70 FLRA No. 54

UNITED STATES
DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING COMMAND
MID-ATLANTIC
NORFOLK, VIRGINIA
(Agency)

and

AMERICAN FEDERATION
OF GOVERNMENT EMPLOYEES, AFL-CIO
LOCAL 1415
CRANE, INDIANA
(Labor Organization)

and

AMERICAN FEDERATION
OF GOVERNMENT EMPLOYEES, AFL-CIO
LOCAL 2326
GREAT LAKES, ILLINOIS
(Labor Organization)

and

AMERICAN FEDERATION
OF GOVERNMENT EMPLOYEES, AFL-CIO
LOCAL 53
NORFOLK, VIRGINIA
(Labor Organization)

and

NATIONAL ASSOCIATION
OF GOVERNMENT EMPLOYEES, AFL-CIO
LOCAL R7-51
GREAT LAKES, ILLINOIS
(Labor Organization)

WA-RP-16-0017
CH-RP-16-0017
CH-RP-16-0018

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ORDER DENYING
APPLICATION FOR REVIEW

June 22, 2017

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Before the Authority: Patrick Pizzella, Acting Chairman, and Ernest DuBester, Member

I. Statement of the Case

This case is before the Authority on an application for review (application), filed by American Federation of Government Employees' Locals 53, 1415, and 2326 (Local 53, Local 1415, Local 2326 – collectively, the Locals),[1] of the attached decision of Federal Labor Relations Authority Regional Director Sandra J. LeBold (RD). The issues in the case arose when the U.S. Department of the Navy (Navy) reorganized two of its bases – one located in Crane, Indiana (Crane) and the other in Great Lakes, Illinois (Great Lakes). Before the reorganization, a Navy subcommand oversaw the relevant Crane and Great Lakes employees, represented in three bargaining units: Local 1415, Local 2326, and a local of the National Association of Government Employees (Local R7-51).[2] The reorganization decommissioned the Navy subcommand, and organizationally transferred these employees to work under another Navy subcommand – the Agency in this case.

The Agency filed a petition to include – through the Authority's accretion doctrine – the relevant Crane and Great Lakes employees in two existing bargaining units of Agency employees represented by Local 53 and the Tidewater Metal Trades Council (Tidewater). Locals 1415 and 2326 filed cross-petitions to remain certified – under the Authority's successorship doctrine – as the exclusive representatives of the Crane and Great Lakes employees.

The RD granted the Agency's petition, and denied Locals 1415 and 2326's cross-petitions in a single consolidated decision and order (RD's Decision). Accordingly, the RD determined that the Crane and Great Lakes employees are included in the Local 53 and Tidewater units. There are three substantive questions before us.

The first question is whether the RD failed to apply established law, made clear and prejudicial errors concerning factual matters, and committed prejudicial procedural errors in determining that the Locals' proposed successor units are inappropriate. As the Locals do not demonstrate that the RD erred, the answer is no.

The second question is whether the RD failed to apply established law in determining that adding certain Crane and Great Lakes employees to the Agency's Local 53 unit is appropriate. As the Locals do not

[1] Local 53 was, erroneously, not previously identified as a party, and has been added in the case caption.

[2] The disposition of the employees represented by Local R7-51 is not at issue in this case.

demonstrate that the RD failed to apply established law, the answer is no.

The third question is whether the RD committed a prejudicial procedural error by allegedly failing to determine the status of certain Crane employees. Because the Locals do not establish that the RD failed to determine the status of those employees, the answer is no.

II. Background and RD's Decision

A. Background

The Naval Facilities Engineering Command (NAVFAC) provides installation services – such as facilities, utilities, transportation, and environmental services – at Navy bases worldwide. NAVFAC has two subcommands, which are further subdivided into several Facilities Engineering Commands (FECs), including the Agency. FECs carry out their missions through the work of various field offices known as Public Works Departments (PWDs). PWDs provide site-specific support to the naval bases they serve.

The Navy reorganized its Crane and Great Lakes bases. Before the reorganization, the PWDs at Crane and Great Lakes both fell under NAVFAC Midwest, an FEC. The reorganization decommissioned NAVFAC Midwest and organizationally transferred the PWDs at Crane and Great Lakes under the Agency.

The reorganization affected the PWDs' Crane and Great Lakes employees represented in three bargaining units (transferred employees): Local 1415 represented the general-schedule and wage-grade employees at Crane; Local 2326 represented the general-schedule employees at Great Lakes; and Local R7-51 represented the wage-grade employees at Great Lakes.

After the reorganization, the parties filed petitions with the Authority's regional office. In particular, the Agency filed a petition arguing that the transferred employees accreted into two of its existing bargaining units, specifically that the: (1) transferred general-schedule employees accreted into Local 53, which represents the Agency's general-schedule employees; and (2) transferred wage-grade employees accreted into Tidewater, which represents the Agency's wage-grade employees (collectively, the Agency's existing units). Moreover, the Agency alleged that the transferred employees should be automatically included in these units because they fall within the express terms of these units' certifications. Locals 1415 and 2326 filed cross-petitions contending that they should maintain exclusive representation of the general-schedule and wage-grade employees at Crane and the general-schedule employees at Great Lakes with the Agency as a successor employer. Local 53 and Local R7-51 also opposed the Agency's petition, and Tidewater took no position.

B. RD's Decision

Based on the parties' claims, the RD applied the Authority's legal framework in *U.S. Department of the Navy, Fleet & Industrial Supply Center, Norfolk, Virginia* (*FISC*)[3] for resolving competing claims of successorship and accretion in cases arising out of a reorganization where employees are transferred to a pre-existing organization.

The RD first considered whether, as argued by the Locals, the Agency is the successor to NAVFAC Midwest – and therefore the incumbent locals retained their status as the exclusive representatives of the transferred employees. The RD applied the three-prong test described in *Naval Facilities Engineering Service Center, Port Hueneme, California* (*Port Hueneme*)[4] for resolving successorship claims arising out of a reorganization. Applying the first prong of *Port Hueneme*'s successorship test, the RD assessed whether the proposed "stand-alone" successor units (proposed separate units) are appropriate following the transfer.[5]

Under 5 U.S.C. § 7112(a), a unit is appropriate when three criteria are satisfied: (1) the employees in the unit share a community of interest; (2) the unit promotes effective dealings with the agency; and (3) the unit promotes the efficiency of agency operations.[6] Regarding the community-of-interest criterion, the RD, citing *FISC*, considered whether the transferred employees have "significant employment concerns or personnel issues that are different or unique from" the Agency's employees.[7] She determined that the record did not establish that the proposed separate units would share a clear and identifiable community of interest separate and distinct from the Agency's existing units. Specifically, the RD found that employees in each of the proposed separate units and the Agency's other PWD employees: "are governed by the same personnel and labor relations policies[;] have the same job titles and position descriptions[;] support the same mission[;] and are subject to the same chain of command."[8]

The RD considered the Locals' argument that Crane PWD employees work with unique safety concerns

[3] 52 FLRA 950, 958-59 (1997).
[4] 50 FLRA 363, 368 (1995).
[5] RD's Decision at 7.
[6] 5 U.S.C. § 7112(a).
[7] RD's Decision at 7 (emphasis omitted) (citing *FISC*, 52 FLRA at 960).
[8] *Id.* at 8.

related to munitions activities and work in a remote location, but found that those safety concerns also exist at each of the Agency's PWDs, and that other PWDs are just as remote. Similarly, the RD considered the Locals' assertion that Great Lakes PWD employees perform some unique work, such as providing "support for the [Agency's] only boot camp."[9] Rejecting these arguments, she found that the "commonalities of interest," described above, "ultimately outweigh the few employment concerns that are unique to any one of [the Agency's] PWDs."[10] On this basis, she found that "although [the proposed separate units] present some unique working conditions, the record ultimately does not establish that the[se] employees . . . have significant employment concerns or personnel issues that are different or unique from those of . . . other . . . [Agency] PWD[employees]."[11] Accordingly, the RD concluded that the proposed separate units are not appropriate under § 7112(a), and thus, the Agency was not the successor to NAVFAC Midwest.

Turning to the Agency's argument that the transferred employees accreted into the Agency's existing units, the RD applied the accretion principles set forth in *FISC*.[12] She first assessed whether adding the transferred employees to the Agency's existing units would be appropriate under § 7112(a).

The RD found that the transferred employees share a clear and identifiable community of interest with the Agency's PWD employees. She also found that accreting the transferred employees into the Agency's existing units would promote effective dealings and the efficiency of agency operations. Such a unit, the RD determined, "would result in a consolidated structure that is co-extensive with the Agency's operational and organizational structure."[13] For example, the RD found that the Agency would not have to negotiate or expend costs associated with administering separate collective-bargaining agreements for separate units. Consequently, the RD concluded that including the transferred employees in the Agency's existing units would result in an appropriate unit under § 7112(a) of the Federal Service Labor-Management Relations Statute (the Statute).[14] On this basis, the RD concluded that the transferred employees accreted into the Agency's existing units.

Finally, applying the automatic-inclusion principles set forth in *Department of the Army Headquarters, Fort Dix, Fort Dix, New Jersey*,[15] the RD found that the transferred employees fall within the express terms of the Agency's existing units' certificates, and their inclusion would not render the units inappropriate.[16] Therefore, she found that the transferred employees are automatically included in the Agency's existing units.

In sum, the RD granted the Agency's petition, and denied Locals 1415 and 2326's cross-petitions. The Locals then filed this application for review. The Agency did not file an opposition.

III. Analysis and Conclusions

A. The RD did not fail to apply established law, commit clear and prejudicial errors concerning substantial factual matters, or commit prejudicial procedural errors regarding whether the proposed separate units are appropriate.

The Locals argue that the RD failed to apply established law, committed clear and prejudicial errors concerning factual matters,[17] and committed prejudicial procedural errors[18] because, as part of her successorship analysis, she did not properly analyze whether the proposed separate units are appropriate. We disagree for the following reasons.

Applying the *Port Hueneme* successorship framework, the Authority will first determine whether a proposed unit is appropriate.[19] As set forth above, under § 7112(a) of the Statute, the Authority considers whether the unit would: (1) ensure a clear and identifiable community of interest among employees in the unit; (2) promote effective dealings with the agency involved; and (3) promote the efficiency of the operations of the agency involved.[20] A proposed unit must meet all three of these criteria in order to be appropriate.[21] Determinations as to each of these criteria are made on a case-by-case basis.[22] The Authority has set out factors for assessing each criterion, but has not specified the

[9] *Id.*
[10] *Id.*
[11] *Id.* at 7-8.
[12] *Id.* at 8 (citing *FISC*, 52 FLRA at 963).
[13] *Id.* at 9.
[14] 5 U.S.C. § 7112(a).
[15] 53 FLRA 287, 294 (1997).
[16] RD's Decision at 9.
[17] Application at 25-38, 40-49.
[18] *Id.* at 47-48.
[19] 50 FLRA at 368-69.
[20] *U.S. Dep't of the Interior, Bureau of Ocean Energy Mgmt. & U.S. Dep't of the Interior, Bureau of Safety & Envtl. Enf., New Orleans, La.*, 67 FLRA 98, 99 (2012) (*Interior*) (citing 5 U.S.C. § 7112(a)); *see also FISC*, 52 FLRA at 959-60.
[21] *Interior*, 67 FLRA at 99 (citing *U.S. Dep't of the Army, Military Traffic Mgmt. Command, Alexandria, Va.*, 60 FLRA 390, 394 (2004)).
[22] *FISC*, 52 FLRA at 960.

weight of individual factors or a particular number of factors necessary to establish an appropriate unit.[23]

The Locals' principal claim is that the RD erred in her successorship analysis by failing to address whether the proposed separate units would promote effective dealings with the Agency and the efficiency of Agency operations.[24] But as the Locals acknowledge,[25] under § 7112(a) of the Statute, a unit is appropriate only if it satisfies all three criteria – which includes sharing a clear and identifiable community of interest.[26] It logically follows that once the RD determined that the proposed separate units did not share a community of interest distinct from the Agency's existing units, she could not properly find these units appropriate. Accordingly, it was not necessary for the RD to consider the other two statutory criteria.[27] The cases on which the Locals rely do not support their contention that she was nonetheless required to undertake this analysis.[28] We therefore also reject the Local's further contention that the Authority should remand this case to the RD to make factual findings in her successorship analysis concerning whether the proposed separate units would promote effective dealings and the efficiency of operations.[29]

The Locals also contend that the RD failed to apply established law by performing a "partial analysis" of the community-of-interest criterion,[30] and instead substituting an analysis of whether the proposed separate units have significant employment concerns or personnel issues that are different or unique from those of other employees.[31] We disagree. Where, as here, it is alleged that the transferred employees should remain in their existing bargaining unit and retain their incumbent exclusive representative, the relevant community-of-interest inquiry is whether these employees share a community of interest that is "different or unique" from the community of interest shared by the gaining organization's employees.[32]

Accordingly, the RD applied established law when she analyzed the community-of-interest criterion in determining that the proposed separate units were inappropriate.[33] She relied on numerous applicable community-of-interest factors[34] in finding that the proposed separate units' employees do not share a community of interest separate and distinct from the other Agency PWD employees.[35] Specifically, she found that the employees of the proposed separate units and the Agency's other PWD employees "are governed by the same personnel and labor relations policies[;] have the same job titles and position descriptions[;] support the same mission[;] and are subject to the same chain of command."[36]

And contrary to the Locals' assertions,[37] the record supports these findings.[38] Weighing any unique safety concerns related to munitions activities and the remote location at Crane, and unique work performed at Great Lakes, the RD found that the "commonalities of interest" described above "ultimately outweigh the few employment concerns that are unique to any one of [the Agency's] PWDs."[39]

The Locals' remaining contentions, alleging that the RD failed to apply established law,[40] merely challenge the weight, importance, or significance that the RD ascribed to certain evidence – factual assertions that do not support an alleged error in the application of law.[41]

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[23] *Interior*, 67 FLRA at 99.
[24] Application at 29, 31-34; *see id.* at 24, 28-30, 45-46.
[25] *Id.* at 26.
[26] *U.S. Dep't of the Air Force, Joint Base Langley – Eustis, Va.*, 66 FLRA 752, 756-57 (2012) (*Air Force*); *see FISC*, 52 FLRA at 961 n.6.
[27] *Compare Air Force*, 66 FLRA at 756-57 (upholding regional director's not-appropriate-unit finding when proposed unit did not satisfy one of three § 7112 criteria, and finding unnecessary to resolve remaining arguments regarding additional criteria), *with Interior*, 67 FLRA at 100 (remanding regional director's not-appropriate-unit finding for failing to address any one of the three § 7112 criteria).
[28] *Interior*, 67 FLRA at 100 (remanding case to the regional director where the regional director failed to address any of the three requirements under 5 U.S.C. § 7112(a)); *U.S. Dep't of the Navy, Naval Facilities Eng'g Command Se. Jacksonville, Fla.*, 62 FLRA 480, 487-88 (2008) (upholding regional director's inappropriate-unit finding because, as relevant here, proposed unit did not satisfy community-of-interest prong); *Dep't of the Navy, Naval Comput. & Telecomms. Area, Master Station-Atlantic Base Level Commc'ns Dep't, Reg'l Operations Div. Norfolk, Va. Base Commc'ns Office-Mechanicsburg*, 56 FLRA 228, 230 (2000) (remanding regional director's finding of appropriate unit when regional director failed to address Authority's requirement that "any unit found to be appropriate satisfy each of the criteria set forth in [5 U.S.C.] § 7112(a)").
[29] Application at 49.
[30] *Id.* at 29.
[31] *Id.* at 31.
[32] *FISC*, 52 FLRA at 960; *see also U.S. Dep't of the Navy, Naval Facilities Eng'g Command Mid-Atlantic, Norfolk, Va.*, 65 FLRA 272, 278 (2010).
[33] RD's Decision at 7-8.
[34] *See FISC*, 52 FLRA at 960-61.
[35] RD's Decision at 7-8.
[36] *Id.* at 8.
[37] Application at 41-42.
[38] Tr. at 24, 63, 72, 85 (same personnel and labor relations policies); *id.* at 21, 34, 42 (same job titles and position descriptions); *id.* at 57, 137 (same mission); *id.* at 29, 33 (same chain of command).
[39] RD's Decision at 8.
[40] Application 34-38.
[41] *U.S. Dep't of the Army, U.S. Army Corps of Eng'rs Logistics Activity Ctr., Millington, Tenn.*, 69 FLRA 436, 439 (2016) (*Army*).

Moreover, the Locals fail to support their argument that the RD committed clear and prejudicial errors concerning substantial factual matters,[42] or committed prejudicial procedural errors[43] when she found that the transferred employees did not have a community of interest different or unique from the other Agency employees involved in this dispute.[44] The Locals argue that the RD erred in finding that the proposed separate units did not have unique issues regarding remoteness and safety,[45] and that she erred by failing to address its arguments related to the community-of-interest criterion, including local issues in matters such as Environmental Differential Pay;[46] "work processes and procedures";[47] "effective negotiations";[48] and "employee morale."[49] But the record supports the RD's factual findings.[50] The Locals' citation to contradictory evidence[51] or opposing arguments[52] does not demonstrate that the RD erred concerning a factual matter.[53] Mere disagreement with the weight the RD ascribed to certain evidence does not provide a basis for finding that the RD committed clear and prejudicial errors in making factual findings or committed prejudicial procedural errors.[54]

Therefore, we find that the Locals have not shown that that RD failed to apply established law, committed clear and prejudicial errors concerning substantial factual matters, or committed prejudicial procedural errors regarding whether the proposed separate units are appropriate.

B. The RD did not fail to apply established law regarding whether adding certain transferred employees to Local 53's bargaining unit is appropriate.

The Locals argue that the RD failed to apply established law by not addressing Local 53's assertion that it is "unwilling"[55] to serve as the representative of the transferred employees.[56] Specifically, they contend that the RD should have considered this assertion in analyzing the effective-dealings criterion in her accretion analysis. But the Locals do not allege that the RD failed to apply the correct legal standard in her effective-dealings analysis when she determined that the transferred employees accreted into the bargaining unit represented by Local 53. And, they do not support their contention that the RD failed to apply established law by "not incorporating" Local 53's position into this analysis.[57]

The Locals' reliance on *Sheppard Air Force Base, Wichita Falls, Texas*[58] provides no basis for finding that the RD's Decision fails to apply established law. In that case, the Authority found that the effective-dealings criterion was not satisfied where "there [was] no apparent, or asserted, bargaining representative for the" proposed unit at issue.[59] But here, Local 53 is indisputably the representative that would serve as the exclusive representative for Crane and Great Lakes general-schedule employees.[60]

In short, Local 53's partial disclaimer of interest – in which it states that it objects solely to representing the transferred employees – does not call into question the RD's determination that certain transferred employees accreted into Local 53's unit. The Locals do not assert that the scope of this bargaining unit has changed or that there is any contractual impediment to their representation of the transferred employees. And, they have not shown that the RD erred in finding this unit appropriate. Therefore, while Local 53 remains the exclusive representative of this unit, it continues to have a statutory obligation to represent all unit employees.[61]

Thus, the Locals do not establish that the RD failed to apply established law in this respect.

C. The RD did not fail to apply established law or commit prejudicial procedural errors regarding the status of the PWD's Crane wage-grade employees.

[42] Application at 40-43.
[43] *Id.* at 47-49.
[44] *Id.* at 34.
[45] *Id.* at 35, 41, 42.
[46] *Id.* at 30 n.2, 35-36, 46-47.
[47] *Id.* at 35-36; *see id.* at 30 n.2.
[48] *Id.* at 35.
[49] *Id.* at 35, 36.
[50] *See, e.g.*, Tr. at 140 (comparably geographically isolated); *id.* at 54-55, 137, 246-47, 284 (safety concerns related to munitions).
[51] Application at 41-43; *see id.* at 37.
[52] *Id.* at 34, 37.
[53] *Army*, 69 FLRA at 437-38.
[54] *E.g., Air Force* 66 FLRA at 756 (disagreements with weight afforded to community-of-interest factors do not provide basis for finding that regional director failed to apply law or made clear and prejudicial errors concerning substantial factual matters); *USDA Forest Serv., Albuquerque Serv. Ctr., Human Capital Mgmt., Albuquerque, N.M.*, 64 FLRA 239, 242 (2009) (disagreements with regional director's evidentiary weight do not provide basis for finding factual errors); *Nat'l Credit Union Admin.*, 59 FLRA 858, 862 (2004) (same).
[55] Application at 38.
[56] *Id.* at 38-40.
[57] *Id.* at 39; *see Army*, 69 FLRA at 439; *Air Force*, 66 FLRA at 756.
[58] 57 FLRA 148 (2001).
[59] *Id.* at 150.
[60] *See* RD's Decision at 3.
[61] 5 U.S.C. § 7114(a)(1).

The Locals argue that the RD failed to apply established law and committed prejudicial procedural errors by failing to address the status of the wage-grade employees at Crane's PWD.[62] But the RD did address the status of the PWD's Crane wage-grade employees, and found them included in the Agency's existing Tidewater unit.[63] The Locals fail to acknowledge the RD's finding that "because the positions of the Crane and Great Lakes employees now fall within the express terms of the two [Agency] bargaining certificates and their inclusion in these units does not render the units inappropriate, the Crane and Great Lakes employees are included in the two units."[64]

Therefore, the Locals do not establish that the RD failed to apply established law or committed prejudicial procedural errors in this respect.

IV. Order

We deny the Union's application for review.

[62] Application at 44-45.
[63] RD's Decision at 9.
[64] *Id.*

UNITED STATES OF AMERICA
BEFORE THE FEDERAL LABOR RELATIONS AUTHORITY
CHICAGO REGION

U.S. Department of the Navy
Naval Facilities Engineering
Command Mid-Atlantic
Norfolk, VA
- Agency -

and

American Federation of Government Employees,
AFL-CIO, Local 1415,
Crane, IN
- Labor Organization -

and

American Federation of Government
Employees, AFL-CIO, Local 2326,
Great Lakes, IL
- Labor Organization -

and

National Association of Government
Employees, AFL-CIO, Local R7-51,
Great Lakes, IL
- Labor Organization -

Case Nos:
WA-RP-16-0017
CH-RP-16-0017
CH-RP-16-0018

DECISION AND ORDER

I. Statement of the Case

The petitions in this matter seek to clarify the bargaining unit status of the U.S. Department of the Navy, Naval Facilities Engineering Command (NAVFAC) employees at two naval bases (Crane, Indiana and Great Lakes, Illinois) following a reorganization of those bases within the Navy's command. In Fall 2014, the Navy underwent a reorganization that decommissioned NAVFAC Midwest, which previously oversaw the Public Works Departments at Crane and Great Lakes bases, and realigned them under the Naval Facilities Engineering Command, Mid-Atlantic (NAVFAC Mid-Atlantic), which is headquartered in Norfolk, VA.

Before the reorganization, the employees at Crane and Great Lakes were represented as follows:

- Crane's general schedule and wage grade employees were represented by AFGE Local 1415.[1]
- Great Lakes' general schedule employees were represented by AFGE Local 2326.[2]
- Great Lakes' wage grade employees were represented by NAGE Local R7-51.[3]

Because of the reorganization, the Agency now contends that general schedule and wage grade employees at Crane and Great Lakes have accreted into

[1] The most recent certification for this unit was issued on May 17, 2004 in Case No. CH-RP-04-0007 and describes the unit as follows:

> Included: All general schedule and wage grade nonprofessional employees of the Navy Public Works Center, Crane Detachment, Crane, Indiana, Naval Facilities Engineering Command.
> Excluded: Management officials, supervisors, professional employees, Facilities Planners assigned to the Naval Support Activity Crane and employees described in 5 U.S.C. §7112(b)(2), (3), (4), (6), and (7).

(Auth. Ex. 1e.)

[2] Local 2326 was most recently certified on October 28, 2005 in Case No. CH-RP-05-0012. The unit is described as follows:

> Included: All General Schedule employees of the Naval Facilities Engineering Command Midwest, Department of the Navy, Great Lakes, Illinois.
> Excluded: Management Officials, supervisors, professional and Wage Grade employees and employees described in 5 U.S.C. §7112(b)(2), (3), (4), (6), and (7).

(Auth. Ex. 1f.)

[3] On June 26, 1973, in Case No. 10-8192, NAGE Local R7-51 was certified as the exclusive representative of the following unit:

> Included: All non-supervisory wage grade employees of the Navy Public Works Center, Great Lakes, Illinois.
> Excluded: All GS (General Schedule) personnel, temporary employees, casual and on-call employees, and, in addition, all supervisory or management officials, all employees engaged in Federal personnel work in other than a purely clerical capacity, guards and professional employees.

(Auth. Ex. 1(g).)

On October 28, 2005, NAGE Local R7-51's certification was clarified after an Agency reorganization, in Case No. CH-RP-05-0011, as the exclusive representative of the following unit:

> Included: All Wage Grade employees of the Naval Facilities Engineering Command Midwest, Department of the Navy, Great Lakes, Illinois.
> Excluded: management officials, supervisors, General Schedule, temporary, casual and on-call employees and employees described in 5 U.S.C. §7112(b)(2), (3), (4), (6), and (7).

(*Id.*)

the two NAVFAC Mid-Atlantic bargaining units: (1) AFGE 53[4], which represents NAVFAC Mid-Atlantic's general schedule employees; and (2) the Tidewater Metal Trades Council[5], which represents NAVFAC Mid-Atlantic's wage grade employees. The Agency also contends that the Crane and Great Lakes employees should automatically be included in those units based on the Authority's decision in *Fort Dix*. Neither of those unions support the Agency's petition (AFGE Local 53 opposes the petition, and Metal Trades takes no position on it).

AFGE Locals 1451 and 2326 have filed cross petitions, arguing that—despite the realignment—they should retain exclusive representation of separate Crane and Great Lakes units with NAVFAC Mid-Atlantic as a successor employer.

II. Findings

A. NAVFAC Mid-Atlantic

The Naval Facilities Engineering Command (NAVFAC) is an Echelon II command within the Department of the Navy. It provides installation services (*e.g.*, facilities, utilities, transportation, and environmental services) and support to Department of Defense clients at Navy bases worldwide. NAVFAC is organized into two subcommands: NAVFAC Atlantic (headquartered in Norfolk, Virginia) and NAVFAC Pacific (headquartered in Pearl Harbor, Hawaii). NAVFAC Atlantic is further subdivided into Facilities Engineering Commands (FECs), including NAVFAC Mid-Atlantic. Each FEC carries out its mission through the work of its various field offices, known as Public Works Departments. Public Works Departments provide site-specific support to the installations they serve, specifically through Installation Commanding Officers (ICOs). Installation Commanding Officers are not a part of the NAVFAC organization, but are instead part of the Commander Naval Installation Command, which falls under a separate chain of command.

Prior to the reorganization giving rise to this case, NAVFAC Mid-Atlantic oversaw 11 Public Works Departments (PWDs). The work of each PWD varies depending on the installation it supports. Some installations have wastewater treatment facilities; others do not. Some have hospitals; others have just small clinics. Some are on the waterfront, others are inland. Some installations routinely handle explosive munitions, while others do not. While many elements of NAVFAC operations are standardized, each Public Works Department maintains some operational autonomy to meet the needs of the specific clients they serve. For example, each Public Works Department has authority to determine how work will be assigned and to set work schedules for employees. They make their own hiring decisions and disciplinary decisions. They also work with the Installation Commanding Officer at each site to set certain base-specific policies concerning security, inclement weather closing, etc.

Nonetheless, all of the PWDs share the same mission, basic organizational structure and chain of command. Employees at each of the PWDs have similar or related duties, job titles, and work assignments; are subject to the same general working conditions; and are governed by the same NAFVAC Mid-Atlantic operating guidance and policies.

B. The Reorganization

Effective October 1, 2014, the Agency disestablished NAVFAC Midwest. Employees located at Great Lakes and Crane were realigned under NAVFAC Mid-Atlantic, which now oversees 13 Public Works Departments. The bargaining unit employees at NAVFAC Crane and Great Lakes have experienced no change to their missions, duties, work location, or titles. The only Public Works Department employees who saw a change in their reporting structure were the Public Works Officers—who serve as the Activity's on-sight manager—and those Officer's Deputies, each of whose chain of command now runs through an operations officer located at Mid-Atlantic's Norfolk Headquarters, rather than an operations officer at NAVFAC Midwest's prior headquarters at Great Lakes.

The transfer from NAVFAC Midwest to Mid-Atlantic had little effect of the day-to-day operations at the Crane and Great Lakes Public Works Departments. Agency witness Captain Eric Aaby (Executive Officer, NAVFAC Mid-Atlantic) testified that "there was no

[4] AFGE 53 is the certified exclusive representative of the following unit:

> Included: All General Schedule nonprofessional employees of the Naval Facilities Engineering Command Mid-Atlantic, Norfolk, Virginia, U.S. Department of the Navy.
> Excluded: Management officials, supervisors, professional employees, Wage Grade employees and employees described in 5 U.S.C. §7112(b)(2), (3), (4), (6), and (7).

(Auth. Ex. 1d; *NAVFAC Mid-Atlantic*, 65 FLRA 272 (2012).)

[5] The Tidewater Virginia Metal Trades Council is the certified exclusive representative of the following bargaining unit:

> Included: All Wage Grade employees of the Naval Facilities Engineering Command Mid-Atlantic, Norfolk, Virginia, U.S. Department of the Navy.
> Excluded: management officials, supervisors, professional employees, General Schedule employees and employees described in 5 U.S.C. §7112(b)(2), (3), (4), (6), and (7).

(Auth. Ex. 1h; NAVFAC Mid-Atlantic, 65 FLRA 272 (2012).)

change to the PWDs themselves internally as far as their day-to-day functions and work." The Public Works Departments maintain the same relationship with their respective ICOs, and employees support the same clients at their installation as they did prior to the reorganization.

C. Employment Concerns Specific to Crane and Great Lakes

i. Crane

Located in a remote area in southern Indiana, Crane is the third largest U.S. Navy installation in the world. Its main tenants are the Crane Army Ammunition Activity (CAAA) and the Naval Surface Warfare Command (NSWC). The CAAA is primarily involved in weapons manufacturing, weapons storage, and weapons demilitarization. Crane is the only site within NAVFAC Mid-Atlantic to demilitarize weapons, some of those weapons dating back to the Vietnam War era.

Demilitarization work gives rise to some unique working conditions. NAVFAC employees at Crane often work near hazardous substances, like "Yellow D," a highly toxic powder residue exposed during weapons manufacturing; and various explosive materials. Employees also follow special building-specific safety procedures set by CAAA, not NAVFAC. In certain buildings, employees must use special tool sets to account for the presence of explosives and must be familiar with special "explosive proof fixtures" needed at the site. Crane employees "have to treat every building as though if you don't follow this procedure exactly, it will explode . . . ."

Several positions at NAVFAC Crane require what is known as "explosive certification" as a condition of employment because, although NAVFAC employees are not building or demilitarizing bombs themselves, they "work so closely in these explosive areas" that the certification is required. The explosive certification is not a standard requirement included in PD descriptions at other NAVFAC Mid-Atlantic locations.

Crane is also the only PWD under NAVFAC Mid-Atlantic's command permitted to maintain its own after-hours call system. When PWD Crane was first aligned under Mid-Atlantic, the Agency attempted to have all after-hours calls routed through its Norfolk headquarters, and then Norfolk would issue a work order back to PWD Crane. However, Mid-Atlantic was taking 24-36 hours to issue work orders. Because of the unique and time-sensitive needs at Crane, the Agency now allows after-hours calls to be routed through on-site dispatchers at Crane. Crane sends a "heads up" notification to Norfolk, but retains its ability to respond to off-hours needs at its own discretion.

ii. Great Lakes

Great Lakes also has some unique features among NAVFAC Mid-Atlantic's PWDs. Great Lakes employees perform substantially more Indefinite Quality Project Work (IDIQ) than at any other location. That work involves long-term facility projects with funding implications. Great Lakes has specific shops set up within its organization to handle IDIQ work; and the employees in those shops work non-standard shifts to accommodate the work volume.

Also, the Navy's only boot camp, the Recruit Training Command (RTC) is located at Great Lakes. The RTC's facilities include classrooms, dormitories, and galleys. Those facilities—and the maintenance services they require—require 24-hour attention and are unique to Great Lakes.

III. Positions of the Parties

As noted above, AFGE Locals 1451 and 2326 and NAGE contend that they should continue to represent their respective units of Crane and Great Lakes employees—even after the reorganization—with NAVFAC Mid-Atlantic as the successor employer to NAVFAC Midwest.

The Agency contends that the NAVFAC employees at Crane and Great Lakes have accreted into the bargaining units represented by AFGE 53 and the Tidewater Metal Trades Council, and that the Crane and Great Lakes employees should be automatically included in these two units under the Authority's decision in *Department of the Army, Headquarters, Fort Dix, Fort Dix, N.J.*, 53 FLRA 287 (1997).

IV. Analysis and Conclusion

Under Section 7112(a) of the Statute: "The Authority shall determine the appropriateness of any unit." Appropriate units "ensure a clear and identifiable community of interest among the employees in the unit and will promote effective dealings with, and efficiency of the operations of the agency involved." 5 U.S. Code § 7112(a).

Where there are competing claims of unit appropriateness under both successorship and accretion principles, the Authority employs the following framework. Instead of evaluating which doctrine will result in the *most* appropriate unit, the Authority preferences successorship, and evaluates whether it will

result in an appropriate unit. If so, successorship will carry the day. *United States Dep't of Navy, Fleet and Industrial Supply Center, Norfolk, Virginia and AFGE Local 53*, 52 FLRA 950 (1997) (FISC).

The Authority will find a successorship, thereby permitting a union to retain its status as the exclusive representative of employees who have been acquired by a new employer, when:

(1) An entire recognized unit, or a portion thereof, is transferred and the transferred employees: (a) are in an appropriate bargaining unit . . . after the transfer; and (b) constitute a majority of the employees in such unit;

(2) The gaining entity has substantially the same organizational mission as the losing entity, with the transferred employees performing substantially the same duties and functions under substantially similar working conditions . . . and;

(3) It has not been demonstrated that an election is necessary to determine representation.

Naval Facilities Eng'g Serv. Ctr., Port Hueneme, Cal., 50 FLRA 368 (1995).

As to the first element, for the proposed stand-alone unit to be "appropriate" under the Authority's appropriate unit criteria, the unit must (1) "ensure a clear and identifiable community of interest among employees in the unit"; (2) "promote effective dealings" with the Agency; and (3) promote "efficiency of operations" within the Agency. *United States Dep't of the Army, Military Traffic Management Command, Alexandria, Va.*, 60 FLRA 391 (2004); *United States Dep't of the Air Force, Lackland Air Force Base, San Antonio, Tex.*, 59 FLRA 739, 741 (2004).

In analyzing whether employees share a clear and identifiable community of interest, the Authority examines such factors as geographic proximity, unique conditions of employment, distinct local concerns, degree of interchange between other organizational components, and function or operational separation. *United States Dep't of the Navy, Naval Facilities Eng'g Command, Se. Jacksonville, Fla.*, 62 FLRA 480, 487 (2008). In addition, the Authority considers whether the employees in the proposed unit are part of the same organizational component of the agency; support the same mission; are subject to the same chain of command; have similar or related duties, job titles and work assignments; are subject to the same general working conditions; and are governed by the same personnel office. *Id.*

Of primary concern in a reorganization case such as this (where a stand-alone bargaining unit is sought separate from the gaining organization's larger bargaining unit) is whether the transferred employees have significant employment concerns or personnel issues that are *different or unique* from those of employees in the gaining organization. *FISC*, 52 FLRA at 960. If they do, depending upon the remaining appropriate unit criteria, the separate, stand-alone units may be deemed appropriate. However, if the employees in the stand-alone bargaining unit do not have significant employment concerns or personnel issues that are different or unique from those of employees in the gaining organization, the stand-alone unit cannot be deemed appropriate. *Id.*

In this matter, although the Navy's installations at Crane and Great Lakes present some unique working conditions, the record ultimately does not establish that the employees at those locations have significant employment concerns or personnel issues that are different or unique from those of employees at the other 11 NAVFAC Mid-Atlantic PWDs. As such, I do not find that separate bargaining units are appropriate. *NAVFAC Mid-Atlantic*, 65 FLRA at 278.

AFGE argues that Crane employees work in an environment with unique safety concerns. But safety concerns related to munitions exist to a greater or lesser extent at each of NAVFAC Mid-Atlantic's 13 PWDs. The Union also argues that Crane's remote location provides its employees with a unique community of interest, but other PWDs appear just as remote (*e.g.*, Camp Lejeune, North Carolina). The record reflects that each of NAVFAC's 13 PMDs is unique in certain respects because they serve different clients in different locations. Across that variance, however, they are governed by the same personnel and labor relations policies, have the same job titles and position descriptions, support the same mission, and are subject to the same chain of command. Those commonalities of interest ultimately outweigh the few employment concerns that are unique to any one of NAVFAC's 13 PWDs. *See Defense Logistics Agency, Fort Belvoir, VA*, 60 FLRA 701, 704-705 (2005).

With respect to Great Lakes, the Unions have similarly failed to demonstrate that the two stand-alone successor units continue to be appropriate following the reorganization. Although Great Lakes employees perform some unique work (more IDIQ work and support for the Activity's only boot camp), the record does not establish that those factors have led to significant employment concerns or personnel issues that are different or unique from those of NAVFAC employees at large.

Because the employees in the proposed stand-alone units at Crane and Great Lakes do not have significant employment concerns separate and distinct from the employees in the 11 other NAVFAC Mid-Atlantic PWDs, I do not find these proposed stand-alone units appropriate and I turn to the Agency's argument that the employees at Crane and Great Lakes have accreted into the NAVFAC Mid-Atlantic unit.

Accretion occurs when a group of employees are added to an existing bargaining unit without an election following a change in agency operations or organization. *U.S. Dep't of the Navy, Naval Air Warfare Command, Aircraft Division, Patuxent River, Md.*, 56 FLRA 1005, 1006 (2000). In order to find an accretion, the transferred employees must be "functionally and administratively integrated into the gaining organization's pre-existing units, such that adding the transferred employees to the units would be appropriate under section 7112(a)." *FISC*, 52 FLRA at 963.

As noted above, the record shows that the employees at Great Lakes and Crane share a clear and identifiable community of interest with NAVFAC employees at large. The record further shows that adding the Great Lakes and Crane employees to the existing NAVFAC Mid-Atlantic units would promote effective dealings and the efficiency of agency operations. The unit would result in a consolidated structure that is co-extensive with the Agency's operational and organizational structure. The Agency would be relieved from having to negotiate separate collective bargaining agreements for each detached unit. And, the costs associated with administering those agreements—*e.g.*, the travel necessary to negotiate over the impact and implementation of proposed changes—would also be spared.

In view of the foregoing, I find that the general schedule employees at Crane and Great Lakes have been accreted to the bargaining unit represented by AFGE Local 53 and that the wage grade employees at Great Lakes have been accreted to the bargaining unit represented by the Tidewater Virginia Metal Trades Council. *See United States Dep't of the Navy, Fleet and Industrial Supply Ctr. Norfolk, Va.*, 62 FLRA 497 (2008); *NAVFAC-SE*, 62 FLRA 480 (2008); *United States Dep't of the Navy, Naval District Washington*, 60 FLRA 469 (2004).

I further find that because the positions of the Crane and Great Lakes employees now fall within the express terms of the two NAVFAC Mid-Atlantic bargaining certificates and their inclusion in these units does not render the units inappropriate, the Crane and Great Lakes employees are included in the two units pursuant to the Authority's decision in *Dep't of the Army, Headquarters, Fort Dix, N.J.*, 53 FLRA 287 (1997). Thus, it is not necessary to formally clarify the existing units to include the Crane and Great Lakes employees.

V. Order

The Agency's Petition No. WA-RP-16-0017 is granted; AFGE Local 1415's Petition No. CH-RP-16-0017 is denied; AFGE Local 2326's Petition No. CH-RP-16-0018 is denied.

VI. Right to File Application for Review

Under section 2422.31(a) of the Authority's Regulations, a party may obtain review of this action by filing an application for review with the Authority. Pursuant section 7105(f) of the Statute, the application for review must be filed with the Authority "within 60 days after the date of the action." The 60 day time limit contained in section 7105(f) may not be waived or extended.

The contents of, and grounds for, an application for review are set forth in section 2422.31(b) and (c) of the Authority's Regulations. The filing and service requirements for an application for review are addressed in Part 2429, Subpart B of the Authority's Regulations.

An application for review must be filed by April 25, 2017, and addressed to the Chief, Office of Case Intake and Publication, Federal Labor Relations Authority, Docket Room, Suite 201, 1400 K Street, NW, Washington, DC 20424–0001. An application for review may also be filed electronically through the Agency's website. See Section 2429.24(f) of the Authority's Regulations. To file electronically, go to www.flra.gov, click on eFiling, and follow the detailed instructions.

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Sandra J. LeBold, Regional Director
Federal Labor Relations Authority
Chicago Regional Office
224 S. Michigan Ave, Suite 445
Chicago, IL 60604-2505

Dated: February 24, 2017