant, and at least 7 separate electrical crafts. In the 2005 negotiations, the ten mechanical crafts were placed in a

box and classified as Maintenance Technician Mechanical (MTM). The electrical crafts were put in a separate box, called Maintenance Technician Electrical (MTE). The agreement recognizes that the Company is free to assign to any craft employee work that was formerly performed by any of the jobs listed in the box. For example, an MTM who formerly worked as a fabricator could be assigned to work that was formerly performed by a mechanic, assuming he was qualified to do the job. This dispute arose when the Company wanted to assign an MTM to work within the MTE box.

The Company does not claim the right to assign MTE work to an MTM in any circumstance. If a task were clearly identified as MTE work, for example, the Company does not claim the right – at least in this case – to send an MTM to do the work. However, it says if it uses a composite crew comprised of both MTM and MTE employees, then either craft could do any of the work of the other craft they were qualified to perform. And this is true even if the only MTE on the crew was working at the other end of the crane from an MTM assigned to do MTE work. The testimony also establishes that the MTMs and MTEs assigned to present day crane repair crews are the employees who worked as Crane Repairmen under the Addendum.

The Union argues that the Company tried to retain the Crane Repair job during the 2005 negotiations, but was unable to do so. Dennis Shattuck, Grievance Chairman, testified that the first Central Maintenance LOP diagram offered by the Company at negotiations had MTMs and MTEs in the same box. In addition, there was a separate box for the crane repairman.[1] That was the only job in the box, other than a training position. In the first proposal there were lines running from the MTM/MTE box to the crane repairman box, meaning that an MTM in one box could have been assigned to duties in the other box. A later proposal dropped the lines between

[1] The separate box was simply called MTM, but the only job in the box was crane repairman. In addition, there was also a separate MTM box for some pipefitter welder functions.

boxes, and also put the MTE in a separate box. But the crane repairman box remained. The Union said if there was to be a separate box for crane repairmen, it wanted the position to be paid at labor grade 5, instead of labor grade 4, which applied to other MTMs and MTEs. The Company would not agree. The diagram the parties finally agreed to eliminated the crane repairman box, and, although the parties discussed doing so, does not list crane repairman as one of the former occupations covered by either the MTM or the MTE boxes.

The Union says this means the parties reverted back to the MTM and MTE crafts, with each job being restricted to work that historically was within that craft. The Union cited a document headed "Miscellaneous LOP Understandings" which said the crane repairmen would have their status changed to MTM or MTE. Shattuck said the Union left negotiations believing that the crane repair issue had been settled. However, once the contract became effective, the Company continued to operate in the same way by assigning to crane repair MTMs and MTEs who had formerly been crane repairmen. In addition, MTMs were told they would be considered insubordinate if they took their electrical tools home, which the Union says was an indication that the Company expected them to continue to do electrical work.

Robert Cayia, Manager of Labor Relations at the Indiana Harbor Works testified that the job descriptions for Maintenance Technician (Mechanical or Electrical) does not limit employees to either electrical or mechanical duties:

> Perform all functions (mechanical or electrical) necessary to maintain all operating and service equipment using standard and specialized tools and equipment. Makes (mechanical or electrical) repairs as required in connection with their (mechanical or electrical) service. Operates equipment in conjunction with repairs and provides assistance in operating functions as necessary to keep equipment running. May work alone, with minimal supervision and works with other Maintenance Technicians, and coordinates and works in conjunction with Operating and Service Technicians in the performance of maintenance tasks.

Cayia also pointed to language in the job descriptions for Operating Technicians which says those employees can perform or assist in maintenance tasks, and to similar but more limiting language in the Service Technician description. This indicates, the Company argues, that at least some maintenance activities are not even limited to a craft, let alone exclusive to just one craft.

Cayia said the Company found support for its position concerning composite crews in the Wood-McCall letter, which is included in the 2005 Agreement. As noted above, once Mittal purchased ISG, the Union was committed to the ISG-style collective bargaining agreement, with "appropriate supplements." Those are outlined in the Wood-McCall letter. Paragraph 5 reads as follows:

> Existing local working conditions which are inconsistent with the implementation of the work restructuring efforts will be eliminated or modified as appropriate in order to implement the new seniority structures. Those local working conditions unaffected by the foregoing will be preserved. Furthermore, work assignments will be made utilizing the concepts of self direction that have been implemented at other ISG locations. Following implementation of the new seniority structures, Article 5, Section A and Article 5, Section E (2)(b) will apply.

Cayia pointed to the sentence that begins "Furthermore..." which he said is consistent with the Company's position that when there is a composite crew, the employees will work out who does what job. The MTE on the crew would be the lead person for an electrical job, but an MTM could also do electrical work and assist with work that had historically been performed by an electrical craft. Cayia said this is what the job descriptions contemplated, and it is consistent with the job restructuring concepts in the 2005 Agreement. Historical work jurisdiction held by numerous and narrow crafts have been eliminated, he said.

On cross examination, Cayia said some work falls into the capability of either craft, MTM or MTE, and, although there is a need for some training, employees of either craft can do the work. But employees can also perform work for which there was no historical overlap. Even

so, Cayia said there is some work that cannot be shared. He said there was probably some work that the Company would not train the other craft to do. But it was not clear from his testimony whether this was a jurisdictional limitation or a practical one.

Shattuck's testimony challenged Cayia's interpretation of the breadth of the restructuring language. The Company had wanted language similar to that bargained into the USS-USW May 20, 2003 Basic Labor Agreement, although with even more flexibility. He said the Company's proposal would have allowed the Company to move people in the interest of efficiency. The Union disagreed, and the parties ultimately agreed to the restructuring language in paragraph 5 of the Wood-McCall letter. Shattuck said this meant the Union would agree to discuss local working conditions that affected restructuring. He also said the Company had been able to bargain language for Minorca Mine that allowed it to assign operational jobs and maintenance mobile equipment operator jobs to other areas in order to "attain maximum productivity and flexibility...." There is no comparable language for the former Ispat Inland facility, Shattuck said.

Mike Heaney is Senior Division Manager of Maintenance and Environmental Utilities at the Indiana Harbor Works. When ISG purchased the former LTV facility – now Indiana Harbor West – in 2002, that facility had few supervisors. This resulted in the concept of a self-directed crew, using the same job descriptions in effect on the East side, and a similar seniority structure. For a time, the facility used a composite crew to do crane repair work, and MTMs and MTEs were not restricted to work historically performed by their craft. But there is no longer a composite crew on the West side because the Company lost the MTEs through attrition. Now, electrical work on the crane is done by MTEs from other areas or by contractors. Because there is no longer a composite crew, MTMs assigned to work on cranes do not perform electrical

work. But Heaney said MTEs and MTMs assist each other on the West side, and that operators are expected to do some maintenance or electrical work.

Sustaining the Union's position, Heaney said, would make the work less efficient. Sometimes the crew doesn't know the nature of the problem until they get to the crane and inspect it. If it is an electrical problem, then under the Union's interpretation the MTMs would stand around doing nothing while an MTE did the work. This is not consistent with the restructuring, Heaney said. On cross examination, Heaney said there is no distinct body of work for either mechanical or electrical employees. But he also said employees could not work across craft lines unless it was a composite crew containing both MTMs and MTEs. He also said an MTE has to be in the same area if an MTM is working on an electrical problem. The two employees do not have to be right next to each other, although it would violate craft jurisdiction, he said, if the MTE was 500 yards away from the MTM. Russ Landis, Shift Supervisor, testified that the crew decides on the assignments, and that MTMs and MTEs probably would be working close enough to yell to each other, although they also have radios.

Ernesto Williams, an MTM assigned to crane repair, said most of the electrical work he does is preventative maintenance and repair. On cross examination he agreed that prior to the 2005 Agreement, MTMs on the crane crew performed electrical work even if there was no MTE on the crew. Now, however, they can only do electrical work if there is an MTE on the crew. Other Union witnesses said the same thing. Tom Boyer, a West side MTM, said there are no longer any MTEs on the crane crew in his facility. But when there were MTEs, he said he did not do any electrical work, which he thought was also true of other MTMs.

Positions of the Parties

The Company contends that it bargained for the right to use maintenance technicians in the way they are now assigned. The rigid jurisdictional lines that once existed are now gone, and have been replaced with a structure that allows flexibility. In return, the Union received job security and high wages. The Company argues that the job descriptions and seniority language make it clear that even a production employee could stand in the shoes of an MTM or MTE, and others could go up to assist with work on the crane. It makes no sense, then, to exclude MTMs and MTEs into separate crafts when the job description covering both jobs says they can perform *all* functions.

The Company says it has not tried to create a single craft of MTEs and MTMs, and even if it had, few employees could make both jobs. But its intention is to cross-train employees and use them accordingly. The blueprint of the contract, it says, was to have relatively few employees and to pay them well. But the Company needs flexibility to do that and part of that flexibility is having employees from different crafts working together without strict jurisdictional boundaries. The MTMs and MTEs are all in one seniority unit, the Company argues, and can be assigned without regard to jurisdictional walls. This is what the Company says was contemplated by paragraph 5 of the Wood-McCall letter.

The Union argues that the contract does not say, as the Company did in the second step, that the goal of the contract is to increase efficiency through flexibility. Nevertheless, it says, the contract does provide more flexibility in assignment. However, the Union says those changes are made expressly, like reducing thirteen crafts into two. The Company cannot make changes as a "general matter" simply because doing so would be more efficient. The reality is that the old contract, which encompassed the MMA Addendum, provided more flexibility than the new

one. Unlike the Addendum, nothing in the 2005 Agreement allows the combination of the mechanical and electrical crafts. The Company admitted there were separate bodies of work for electrical and mechanical technicians, and the Union argues that nothing in the contract says the boundaries can be breached just because there is a composite crew.

The Union denies that the job descriptions allow the Company to assign production employees to maintenance work as if there were no craft boundaries. The Company has always had agreements that permitted position-rated employees to perform some craft work, but there was no contention that the Company was permitted to eliminate craft employees. The Union also notes that the Company was not able to bargain what the Union characterizes as the broad flexibility permitted by the USS-USW contract language and, the Union argues, paragraph 5 of the Wood-McCall letter gave the Company substantially less flexibility. The only language about maximum production and flexibility applies to Minorca Mine, not Indiana Harbor East.

The Union argues that nothing expressed in the contract wiped out 60 years of craft concepts and, in fact, the 2005 Agreement can be understood only in the context of the older agreements. The Union also says that job descriptions have been used most often for pay purposes, not to describe what employees do. For craft employees, their jurisdiction depends on the history of their work – on the kind of work they have traditionally done. The Union also says it has not waived its right to insist on craft boundaries. Previously, craft employees could cross jurisdictional lines under the MMA and the Addendum. But those documents were not renewed under the 2005 Agreement, which means the craft boundaries reverted to what existed before 1999.

Findings and Discussion

Although this case was tried before the decision in ArcelorMittal Award No. 22, the Company's position is not necessarily inconsistent with the holding in that case. In Award No. 22, I found that the Company did not have the freedom to transfer duties between boxes or branches within a department. In this case, the Company's argument, and its witnesses, seemingly recognized that there remained at least some traditional craft jurisdiction. Although the Company says craft boundaries yield to efficient operation when there is a composite crew, it acknowledges that it has no right to assign the unique duties of one craft to employees in another craft when there is not a composite crew. In fact, on the West side, the Company no longer assigns electrical work to MTMs who work on cranes because there are no longer any MTEs on the crew. Moreover, Heaney said even a composite crew would not necessarily permit crossing traditional craft lines if an MTM doing an electrical job was too remote from the MTE on the same crew. The Company, then, did not argue in this case that it has the right to transfer work between the MTM and MTE boxes just because they appear in the same departmental LOP, an argument that was rejected in Award No. 22.

It is not determinative that the Company refused to extend the MMA and the Addendum into the 2005 Agreement. The Union obviously understood that decision to wipe out the kind of cross craft work those agreements had permitted. However, as I understand the Company's argument, it did not think that eliminating the MMA meant the parties reverted to the old status quo; rather, it believed the new contract would provide even more flexibility than it had enjoyed under the MMA. And surely the Company was correct. Without getting bogged down in the details of the MMA, the 2005 Agreement abolished the boundaries *between* the mechanical crafts, and it abolished the boundaries *between* the electrical crafts. Thus, for example, the

Company could assign an MTM to a mechanical job without regard to the occupation that employee had performed in the past. All of those former jobs are in the MTM box and any MTM could do them, assuming he had sufficient training and ability. The same is true of the MTEs.

But these changes are explicit. In contrast, there is no express language about the jurisdictional limitations of a composite crew. The Company relies principally on two provisions: the Wood-McCall Letter and the Job Descriptions. The relevant language in the Wood-McCall Letter says, "assignments will be made utilizing the concepts of self direction that have been implemented at other ISG locations." Heaney testified that prior to the loss of MTEs from the crane crew on the West Side, he had assigned composite crews and assignments had been interchangeable, an assertion denied by a West Side MTM. There was no evidence about how the self direction concept worked at other former ISG locations, which significantly limits the comparison set up in the clause.

The Wood-McCall letter, the Company says, has to be read in conjunction with the job descriptions. MTMs and MTEs are covered by the same job description, which is quoted in the Background, above. The job description is headed "Positions Title: Maintenance Technician (Mechanical or Electrical)", and it says an incumbent "Performs all functions (mechanical or electrical)...." Even so, as already explained, the Company's argument acknowledges that there are some limitations in the kinds of work these employees can performed in the other craft, e.g., the Company agrees that the MTM cannot do some MTE work when there is no composite crew. But the Company points out that even production job descriptions allow employees to perform maintenance tasks. For example, the job description for the Senior Operating Technician, Labor Grade 5, includes the following language: "Performs or leads maintenance activities as required

with operating crew members and coordinates and works in conjunction with maintenance technicians." Similarly, the Labor Grade 3 Operating Technician job description says an incumbent, "Performs and assists in maintenance tasks as directed by Senior Operating Technicians and Maintenance Technicians as required." A Labor Grade 2 Service Technician "supports and assists in maintenance activities...." If these employees can work in conjunction with or under the direction of a maintenance technician, the Company says, then it makes no sense to say that one maintenance craft cannot work across craft lines when accompanied by someone from the other craft.

The Union discounts the relevance of job descriptions by noting that, historically, they have been used to evaluate jobs for pay purposes. But the job descriptions in the 2005 Agreement are different from the kind of job descriptions employed to establish pay rates. Under the old job classification system, employees were assigned points for factors that took account of particular duties, some of which were quite specific, e.g., "Heavy physical effort. Use heavy hand tools to roll billets through furnace, assist on mill changes, clean scale, separate stickers, etc."[2] I don't know how the parties established wage rates for the 2005 Agreement, but jobs that paid different rates under the old system are now in the same box and are paid the same rate. It seems unlikely that the very general language of the job descriptions played a central role in setting that wage. This doesn't mean that a Labor Grade 5 Senior Operating Technician or a Labor Grade 3 Operating Technician can supplant the MTMs and MTEs (especially after ArcelorMittal Award No. 22), but the job descriptions have to be taken as indicative of the work the employees do or can perform.

[2] This was taken from the Tube Mills Heater Helper Master Job Classification, page 307-308 of the Job Description and Classification Manual. The job itself is of no relevance to this case and, in all likelihood, no longer exists. I mention it only to indicate the difference in specificity between the new job descriptions and at least some of the old ones.

There is some merit, then, to the Company's claim that other employees are permitted to do maintenance work, at least when working with or under the direction of maintenance employees. But the job descriptions cannot be read as independent rights to certain work. That is, the fact that production employees can do some maintenance may not mean they can be assigned independently to work that is exclusive to a certain craft. Here, although they dispute the volume of work, the parties have recognized that there are some functions that cannot cross craft lines in the absence of a composite crew. There is no reason to believe that this limitation on craft assignments disappears when the exclusive work is assigned to an operations employee instead of another craftsman.

The Union also relies on bargaining history that shows the Company proposed including the MTM and the MTE in the same box, thus, in effect, merging the kind of work that could be assigned. The Union would not agree. Later, the Company proposed establishing the crane repairman in its own box, meaning that those employees would have been able to perform any of the work typically given to the branch, which included mechanical and electrical maintenance. Again, the Union would not agree to this proposal. Ultimately, the parties agreed to a diagram that has MTEs and MTMs in separate boxes, and which does not include a separate box for crane repairmen.

I have recognized in other cases that a withdrawn proposal does not always concede the absence of the right the proposal sought to secure. There are occasions where a party withdraws a proposal that would have clarified a right the party had already claimed existed under the old language. But that is not necessarily the Company's position in this case. Under the MMA Addendum, the Company could use anyone on the crane repair crew to do either mechanical or electrical work. Assuming an MTM was qualified to perform an electrical assignment, he could

do so, even though there was no MTE on the crew. As I understand the Company's proposal in the 2005 negotiations, that is what it wanted to retain. The initial one-box maintenance proposal would have allowed assignments to any mechanical or electrical work to anyone in the box without regard to the work's classification as mechanical or electrical (assuming ability to do the work). That might have expanded the Company's right of assignment even beyond the Addendum, at least outside the crane repair area.

The second proposal was to retain the crane repair crew in a separate box, meaning that the Company could have continued to assign maintenance employees to any job they could do on the crane, whether they were MTM or MTE. The Union rejected this proposal as well, and ultimately, the Company withdrew it. Obviously the Company was not able to bargain the kind of flexibility it sought, either by putting all MTs in the same box, or by continuing the crane repairman occupation. But the Company says the failure to secure one of those clauses does not mean it is restricted from all transfer of work across craft lines.

In this case, the Company says that craft employees can work across traditional boundaries if the crew is staffed by both MTMs and MTEs. The Company's real argument is that when there is a combined or composite crew, the concept of self direction recognized in Paragraph 5 of the Wood-McCall letter allows the employees to decide how the work will be divided. And, the Company argues, this is consistent with the new job descriptions, which expanded the kinds of work employees could perform. The Union's defense in large part is that the Paragraph 5 of the Wood-McCall letter was intended to limit the Company's flexibility more than was the language agreed to in other locations, including the USS-USW Agreement, and the ArcelorMittal-USW contract as applied to Minorca Mine.

The USS-USW agreement does contain language that says the restructuring was intended to "maximize efficiency by having employees perform a broader range of duties and by eliminating jurisdictional and other barriers which would interfere with maximizing flexibility and productivity." It would be inappropriate in this case to interpret the USS-USW language or to speculate about what is or is not permitted by the quoted language. The Union's point is that it refused to agree to any language about the elimination of jurisdictional boundaries, and that it did not agree to language about maximizing flexibility and productivity.

However, the Company was able to bargain similar language covering Minorca Mine in a Letter of Understanding between John Rebrovich, USW Staff Representative, and Jonathan Holmes, Mine Manager. One paragraph of the letter says that maintenance craft incumbents "may be assigned to perform maintenance and repair tasks associated with other maintenance craft jobs and areas." Another provision allows Minorca management to assign operations employees to other operations or maintenance jobs in order to attain "maximum productivity and flexibility at the mine." As was true of the USS-USW language, above, this is not an appropriate case to determine the rights the Company obtained with the Minorca language. But, again, the Union's point is that it would not agree to this language for the former Ispat Inland location, which, it says, means that the Company has less flexibility there than it may have at Minorca.

One of the difficulties with this case is that the language is quite general. Even under agreements that the Union says confer more flexibility – like the terms "maximum productivity and flexibility" in the Minorca letter – it is hard to understand the scope of the Company's discretion in specific situations. The Company's interpretation of the self direction language in the Wood-McCall letter is plausible, and would no doubt foster productivity and efficiency. But one must also wonder whether it could be accommodated to the ruling in Award No. 22. In that

case, I found that craft employees could not be assigned to perform the duties Service Techs had historically done. But conceivably the Company's interpretation of paragraph 5 could permit craft employees to perform those duties as long as a service tech was assigned to the same job in the same area.

There are also questions about how the Company's interpretation would be applied. Heaney testified, for example, that the Company could lose the benefit of the self direction language if the MTE was 500 yards away from the MTM performing electrical work. Obviously, this suggests there would be disputes about the proximity of the employees and the kind of work they do. These kinds of disputes are better handled by the parties through negotiation than by arbitrators, who would have difficulty drawing lines based on the meaning of self direction. Although I understand the Company's position that it paid for flexibility and should be able to take advantage of its bargain, I cannot conclude that use of the words "self direction" allows assignments across craft lines. This is more of a burden than those words can carry.

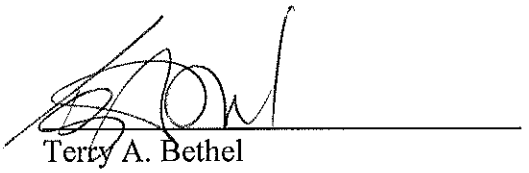
I am also influenced by the bargaining history, including the Union's refusal to agree to the broad language used in other agreements. This should not be understood to ascribe a meaning to that language. But the point is that the Union's refusal to agree was based on its intention to limit the Company's discretion in work assignment, a concern it stated in negotiations. Of course, this does not mean the Company shared the Union's interpretation of "self direction." But I have to interpret the words "self direction" within the context of the language the parties rejected, which seemingly would have given the Company more latitude. Finally, the "self-direction" language is not rendered meaningless by rejecting the Company's

position in this case. A crew of MTMs, for example, can still divide their work in accordance with the principle of self direction.

The parties have not asked me to resolve the issue of which duties are exclusive to which craft and nothing I say in this opinion should be understood to reflect any view about that. The Union asked for a cease and desist order and 100 hours of back pay for the craftsmen involved in the case. I need not impose a formal cease and desist order. It is sufficient simply to find that the Company cannot assign employees in one craft to perform work exclusive to the other craft even when there is a composite crew. As I understand the facts, no one was laid off as a result of the Company's actions. Moreover, there is no evidence that a difference in wage rates or overtime resulted in lost earnings for any employee. The back pay request, then, seems punitive and will not be allowed.

AWARD

The grievance is sustained as explained in the Findings.



Terry A. Bethel
May 27, 2008