National Postal Mail Handlers Union

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May 27, 2022

TO: All Local Unions
National/Regional CAD

FROM: Paul V. Hogrogian, National President PVH
Michael J. Hora, National Secretary-Treasurer MJH
Teresa Harmon, Manager, CAD T.H

RE: National Arbitration Decision on
Universal Sorting System (USS)

We are pleased to report that the NPMHU has prevailed in its National RI-399 dispute concerning jurisdictional assignments on the Universal Sorting System or USS.

In an award dated May 24, 2022, National Arbitrator Joseph Sharnoff concluded that the jurisdictional determination originally issued by the Postal Service in 2019 was consistent with the principles of RI-399, and that the Mail Handler Craft is the proper craft for performing all operations on the USS, including the reject keying station. In a lengthy, 82-page decision, the Arbitrator agreed with the arguments presented by the NPMHU and the Postal Service, and rejected each argument put forward by the APWU.

Here are some of the key paragraphs:

> The Arbitrator concludes, for the following reasons, that the APWU has failed to meet its *heavy burden of proving* that the USPS acted improperly and in a manner which has been demonstrated by the protesting Union to have been arbitrary, capricious, unreasonable, and that the craft determination constituted an abuse of the USPS's discretion with regard to its issuance of the Craft Jurisdiction Determination letter for the USS, dated July 12, 2019, in favor of the Mail Handler Craft for all positions on the USS, including the employees performing the dumping, singulating, keying, and removing/sweeping of parcels/packages from the USS, with the exception of the staffing of the

"Scan Where You Band" operation when present, which work was awarded to the Clerk Craft, with allied work on that operation assigned to the Mail Handler Craft.

* * *

The Arbitrator, based on the above, finds that the USPS has demonstrated that the USPS, in evaluating relevant factors in the formulation of the craft determination for the USS, found highly significant that the USS was intended and designed for the purpose of processing NMOs, i.e., parcels/packages which could not be processed on other machines, such as the HSUS or LCUS. The Arbitrator recognizes, as did these USPS officials, that there remain some NMOs which exceed the dimensions of parcels/packages which can be processed on the USS and which, therefore, must be processed manually and that a significant amount of the parcels/packages processed on the USS includes priority mail and other smaller parcels which could be processed on the other machines but are dumped onto the USS and processed together with the larger NMOs which the USS was designed and intended to process.

The Arbitrator notes that, in the Opinion and Award of Arbitrator Howard Gamser, American Postal Workers Union, AFL-CIO, and National Post Office, Mail Handlers, Watchmen, Messengers, and Group Leaders Division of the Laborers International Union of North America, AFL-CIO, Case No. AD-NAT-1311, dated October 13, 1981, Arbitrator Gamser denied claims by the APWU regarding the assignment by the USPS of outside parcels and NMOs to the Mail Handler Craft. This Arbitrator notes that Arbitrator Gamser stated, with regard to the determination by the USPS in favor of the Mail Handler Craft as the primary craft for Function 4 or Operation 100: "manual distribution of parcel post, without scheme knowledge". This Arbitrator notes that Arbitrator Gamser stated: "[i]n the past, it is true, much of the parcel post operation was worked by Clerks." Arbitrator Gamser stated, "[w]ithout scheme knowledge presently being required, the rational[e] for making [the parcel post operation] a primary clerk assignment no longer exists." Arbitrator Gamser concluded that the evidence presented did not support a finding of a national practice. Arbitrator Gamser also found, with respect to the handling of non-machinable outsides, that such packages, which are too large, bulky or heavy to be processed by machine:

> . . . are distributed, at present, through Bulk Mail Centers. The present method employed for their distribution does

> not require nor employ scheme knowledge. The testimony did indicate that such 'parcels' are brought to the distribution point by Mail Handlers and they are physically taken away by Mail Handlers. Requiring the intervention of a Clerk to direct the flow of such NMOs would interrupt the integration of such operations which may be achieved by having the same individuals handle the whole process of non-scheme NMO sortation.

Finally, this USS Award by Arbitrator Sharnoff contains several other rulings that should prove useful in future jurisdictional disputes. For example, the award contains extensive comments on the keying function performed by Mail Handler employees for rejected parcels on the USS. Similarly, the award concludes that the placement of parcels from the USS into appropriate containers matching the Zip Codes on each parcel – when completed by Mail Handlers without exercising any scheme knowledge – is appropriate sweeping of the USS that was appropriately assigned to the Mail Handler craft.

Attached is a full copy of the Sharnoff Award on USS jurisdiction.

Please disseminate this information as widely as you deem appropriate, and please do not hesitate to contact the National Office should you have any questions.

cc: National Executive Board

NATIONAL JURISDICTIONAL DISPUTE
ARBITRATION RI-399
JOSEPH M. SHARNOFF,
ARBITRATOR

In the Matter of the Arbitration Between:

UNITED STATES POSTAL SERVICE

AND

NATIONAL POSTAL MAIL HANDLERS UNION **Case Nos. Q15C-4Q-J 19383448 (Universal Sorting System – USS)**

AND

AMERICAN POSTAL WORKERS UNION

Appearances:	For U. S. P. S.:	Lucy C. Trout, Esquire Kelly Ann Taddonio, Esquire
	For N.P.M.H.U.:	Bruce R. Lerner, Esquire Bredhoff & Kaiser, P.L.L.C.
	For A.P.W.U.:	Jason R. Veney, Esquire Melinda K. Holmes, Esquire Murphy Anderson, P.L.L. C.

OPINION AND AWARD
OF THE
ARBITRATOR

The United States Postal Service [USPS herein], by letter from Ricky R. Dean, Manager, Contract Administration (APWU), to Lynn Pallas-Barber, Assistant Craft Director, Clerk Craft, American Postal Workers Union [APWU herein], acknowledged the receipt of the letter, dated August 2, 2019, from the APWU, raising a jurisdictional dispute "related to the craft determination issued by the Postal

Service, by letter dated July 12, on the Universal Sorting System (USS)." The National Disputes Resolution Committee [NDRC herein], on January 8, 2020, issued a Disposition Form, which states, in relevant part: "Issue: There is no resolution. No party is precluded from raising additional issues prior to or during national arbitration." On January 13, 2020, an appeal to National RI-399 Arbitration of the U SPS's craft determination on the USS was submitted by NDRC Member Ron Suslak, APWU, to NDRC Members Ricky Dean, USPS, and Kevin Fletcher, National Postal Mail Handlers Union [NPMHU].

RI-399 Jurisdictional Arbitration Hearings were held, using remote technology, on April 20, May 4 and 6, and June 2, 2021. The Arbitrator received a transcript of each hearing. The Parties submitted post-Arbitration hearing briefs electronically to the Arbitrator on November 8, 2021.

RELEVANT PROVISIONS OF
MEMORANDUM OF UNDERSTANDING
BETWEEN THE USPS, THE APWU, AFL-CIO
AND THE NPMHU, A DIVISION OF
LABORERS' INTERNATIONAL UNION
OF NORTH AMERICA, AFL-CIO
Effective April 29, 1992

REGIONAL INSTRUCTION 399 - DISPUTE RESOLUTION PROCEDURES

General Principles

The parties to this Agreement agree to a new procedure for resolving jurisdictional disputes under Regional Instruction 399 (hereafter "RI-399"). The new procedures will be implemented sixty (60) calendar days after the effective date of this Agreement.

Effective with the signing of this Agreement, no new disputes will be initiated at the local level by either union challenging jurisdictional work assignments in any operations as they currently exist. Except as otherwise specifically provided in the New or Consolidated Facilities, New Work, or Operational Change

sections contained in this memorandum, all local craft jurisdictional assignments which are not already the subject of a pending locally initialed grievance will be deemed as a proper assignment for that facility.

In order to provide for expeditious and efficient resolution of jurisdictional disputes only one representative case shall be processed for each operation/function in dispute. Multiple disputes arising out of the same or substantially similar issues or facts shall not be allowed.

Dispute Resolution Committees shall be established at the local, regional and national levels. The Committee shall be composed of one (1) representative from each of the three parties. The representative on the Committee may be assisted by a technician at any or all meetings if advance notice is given to the other two parties. At larger installations the local parties may mutually agree to establish more than one (1) Committee; however, there shall not be more than one (1) Committee per facility. Committee decisions shall be by mutual agreement of all 3 parties.

Meetings of the Committee must be scheduled with sufficient frequency so that a decision can be rendered within the time limits contained in this Agreement. The time limits contained in this Agreement may be extended by mutual agreement of the parties. If a committee fails to render a decision with the time frames in this Agreement the moving union may appeal the dispute to the next step in the procedure.

Each party at the local level will be responsible for maintaining an inventory of jurisdictional assignments not in dispute. As jurisdictional disputes are resolved under this procedure, the results shall be added to the inventory.

The national parties shall mutually determine and implement a new numbering system to be utilized in this procedure.

All parties to this Agreement may participate in the arbitration proceedings at either level and all parties shall be bound by the

arbitrator's award whether or not they participate in the arbitration proceedings. The arbitrator's award shall be final and binding.

Any settlement entered into at any level must be a tripartite settlement.

* * *

National Level

The National Dispute Resolution Committee (NDRC) shall have sixty (60) calendar days after receipt of a properly filed or appealed dispute to attempt to resolve the dispute.

1. Either union may initiate a dispute at the National level when such dispute involves an interpretive issue which under the National Agreement is of general application. Such disputes shall be provided to the National Committee, in writing, and must specify in detail the facts giving rise to the dispute, the precise interpretive issues to be decided and the contentions of the Union.
2. If a dispute is resolved, a tripartite settlement agreement will be signed by the parties.
3. If the dispute is unresolved at the end of the sixty (60) calendar day period, a tripartite decision will be written by the Committee setting forth the position of each party. The moving Union may appeal the dispute to National Arbitration within twenty-one (21) calendar days of the date of receipt of the written decision of the Committee. Copies of the appeal will be provided to the other parties.
4. In the event the National Committee, after review, decides that a dispute appealed from the regional level does not involve an interpretative issue which is of general application, the dispute shall be remanded to the regional level and placed on the list of pending arbitration cases.

* * *

National Arbitration

One arbitrator will be jointly selected by the parties at the national level on the basis of mutual agreement. Once selected, the arbitrator will hear only jurisdictional disputes. The arbitrator's fees and expenses will be allocated on the basis of one-half (1/2) to management and one-half (1/2) shared equally by the participating unions. However, if a party decides not to participate in the arbitration proceedings, the remaining parties will equally divide the arbitrator's fees and expenses. Scheduling of cases will be jointly performed by the parties from a list of dates submitted by the national arbitrator. Time frames will be the same as those designated for regional arbitration. The method of scheduling will normally be on a first-in/first-out basis.

Pursuant to Article 15 of the National Agreement, only disputes involving interpretive issues under the National Agreement which are of general application will be arbitrated at the national level.

Additionally, the national-level arbitrator may be invited to participate in an advisory capacity at National Committee meetings on items related to problems of consistency of regional-level awards or other problems mutually determined by the committee. The arbitrator may be empowered by mutual agreement of the parties to issue instructions to the regional-level arbitrators which were consistent with any mutual understanding on these issues reached as a result of committee discussions. Payment for such services will be made as for an actual arbitration hearing.

New or Consolidated Work

The following procedures shall apply to the opening of new or consolidated facilities.

Forty-five (45) calendar days prior to the opening of a new or consolidated facility, the members of the RDRC will be notified of the date on which activation will take place. Within ninety (90) calendar days of that activation, the LDRC designated for the facility will conduct an inventory of jurisdictional assignments at

the facility and will attempt to resolve any disputes which arise from these discussions. If necessary, representatives of the RDRC will assist the local parties with on-site reviews.

Jurisdictional assignments shall not be changed solely on the basis of moving operation(s) into a new facility. If jurisdictional assignments existed in a previous facility, they shall be carried forward into the new facility except where operational changes as described below result in the reassignment from one craft to another.

In a new or consolidated facility, the jurisdictional assignment in the previous facilities must be considered by the LDRC in the determination mentioned above, in the event the consolidated operation(s) had a mixed practice in the previous installations.

The decision of the LDRC will be processed in accordance with the decision and appeals procedures previously outlined, including appeals to the higher levels of the process.

New Work

This section refers to implementation of RI-399 involving work which had not previously existed in the installation.

The procedures for activation of a new or consolidated facility shall apply to the assignment of new work to an installation. The standards contained in Section II.E of RI-399 shall apply in making the craft determinations.

* * *

BACKGROUND

Letter from NPMHU to USPS
Re: Position of NPMHU
For Craft Jurisdictional
Assignments on USS

Dated May 6, 2019

The letter, dated May 6, 2019, from Bruce R. Lerner, Esquire, for the NPMHU, to Mr. Dean, Mr. Devine and Ms. Richardson, of the USPS, states, in relevant part with regard to the NPMHU's position for craft jurisdiction assignments on the USS, as follows:

> There are clear and obvious similarities between the USS operation and the operations on the LCUS and the HCUS. Indeed, as the USS has been introduced by the Postal Service, it has been repeatedly recognized and stated (to the NPMHU and the APWU, and to various mailers) that the USS is an enhanced version of these two, earlier sorters.
>
> The assignment of work on the USS to the Mail Handlers craft therefore is mandated by the principles of RI-399 and craft designations already reflected in past determinations. Dumping of mail appears numerous times in RI-399, and in every instance has been awarded to the Mail Handler craft. The tasks of pulling containers and sweeping mail appear in over 20 separate operations as well, and in all cases have been awarded to the Mail Handler craft as the primary craft. Perhaps most central to this operation is "containerizing and transporting," which appears many times in RI-399, and in every instance has already been established as Mail Handler work. In short, there are numerous postal processing operations that use container dumpers as a means of loading mail onto larger machines and that rely on the transportation of empty equipment and the containerization and transport of mail equipment during processing operations, and in all such cases the work rightfully belongs to the Mail handler craft. The USS should be no different.
>
> In the view of the NPMHU, the duties currently and routinely performed by Mail Handlers on the USS are precisely the same duties that Mail Handlers have always performed at the NDC's (previously Bulk Mail Centers) with regard to NMOs or Non-Machinable Outsides. Under primary craft designations at the NDCs (formerly BMCs), the mail handler craft has essentially

complete jurisdiction over "NMO sorting" and "transporting containers" for non-machinable outsiders or large parcels. Similarly, the sortation and transportation of sacks also is a primary mail handler function, including particularly "Sack sorting keying," and the "Transport [of] sacks, containers, pallets" within the former BMCs. It bears repeating that the Mail Handler craft is, without any dispute, also the primary craft for keying on the NMO machine and on all sack sorting machinery.

It is possible that one key station for re-labeling and re-induction on the USS might be used occasionally for those NMOs that are rejected by the USS. Based on the information now available to the NPMHU, we believe that this occasional work to key mail can easily and efficiently be performed by the Mail Handlers in other NMO operations. In the NPMHU's view, this keying is the equivalent of a simple sortation, not requiring the employee to have any scheme knowledge or information about the sort plan. Indeed, management is responsible for designing all sort plans for the USS, and this effectively replaces any need for the employee staffing the key station to have any independent knowledge of any scheme or sort plan. Thus, any aspect of the USS operation involving re-labeling or a keying function also should be assigned to the Mail Handler craft. To award this minimal portion of the overall operation on the USS to a craft other than Mail Handler would create a position that likely would be less than full-time, and would only sow confusion and invite unnecessary violations of Article 7.2, which is certainly not in the interest of the USPS, its employees, or our customers.

In short, the NPMHU respectively submits that USPS management either should not issue a National jurisdictional determination for the USS, or should award the Mail Handler craft with primary jurisdiction over of [sic] all duties, assignments, and positions on the USS.

A copy of the NPMHU's July 19, 2013 position statement on "Craft Assignments for Tray Sorters and Universal Sorters" is attached to this memorandum, and the arguments contained in that position statement are incorporated by reference.

One final point deserves mention, relating to USPS manpower costs, which have been recognized as a relevant factor under the principles of RI-399. By assigning Mail Handlers at Level 4 as the primary craft for positions on the USS, the Postal Service will be paying most employees at Level 4 under the NPMHU National Agreement. In comparison, should the clerical craft be assigned to any work on the USS, the Postal Service would pay such clerks at Level 6 of the APWU pay scale. Pay for Level 4 mail handlers in May 2019 is at $16.21 per hour for Mail Handler Assistants and between $34.545 and $60.148 per year for career mail handler employees. Current pay for Level 6 clerks working on the USS would be at $17.19 per hour for Postal Support Employees and between $41.497 and $60.737 for career clerk employees.

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Position Letter From the APWU to USPS
Re: Craft Jurisdiction Determination
Of Jobs on the Universal Sorting
System (USS),
Dated May 10, 2019

The position letter of the APWU, from Lynn Pallas-Barber, Assistant Director, Clerk Division, APWU, to Rickey Dean, Manager, Contract Administration (APWU), concerning the USPS's craft determination for positions on the Universal Sorting System (USS), states, in relevant part:

On April 2, 2019 the American Postal Workers Union, AFL-CIO, participated with the United States Postal Service and National Postal Mail handlers Union in a site visit to view the Universal Sorting System (USS) at the Portland, OR P&DC. Thank you for permitting us to participate in this site visit and for this opportunity to provide input regarding the potential impact of the implementation of the USS machine on craft jurisdictional assignments. It is the position of the APWU that a national jurisdictional determination is required. At the time of our site visit

this machine was staffed with the Mail Handler Craft except for three (3) Clerks staffing the D&R 1, the D&R 2 and the Reject Arm to Key.

The USS processes non-machinable parcels (NMOs), which are inducted on the system through a parcel dumper. The system singulates and orients the parcels and barcodes are read by a six-sided scan tunnel and camera system. In the Portland P&DC the USS sorter that was observed had Arm 1-19 – individual lanes that the USS sorts mail down that have to be distributed into several containers manually.

It is beyond dispute that the USS machine performs distribution. That the machine does much of the distribution, and not an employee, makes no difference. Based on arbitral precedent upholding the Postal Service's craft assignments, Clerk Craft Employees staff automated machinery performing distribution. Distribution is a Clerk Craft function. Per the RI-399 Post Office Primary Craft Designations Operation 105 is the distribution of parcel post by machine. The primary craft designation for this distribution is the Clerk Craft.

Based upon our observations, it is clear that much, if not most, of the mail processed on the Universal Sorter goes directly from the machine to its final dispatch. The mail will not be reviewed or processed again within the facility.

There were three (3) Arms staffed by three (3) Clerks. D&R 1 and D&R 2 – these parcels are the air transportation volume and need to be weighed and have an airline assignment tag applied (D&R Tag). These parcels are then incorporated onto the machine and do not flow to another operation. Once a D&R Tag has been keyed and applied by the clerk the USS then distributes to the assigned Arm 1-19.

The Reject Arm Key was also staffed by the third Clerk. These parcels are the pieces that the camera on the machine could not read and then need to be keyed to 5-digit zip code so the machine can then distribute to the assigned Arm 1-19.

As in the case of FSM machinery or letter automation, an appropriate rotation system employed for the Universal Sorter requires the staffing of the machinery by crews of sufficient size to cover leave, absences, and off-days. The crew is assigned to the entire footprint of the machine. Loading and sweeping the machine are not allied duties but part and parcel of operating the machine, just as in the case in letter automation or on the Flat Sorter. It should be noted that the sweeping of the Universal Sorter (unlike the simple sweeping from bin to tray on the DBCS or FSM) includes a further manual distribution of each mail piece to several separations by three-digit zip code. Most important, it should be noted that utilizing the entire crew of operators on a rotation which includes not just the loading (keying or singulating) and distributing, but also allied duties to this as well as other operations, not only benefits the operator's ergonomic safety and well-being, but benefits the Clerks who will operate the Universal Sorter. The Clerks should also be assigned to perform the initial set-up of equipment, including placarding, labeling, and expediting the containers, which will clearly enhance the over-all efficiency of the operation.

The APWU notes that the primary purpose of the USS operation is the distribution of parcel post by machine. Parcel post machine distribution has remained a function of the Clerk Craft with the SPBS, APBS, SPSS, HTPS and now in accordance with Article 4, the replacement theory and primary purpose of the operation should continue with the USS. In support of our position, we would like to point out that Arbitrator Zumas opined, on page 38, July 14, 1986m in his jurisdictional decision addressing the Mail Processor – HIM-NA-C 14:

> *"Given the jurisdictional proprietary right of the Clerks to distribute mail and the fact that the purpose of the OCR/CS and BCS machines is to sort and distribute letter mail, it follows that the Mail Processor, while operating such machinery, is performing a distribution function reserved to the Clerks as the Primary Craft. Loading and sweeping, as part of the Mail Processor's*

> *are permissible under the 'allied duties' note relating to the operation of OCR machine distribution."*

Additionally, under the "replacement principle", Clerks should operate and perform the distribution functions in the Arms of the USS machine, as the manual, mechanized and automated distribution of parcels and priority mail have remained functions assigned to the Clerk Craft.

The USPS's Craft Determination
In Favor of the Mail Handler
Craft on the USS,
Dated July 12, 2019

The USPS, by letter dated July 12, 2019, from Ricky R. Dean, Manager, Contract Administration (APWU), to Mark Dimondstein, President, APWU, regarding the Craft Determination for the USS in favor of the Mail Handler Craft, states, in relevant part:

> This letter is in regard to the jurisdictional craft determination for operation of the Universal Sorting System (USS). A site visit to observe the operation of the USS was conducted with the American Postal Workers Union (APWU) and the National Postal Mail Handlers Union (NPMHU) on April 2, at the Portland, Oregon Processing and Distribution Center (P&DC). In attendance for the APWU were Lynn Pallas-Barber, Ron Suslak and local representatives. In attendance for the NPMHU were Kevin Fletcher and local representatives. In attendance for the United States Postal Service (USPS) were Ricky Dean and Shannon Richardson.
>
> The unions had previously been informed of the USS system during Technology and Mechanization meetings. In accordance with Article 4 of their respective collective bargaining agreements, in October 2017 and December 2018.
>
> The USS processes non-machinable objects (NMOs), which are inducted on the system through parcel dumpers. The system singulates and orients the parcels and barcodes are read by a six-

sided scan tunnel and camera system. The USS is modular and can be configured based on available space, with the number of outputs ranging from 4 to 18, and can scan and sort parcels up to 2,200 per hour. Currently, there are eight sites that have a USS. The Postal Service plans to install 16 additional USSs in 2019 and 2020. /1 [See Footnote 1 below.]

After reviewing the equipment operation, carefully considering the input from the APWU and the NPMHU, and applying the principles of RI-399, the Postal Service has determined the primary craft operation of the USS is the Mail Handler Craft. The volume of rejected parcels, requiring the operation of the one keying station, is minimal and could not be efficiently separated from the other duties performed on the USS. The reject keying station is not integral to the distribution operation of the machine.

The actual number of employees required to perform the duties associated with the USS at any time will be determined based on local configuration and operational needs. Where the USS has already been installed and is operational, assignments of the appropriate craft in accordance with this determination will be made as expeditiously as possible no later than 90 days from the date of this letter.

[Footnote 1]. The USS currently installed in the Portland P&DC has an automated Scan Where You Band (SWYB) component. As of the date of this determination letter, this is the only USS equipment with SWYB directly attached to the machine. The Clerk Craft is the primary craft for operation of the automated SWYB units when attached to a USS.

In accordance with the Memorandum of Understanding, Update of Regional Instruction (RI) 399 Procedures, dated June 28, 2018, the above stated craft designation will go into effect no sooner than 45 days from the receipt of this notice.

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The APWU's Appeal to the NDRC of the
USPS's Craft Determination for
The Universal Sorting System (USS),
Dated August 2, 2019

The appeal, dated August 2, 2019, by the APWU of the Craft Determination from Lynn Pallas-Barber, Case Officer APWU, to Ricky Dean, Manager, Contract Administration (APWU), USPS, and Patrick Devine, Manager, Labor Relations (NPMHU), USPS, and Kevin Fletcher, National Postal Mail Handlers Union [NPMHU herein], National Representative, NDRC, "Re" Jurisdictional Craft Determination for Universal Sorting System (USS) APWU Appeal to NDRC Representatives." The APWU's appeal letter states, in relevant part:

> The APWU is appealing all the following craft function designations:
>
> Mail Processing Guidelines
>
> It is beyond dispute that the USS machine performs distribution. That the machine does much of the distribution, and not an employee, makes no difference. Distribution is a Clerk Craft function. Per the RI-399 Mail Processing Guidelines Operation 105 is the distribution of parcel post by machine. The primary craft designation for this distribution is the Clerk Craft.
>
> Manual Distribution on the Arms
>
> Based upon our observations, it is clear that much, if not most, of the mail processed on the USS goes directly from the machine to one of the Arms on the machine. Additionally, under the "replacement principle", Clerks should operate and perform the distribution functions on the Arms of the USS machine, as the manual, mechanized and automated distribution of parcels and priority mail have remained functions assigned to the Clerk Craft. The parcels are sorted to one of the Arms 1-19 on the machine, at the end of each Arm the parcels are then distributed by three-digit and/or five-digit zip codes into receptacles staged around the Arm.

The receptacles were gaylords, sack racks, and various types of equipment. The final distribution of these parcels is into these sack racks and containers manually by an employee. This specific distribution operation is identical to what was being performed manually in similar parcels distribution operations performed by the Clerk Craft. It was also apparent that a majority of the mail being worked on the USS is priority mail packages. Per the RI-399 Mail Processing Guidelines Operation 050/055 is the manual distribution of priority mail and has been designated as Clerk work.

Simulating Function

The APWU also maintains that there is a position on the USS that utilizes the acts of culling, singulating and facing on the belt. These functions have already been determined by the USPS as jurisdictional functions assigned to the Clerk Craft on the APBS, SPBS, SPSS, and ADUS.

Keying Function of Rejects

In our ongoing investigation it has been discovered that at least 30%, if not more of the mail being run on the USS is rejected. Therefore, it is the position of the APWU that the keying of the rejects is an integral part of the distribution function.

The APWU notes that the primary function of the USS operation is the distribution of parcels and priority mail which were manually sorted. Based on arbitral precedent upholding the Postal Service's craft assignments, Clerk Craft Employees staff automated machinery performing distribution. In support of our position we would like to point out that Arbitrator Zumas opined on page 38, July 14, 1986, in his jurisdictional decision addressing the Mail Processor HIM-NA-C 14:

> *"Given the jurisdictional propriety right of the Clerks to distribute mail and the fact that the purpose of OCR/CS and BCS machines is to sort and distribute letter mail, it follows that the Mail Processor, while operating such machinery, is*

> *performing a distribution function reserved to the Clerks as the Primary Craft. Loading and sweeping, as part of the Mail Processor's are permissible under the 'allied duties' note relating to the operation of OCR machine distribution."*

Additionally, based on the provisions of Article 4.3 of the CBA and under the "replacement principle," Clerks should perform all the necessary functions on the USS machine as the manual distribution of parcels and priority mail were always performed in unit operations assigned to the Clerk Craft.

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The Decision of the NDRC on the Jurisdictional Dispute Filed by the APWU Concerning the USPS's Craft Determination on the USS In Favor of the Mail Handler Craft, Dated January 8, 2020

The NDRC, on January 8, 2020, issued its response to the appeal filed by the APWU protesting the craft determination by the USPS of the positions on the USS in favor of the Mail Handler Craft. The NDRC stated: "There is no resolution. No party is precluded from raising additional issues prior to or during national arbitration."

Appeal by the APWU of the USPS's Craft Determination on The USS in Favor of the Mail Handler Craft to National RI-399 Arbitration Dated January 13, 2020

The APWU, on January 13, 2020, appealed the USPS's craft determination for the positions on the USS in favor of the Mail Handler Craft to National RI-399 Arbitration.

The Testimony of Lynn Pallas-Barber, APWU

Lynn Pallas-Barber testified for the APWU that she serves currently as Assistant Clerk Craft Director in the APWU's headquarters. She began working for the USPS in 1969, as a PTF Clerk. In 1972, she was "excessed" into the Letter Carrier Craft, in which she worked for eight years. She took a voluntary transfer in 1980 to Iron Mountain, Michigan, where she returned to the Clerk Craft. She retired in 2005. In 1990, she was elected Local President and held that office until 2004, when she was elected as a National Bargaining Agent. Since she began as the elected Assistant Clerk Craft Director, she was appointed to the RI-399's NDRC as a Technical Assistant to Ron Suslak, APWU.

Ms. Pallas-Barber testified, on cross-examination by NPMHU, that she had never worked in a Bulk Mail Center [BMC herein], nor had she worked in a Network Distribution Center [NDC herein]. She testified that there was no BMC, nor was there an NDC in the jurisdiction in which she served as the Local Union President at Iron Mountain.

Tech and Mech Meetings
October 2017 and December 2018

Ms. Pallas-Barber testified, on direct examination by APWU, that the APWU first was notified about the USPS's intention to introduce the USS at "Tech and Mech" meetings in October 2017 and December 2018.

The Operation of the USS
During Site Visits to Portland, Oregon, and Charlotte, North Carolina

Ms. Pallas-Barber testified, on direct, that members of the NDRC were invited to participate in a site visit to observe the operation of the USS. Ms. Pallas-Barber, along with several other NDRC members, including Ron Suslak, APWU, Shannon Richardson and Ricky Dean, USPS, and either Teresa Harmon or Kevin Fletcher, NPMHU, visited the Portland Production & Distribution

Center [P&DC herein] in Portland, Oregon, in April 2019, where they observed the operation of the USS and the EPPS machines [the latter is not at issue]. They also had a site visit in Charlotte, North Carolina. According to Ms. Pallas-Barber, she believed that on both occasions they observed the operation of the USS on Tier 3, the late afternoon shift, for much of, but not the complete, shift.

Ms. Pallas-Barber testified that, on the site visits she observed the following regarding the operation of the USS. According to Ms. Pallas-Barber:

> . . . Well, the USS - - the parcels or packages are dumped on - - on a belt from a hamper dumper. A hamper is placed into the hamper dumper. The dumper actually lifts the hamper, and the mail falls out onto a belt or two belts.
>
> And the employee who is doing the dumping has a fork or a rake that, oftentimes, they will pull the parcels from the container onto the belt.
>
> The parcels then proceed through a tunnel scanner. They are - - the bar codes can be scanned 360 degrees. Andy they run through that scanner, and then they are sorted to a number of arms, depending on the size of the machine. I think it might have been 18 or 19 that we saw in Portland and the same thing in Charlotte.
>
> Also on the machine there is a belt or a runoff arm that - - where the rejected parcels flow to, and that's where they have a keying station and an employee keys in a ZIP code for that particular parcel, and then the parcel moves on and is sorted on the USS.
>
> Also, in Portland, they had two keying positions on the USS that were scan where you band. And there were two clerks that were staffing the scan where you band in Portland, and a clerk was also staffing the reject keying in Portland, Oregon when we were there.
>
> ***

Ms. Pallas-Barber testified that, in Charlotte, because the operation was was short-handed so no one was assigned to the reject arm. The packages piled up at that location. There was an employee assigned to work on the arms who took those parcels and did the final distribution into a receptacle. Ms. Pallas-Barber testified that the mail comes in "extremely mixed these days. We saw a lot of Priority Mail. . . . When we were in Portland and also in Charlotte, we saw even Priority envelopes sorted on the machine. So there were parcels, of course, but, yes, there were - - there was a lot of Priority Mail."

Assignments of Work Duties
During Site Visits

Ms. Pallas-Barber testified that, in Portland, before the USPS issued the craft determination, a Mail Handler employee was assigned to do the dumping and three Clerk employees were assigned on the machine, one doing the reject keying and two operating the "scan where you band." Also, they had a Mail Handler employee doing facing and singulating. Mail Handler employees also were assigned to do the manual distribution placing parcels into the receptacles. In Charlotte, the majority of the employees assigned to work on the USS were in the Clerk craft. The "scan where you band" was not attached to the USS in Charlotte, and no one was assigned to handle keying in for the rejects. Clerk craft employees "were doing the final distribution, the manual distribution off the arms."

Ms. Pallas-Barber testified, as follows, with regard to the "scan where you band" process:

> Scan where you band is the semi-automated scan where you band process, and that was deployed in the field, I think, somewhere around 2002.
>
> The Postal Service came out with a national jurisdictional determination at that time. The clerk craft was assigned the majority of the scan where you band operation, and the mail handlers did the so-called allied duties.

> And what the scan where you band does is it produces a destination and routing tag, D&R tag, and what that tag does is it weighs the package and determines what airline that package is to be flown on.
>
> ***
>
> . . . the scan where you band that came out in 2002 actually replaced what was the ACDCS system. That was the Air Contract Data Collection System and then the scan where you band.
>
> And in the national determination, it was basically left up to what was determined locally, that the national jurisdictional determination did not change if they had a local determination that had been going on or happening in that particular installation.
>
> ***

According to Ms. Pallas-Barber, during the site visit, ". . . there . . . was a spot on the USS machine in Portland where we observed there was a Portland employee standing there during the facing and the singulating of the - - of the parcels. They could be sorted by the machine, but for whatever reason were not properly singulating or faced through that tunnel on the machine. . . Charlotte was the same thing. We saw an employee there doing the same thing in Charlotte."

Ms. Pallas-Barber testified, on cross-examination by NPMHU, that she had observed the operation of the USS on the site visits in Portland and Charlotte, but she had not seen the USS in operation since then. Ms. Pallas-Barber testified that, during the site visits, she observed an employee singulating, facing the mail. Ms. Pallas-Barber testified that the employee pulling packages off the machine was not pulling them off the large dumper hamper. Rather, that ". . . was a totally separate station on the USS." Ms. Pallas-Barber stated that she was not aware whether, after the USPS's issuance of the craft determination in the USS case, that station no longer exists. Ms. Pallas-Barber testified that she knew that, in the national determination, "all the duties were assigned to the mail handler craft. . . I don't know that that particular function was separated out in any way."

Keying Rejects on the USS, SPBS, APBS, SPSS, & ADUS

Ms. Pallas-Barber testified, with regard to the USS operations in Portland during the site visit, that there were three keying stations at the end of the USS machine: one for the rejects staffed with a Clerk craft employee; and two "scan where you band" stations both staffed with Clerks. According to Ms. Pallas-Barber: "When a parcel had to be flown, it came down that arm, and the clerk keyed in a five-digit ZIP code. It produced the D&R or ACT tag, . . . and placed that on the parcel. And then the parcel was walked over to - - to receptacles, where the clerk would place it into the correct receptacle to be taken to the airport, transported to the airport." Ms. Pallas-Barber testified that she did not know how many USS machines have the "scan where you band" operation.

Ms. Pallas-Barber testified that the reject-keying operation on the USS involves "a package or parcel that cannot be run - - or read in the tunnel on the machine that does the . . the singulating and the facing on that machine, on the USS. And then - - then it runs to this reject arm, and the employee that is working on that reject arm would have to key in that five-digit ZIP code." Ms. Pallas-Barber agreed that that was similar to other machines which had rejects, including ". . . way back to the parcel sorting machines, we had keying - - we had two - - two clerks on the intake area on the parcel sorting machine. We had one clerk that did the keying and one clerk that did the facing." Ms. Pallas-Barber added that the reject operation was the same for the SPBS, which had five intake stations, and the Clerks did the facing and intaking and the keying. Then the SPBS was modified to the APBS and, again, Clerks did the facing and were assigned to the one keying station for the rejects that could not be read by the machine. Ms. Pallas-Barber testified, with regard to the SPSS, that when it first was deployed there was no keying but, at some time after that deployment, the USPS modified the last station, of five, on the SPSS, and added a keypad, so that the rejects were keyed on the SPSS.

Ms. Pallas-Barber testified, with regard to the ADUS, that, "[t]here is no, per se, a reject arm or keying on that machine, but the clerks on that machine do the - - loading and the facing, and that's where if there was something that could not be read or it should be pulled out at that point in time." Ms. Pallas-Barber added that sometimes there was a belt going off the machine so that, if there was an oversize parcel or it was not readable on the machine, it would be placed on the belt and then it would be sorted manually later on.

Ms. Pallas-Barber testified, with regard to whether Clerks receive any type of training for keying, that ". . . way back to the parcel sorting machine, . . . that's where our standard position description came into use per Article 37 of the collective bargaining agreement, and our jobs in the clerk craft were posted with the job title of parcel post distributer machine. That standard position description in the qualification standards require dexterity training." Ms. Pallas-Barber added that, for the parcel sorter machine, the SPBS, the APBS and the SPSS, "our clerk craft employees have to pass dexterity training in order to be considered qualified bidders on a bid assignment on those machines."

Sweeping

Ms. Pallas-Barber testified that, when they observed the operation of the USS, "the final distribution on the USS was manual and it was sorted into different receptacles, that that should be a clerk. . . . The final distribution on the USS is a manual distribution into a receptacle that is done manually by an employee. . . I think they called it sweeping, but it's not really sweeping as we know it. On the machines where we actually do sweeping, for instance, there are letter sorting machines, and . . . the sweeper pulls full pockets of letter size off the machine and puts it in a tray if it's letter size. . . . On the SPBS and APBS and the SPSS, there is sweeping, and it's done by both crafts. The clerks do the sweeping for ergonomic relief on the SPBS, APBS and the SPSS. . . And the sweeping is not the same there as we observed on the USS. On those machines, the parcel or package is sorted directly into a receptacle. And - - and then the sweeper would only - - if there was a jam, they would pull a jam, or the sweeper would actually pull a full container, whether it be a sack or a hamper or whatever, and remove that from the machine and then replace it. . . . On the USS, like I said, it's described - - it's - - an actual employee has to pick up the parcel and sort it into a receptacle manually."

Ms. Pallas-Barber was asked, on re-direct examination by APWU, about sweeping on the SPBS having been assigned to the Mail Handlers, whether there was a difference between sweeping on the SPBS versus any work done on the USS:

> On the SPBS or APBS, the machine sorts directly the package or parcel into the receptacle. Whether it's sack or a hamper or a

gaylord type of, you know, mail transporting container, it sorts directly.

On the USS, the packages, parcels, Priority Mail, whatever it is, is sorted onto an arm. That arm has a so-called belt, and then an employee has to manually sort that piece of mail, parcel, Priority, whatever it is, into a receptacle. . . . container, whatever. . . Or a sack.

***

Induction - Dumping

Ms. Pallas-Barner testified, with respect to dumping parcels onto the USS, that ". . . historically and through the jurisdictional determinations that we've seen, most of the dumping has been performed by the mail handler craft, okay, and that's on the - - on the parcel sorting machine, on the SPBS, on the APBS, the SPSS. . . . The only place where we saw some change was on the ADUS machine where we did not have a so-called dumping - - hamper dumper and a so-called belt is where the - - the loader and the feeder, the two clerk craft employees working on the ADUS machine take the packages right from a container. . . . But I did mention earlier that some of the ADUS machines that were deployed in some of the smaller P&DCs, the Postal Service did modify it with a hamper dumper and a culling belt, so to speak, and I believe the mail handlers do that dumping where those machines have been modified."

On cross-examination by the USPS, Ms. Pallas-Barber, in response to the question as to where in the RI-399 Guidelines it states that induction always is the work of the Clerk Craft, testified: "I don't know that it's specifically - - induction is stated in the mail processing guidelines. I just know that of the past history and - - of the machines that we . . . that I brought up earlier, the parcel sorting machine, the SPBS, APBS, SPSS, ADUS - - or not ADUS - - but ADUS as well - - that induction has been assigned - - . . . singulating and induction has been assigned to the clerk craft. . . . And I think even in Arbitrator Sharnoff's most recent decision on the SPSS, he upheld that as well." Asked to point out if there is, in any Arbitration Decision, a statement that induction work always is Clerk work, Ms. Pallas-Barber responded: "I don't know that it was specifically stated as always. Like I said, my understanding from the history of the machines from the mail processing guidelines and from the other decisions from Arbitrator Sharnoff on the SPBS and the SPSS, that work was assigned to the clerk craft." Ms. Pallas-Barber, asked whether the induction work on the

AFSM is performed by the Mail Handler Craft, responded: "I don't believe that's everywhere."

Ms. Pallas-Barber, on cross-examination by NPMHU, agreed that: Mail Handlers load or dump mail onto the SPBS and were assigned as the primary craft for that work; Clerks are the primary craft assigned to key the mail after it has arrived at their stations on the SPBS; after the mail is sent by the machine to one of the arms, Mail Handlers are designated as the primary craft for sweeping that mail off the SPBS; and, when necessary for ergonomic relief, Clerks who had been keying on the SPBS could be assigned to sweeping duties. Ms. Pallas-Barber was asked whether, if the Clerk-keying function on the SPBS was eliminated and replaced with keying by machine-performed singulating, facing and scanning packages with 360 degree cameras, would the Clerk's job on the SPBS also be eliminated. Ms. Pallas-Barber responded: "No. When the machine was modified to the APBS, the jurisdiction was not changed, and the clerks maintained the positions on the APBS where the induction was happening."

<u>The APWU's Craft</u>
<u>Determination Claim</u>

Ms. Pallas-Barber testified that she drafted the APWU's initial Position Statement for the USS, dated May 10, 2019 [quoted above], as well as the APWU's craft determination claim, dated August 2, 2019 [quoted above], in which the APWU asserted that some of the jobs on the USS should be assigned to the Clerk Craft, rather than to the Mail Handler Craft. Ms. Pallas-Barber testified: ". . . we believed that we should get the keying on the rejects on the machine. If the scan where you band was associated, of course, we believe that the clerks should be doing that, performing that - - those duties as well. And then we also believe that the - - the final distribution that's done off the arms on the USS should be clerk work." Ms. Pallas-Barber noted that, in many installations with the SPSS and the APBS, ". . . a lot of the mail that is rejected there or can't be sorted on those machines would go to pouch racks. And for the most part, clerks would staff those pouch racks where the tubes and the odd-sized things that were sackable that were able to be placed into a receptacle would be manually sorted by the clerks."

Ms. Pallas-Barber testified that, in formulating the APWU's claim, the APWU relied on Operation 105, ". . . because the machine is doing the distribution, and, you know, that's - - in the mail processing guidelines, operation 105 is the - - the distribution of parcels by a machine. And like I said, . . . the USS, from what we observed, the mail is so commingled that it is not strictly what we normally had called NMOs. And even now, an NMO, prior to the USS, the deployment of the USS, now it's being sorted on a machine. So, therefore, we believe that operation 105 was applicable." Ms. Pallas-Barber added, "[t]he manual distribution of Priority Mail is addressed in operation 050 to 055, and that was once again designated as clerk work in the mail processing guidelines. . . So because we saw such a mixture of the mail - - and I think it would depend on where the USS is deployed. You know, if there are other machines in the particular P&DC that - - like, let's say and SPSS or an APBS, where the smaller stuff would get run, it may not, you know, end up on the USS. But what we observed, we saw all kinds of Priority Mail, Priority envelopes, being sorted on the USS in Portland and in Charlotte as well." Ms. Pallas-Barber added that on the video of the operation of the USS shown at the instant Arbitration hearing, Priority parcels were observed on the belt.

Ms. Pallas-Barber testified, with regard to the NPMHU's reliance on the Mail Handlers being designated, in the Mail Processing Guidelines, at page 17, as the primary craft for sorting NMOs, as well as for transporting containers and empty equipment. Ms. Pallas-Barber testified that these NMOs now are machinable and are being distributed by the machine on the USS. The APWU believes, therefore, that Operation 105 is applicable to the USS because, no matter who is doing the distribution, the employee or the machine, it still is distribution.

Ms. Pallas-Barber testified, on cross-examination by NPMHU, that it is possible that the NMO sorting operations at the BMCs and NDCs also process mail that has been commingled.

Ms. Pallas-Barber testified, on direct examination, that, in the early 1990s the parcel sorting machines had two Clerk craft employees at the intake station, one of whom did the facing and the other did the singulating. That machine evolved to the SPBS which had five intake stations which were staffed with Clerks, who did the facing and singulating. After that, the SPBS was modified to become the APBS, on which some of the mail was read by a camera, but the intake station still was staffed with a Clerk. The Clerks worked the rotation for

ergonomic reasons, sweeping on both the SPBS and the APBS. There was one keying station even after the SPBS was modified to the APBS, and a Clerk was assigned to do the keying. Subsequently, there was the SPSS, which was similar to the SPBS and had intake stations staffed by Clerks. If a parcel needed to be faced and/or singulated it was done there. The Clerks worked on the sweep rotation for ergonomic reasons. After the deployment, the USPS modified the machine with a keypad for the rejects which was assigned to the Clerk to enter the five-digit ZIP code.

According to Ms. Pallas-Barber, the most recent machine was the ADUS [The Arbitration hearing on the ADUS had been held, but the Decision in that case had not been issued at the time the hearing was held on the USS.]. Ms. Pallas-Barber testified that the Clerks did the induction work on the ADUS and, even where the ADUS was modified, the Clerks on both sides of the belt were doing the induction and facing, which positions were called the Feeder and the Loader, both positions were manned by Clerks. Ms. Pallas-Barber testified that, where the ADUS machine had not been modified, ". . . a container was brought over by the clerk, and they began pulling parcels out of the container and put - - placing it on the belt that was actually part of the ADUS machine, and then the other clerk would singulate it or face it on the ADUS machine."

Ms. Pallas-Barber testified that, while the were at the site visit in Portland, Oregon, they saw another parcel sorting machine, the EPPS. Ms. Pallas-Barber pointed out that neither Party had disputed the craft determinations on the EPPS. Ms. Pallas-Barber testified that, ". . . we had induction sites on the EPPS machine that were assigned to the clerk craft. . . . So there again, wherever there is any type of induction, it's been clerk craft work, and that's part of the distribution function."

Ms. Pallas-Barber, asked which of the other machines is most comparable to the USS, testified:

> I would say back to the early parcel sorting machine. That's where we had two clerks on the induction site. The mail would flow off of that, and it would flow onto particular arms on that machine. That machine had arms as well. And there again, clerks did the manual sortation of the mail off of those - - off of the parcel - - parcel sorting machines back then into the receptacles that they were going to be

finally dispatched in. It was a manual distribution on the end of that machine as well.

***

Well, like I said, now the USS - - basically, I felt, somewhat quite the same. The machine - - the mail is dumped, of course, fro from a dumper onto the belt, but there again, there was one spot on that USS where there was facing and singulating done.

And then the mail is not - - the final distribution of the parcels on the USS is not into a container itself. It's off on one of these - - one - - up to - - from 1 to 19 arms. And then a final manual distribution is done by an employee on that arm into the containers.

So, you know, we felt that, once again, that that should be clerks because it's manual distribution, and, you know, whether the machine - - on - - and that - - on the USS, the final distribution, like I said, is - - is done by an employee, and we felt it should be clerks.

***

Ms. Pallas-Barber added that:

The previous machines that . . . we talked about, the parcel sorting machine, the SPBS, the APBS, the SPSS, through evolution of those machines, clerk craft employees were assigned to do the singulating and facing on those machines as part of the distribution operation of that machine. It didn't matter, . . . who was actually doing the distribution. Whether it's the machine or an employee, the machine is still distributing parcel post.

And then, like I said, when we were able to observe the USS, we saw that the mail was so commingled that it was sorting Priority Mail, Priority envelopes, small parcels. It was sorting such a commingled mixture that, . . . we believed that it really wasn't all that different from the APBS or the SPSS.

> Now, it is able to handle a heavier package - - we heard up to 70 pounds - - but still the mail is so commingled that we saw lot of Priority Mail, . . . and small parcels, Priority envelopes, all being commingled and sorted on the USS.

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Ms. Pallas-Barber agreed, on cross-examination by NPMHU, that: the USPS's craft determination stated that the USS processes Non-Machinable Outsides [NMOs]; and the USS, to the extent necessary, singulates and faces the mail, "but, in fact, there's no real facing necessary because the camera is 360 degrees, . . ." Ms. Pallas-Barber agreed that Clerks sometimes are trained in dexterity before they get keying jobs. With regard to whether Mail Handlers also often have keying jobs, she responded: "They may have on sack sorters, yes." Ms. Pallas-Barber stated that she believed the Mail Handlers also keyed on the APPS machine. Ms. Pallas-Barber testified that she had ". . . no idea whether or not they [i.e., Mail Handlers doing keying] have a standard position description that requires the keying qualification." She did not know whether Mail Handlers who did keying had to be trained. Ms. Pallas-Barber testified that she was familiar with an old document which states that keying does not determine craft jurisdiction. Ms. Pallas-Barber agreed that it was a governing document for postal decision-makers when they make jurisdictional determinations. Ms. Pallas-Barber agreed that the Mail Handler Craft was the primary craft for sorting NMOs at BMCs and NDCs, [w]hen they were manually distributed, yes, or sorted." Ms. Pallas-Barber testified that she was not aware that that work had been removed from Mail Handlers and given to someone else when it was mechanized or automated. Ms. Pallas-Barber noted that the USS machines have been deployed in NDCs and agreed that the USPS had determined that that work should stay with the Mail Handlers. Ms. Pallas-Barber agreed that, if a USS machine was brought into a BMC or an NDC, it might eliminate some Mail Handler jobs, but added that it might eliminate jobs in both crafts.

<u>RI-399 Operations 210-239</u>
<u>Platform Operations</u>

Ms. Pallas-Barber, asked on cross-examination by NPMHU, whether - as she had testified – all manual distribution work was Clerk work, responded

that, what the Clerk Craft considers to be distribution is Clerk work. Asked whether the APWU considered NMO sorting to be distribution, responded: "It's not, per se, distribution as I believe it to be. . . . Mail handlers separate things on the dock, if that's what you're referring to." Ms. Pallas-Barber agreed that Mail Handlers separate outside parcels on the dock unless it requires scheme knowledge. Asked if she considered that to be "distribution," Ms. Pallas-Barber responded, "I would call that sortation." Ms. Pallas-Barber, was asked, with regard to RI-399 Operations 210 to 239, Platform Operations, at Function 4, "Non-scheme separation of sacks, pouches or outside parcels for further processing," whether that constituted "distribution," responded: "That would necessarily be what I believe would be considered sortation. It is a separation of - - of the mail based on sometimes the size. Like I said, it separates sacks and pouches, and then it does mention outside parcels. So that - - I don't know that I would consider that distribution. I would consider that a sortation based on maybe the category of the mail . . . ."

Ms. Pallas-Barber was asked, on cross-examination by NPMHU, with regard to Operation 210, Function 6, "Manual separation of sacks, pouches, and outside parcels requiring no scheme knowledge," whether the APWU considered that function to be "distribution," responded: "There again, it's - - it's a sortation based on whether a sack, a pouch or an outside parcel." Ms. Pallas-Barber conceded that the Mail Handler performing that work "probably" checks the three-digit ZIP code or other information before placing the parcel into a receptacle.

Ms. Pallas-Barber was asked, on cross-examination by NPMHU, with regard to Operation 210, Function 8, "Mechanized sorting of sacks, pouches, and outside parcels requiring no scheme knowledge," whether this operation was considered to be "distribution," responded: "If there was a sack sorter on the platform, then, yes, it would sort sacks and outside parcels." Ms. Pallas-Barber agreed that the USS involves mechanized sorting for outside parcels requiring no scheme knowledge.

Ms. Pallas-Barber, on re-direct by APWU, was asked whether, in the RI-399 Operations, there were any which identified induction as Clerk work. According to Ms. Pallas-Barber, the term "induction" was not used in the Mail Processing Guidelines, which issued in the late 1970s or 1980s. She stated that the machines that now do singulating, facing and induction did not exist at that time, "[a]nd that's why, in the mail processing guidelines, we relied on

operation 105 and the functions there." Ms. Pallas-Barber testified that, in preparing the APWU's position, they relied on Operation 105, rather than Operations 100 or 210-239, "[b]ecause the - - the mail, the packages, the Priority, the NMOs were now being worked on a machine. The NMOs were really no longer NMOs. They are now machinable parcels, because the machine was adapted to handle the larger parcels. So we relied on operation 105 with the mechanized sorting of parcel post." Ms. Pallas-Barber testified that, in the USPS's Craft Determination letter, dated July 12, 2019, the USPS did not mention Operations 100 or 205.

RI-399 Operation 100
Outgoing Parcel Distribution

Ms. Pallas-Barber testified, on cross-examination by NPMHU, with regard to RI-399 Operation 100, Function 4, "Manual distribution of parcel post, without scheme knowledge," with regard to whether all manual distribution is assigned to the Clerks under RI-399, "[n]ot under operation 100."

RI-399 Operation 105
Mechanized Parcel Sorter

Ms. Pallas-Barber, on redirect-examination by APWU, read into the record RI-399, Operation 105, Mechanized Parcel Sorter, Function 4, "Distribution of parcel post through the use of parcel sorting machines. – Clerk".

The APPS

Ms. Pallas-Barber testified, with regard to the NPMHU's reliance on the APPS machine, that she did not agree with that comparison. Ms. Pallas-Barber testified that "[t]he Postal Service did not compare or use or rely on the APPS in their national jurisdictional determination. On the APPS machine, I think the parcels are sorted into their final destination receptacle, and that's different on the USS. . . Like I said, the USS, the parcels are sorted to a arm, and on those arms, somebody had to manually distribute, do the final distribution into a

receptacle of that particular parcel or piece of mail or Priority flat or whatever it happens to be."

Testimony of Peter Grau, USPS

Peter Grau testified, on behalf of the USPS, that his current position is Manager, Material Handling Engineering, Engineering Systems. His responsibilities include overseeing and managing technical engineers and project managers on a variety of equipment-related projects involved in material handling in mail processing. Mr. Grau described material handling engineering as ". . . handling, transporting and processing of either specific mail pieces or mail containers. That's the idea of moving mail most efficiently as possible." Mr. Grau testified that he had held positions in engineering as program manager for some automated systems, including handling trays and flat tubs, and integrated dispatch. After that assignment he worked in network operations in the logistics group on projects related to belt transport equipment, involving containers that handle and move the mail. Mr. Grau testified that he is not familiar with the RI-399 Craft Jurisdiction Determination process and was not involved in making the determinations at issue in the USS case. Mr. Grau testified that he is familiar with the USS:

> As manager, I was overseeing the technical reviews, the project management and scheduling of machine installations and machine deployments through the network for - - for the universal sorter.
>
> ***

<u>Tech and Mech Meetings on USS</u>

Mr. Grau testified, on cross-examination by NPMHU, with respect to the Tech and Mech meeting in December 2019 [?], that Hilkey Malcom, an employee on his staff made a presentation on the USS on the Non-Machinable Outside Sortation program which, according to Mr. Grau, was provided to the Unions at the meeting. The presentation also related the USS to two other projects, the RBUS and the MSA.

Design of USS Evolved
From Previously Deployed
Sorting Systems

Mr. Grau testified, on cross by APWU, with respect to a statement on Slide 3 regarding the design of the USS: "We had previously deployed sorting systems for large - - large packages that had similar functions. The had similar main - - mainline induction or conveying belts and discharge type of functions. What they did not have was the automated induction and scanning features." Mr. Grau testified that the prior machines had been deployed in the time frame of 2010 – 2012 to 2016, ". . . when we started to look at the more automated features on this type of machine." Mr. Grau testified, with regard to whether the USS machine changed since its initial deployment, ". . . I would say it has the same essential design as when it was originally deployed in 2016." Mr. Grau testified that the USPS reviews reliability and made "incremental improvements" to the pushers used in the discharge function, ". . . but the overall design is what we started with in 2016."

The Operation of the USS

Mr. Grau testified with regard to a diagram of a typical layout for the USS. According to Mr. Grau, the diagram showed where the mail entered the system and stated that the mail is inducted by "three container unloaders or dumpers that will then transfer the mail from the containers onto the initial conveyor belt, ... And it then traverses from right to left into the induction system, where it begins to align and then singulate for final induction into the main portion of the sorter. . . . It goes through a six-sided scanning tunnel where the bar code information is - - is read off of the label, and then it traverses down through the main conveyor belt of this system, which is actually the big racetrack. This encircles the main portion of the machine. . . . And based on the - - the bar code information and the sort plan, it will discharge the mail appropriately to the right discharge lane for sortation."

The Type of Mail
Processed on the USS

According to Mr. Grau, on direct-examination by USPS, with regard to the type of mail that was intended to be processed on the USS:

> . . . The machine was designed to process the larger packages, which are known as non-machinable outsides. These are too big and too heavy to be properly processed on the other - - we call then machinable sorters, you know, the machines that were referred to in other testimony earlier.
>
> So this machine, by virtue of its, you know, larger scale and larger size, is able to handle the larger packages, up to 70 pounds and up to - - let's see - - 48 inches in length, and then also provide for what we call automatic induction, which is using a six-sided scanning tunnel so that it doesn't have to be handled for locating a bar code for reading kind of work.

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<u>The Loading/Induction of Packages on the USS</u>

Mr. Grau testified, on direct, that, in the video, the Operator assists the mail coming out of the container by using a "shepherd's hook" to disperse the mail on the initial conveyor belt. The mail can be observed proceeding to the main portion of the induction area where it starts to get aligned. Often a lot of mail gets "bunched up at this point," just prior to entering the six-sided scanning tunnel. At this point, "the mail will get separated, and then it will go into individual induction belts, where it is then singulated. That means it can individually be processed. It can be read by the induction unit or by the scan system and then properly sort it." After the mail has traversed through the scan tunnel, ". . . it will measure any of the six sides to determine where the bar code information is and read that - - for interpretation for scanning. . . So then the scanned mail is sorted or rejected, rightly so, based on the scan result."

Mr. Grau, on direct, described the loading of the USS. ". . . the mail is brought over to the station where the mail - -the container itself can be loaded into the container unloader or dumper. So there's one of these container unloaders depicted in this induction area. . . . So the mail gets placed into the unloaders, and after the mail is unloaded, these devices, those unloaders, are returned to their original position, and the empties are removed." Mr. Grau testified with regard to "culling" of the packages, using the "shepherd's hook":

"The mail often doesn't flow freely out of the containers, so it needs to be guided out, and it needs to settle properly on the conveyor belt. So that's what the culler is doing there. . . . They're also looking to remove pieces that are not going to properly be processed on the machine. So those include any damaged packages, tubes, rolls, anything oversize greater than 42-inch length by 28 wide. . . . Now, there's also an undersized piece that can actually - - the reason for that, 1-inch thickness is - - is - - it can singulate and it can scan that type of piece. The problem is, when you have that - - if you remember the pusher pushing off the box off the discharge lane, there's a gap to allow that pusher to work properly. The gap wouldn't pick up a one-inch piece. That's why it's not acceptable on the machine."

Mr. Grau, on direct, referred to the activity "just prior to the merge of the induction line into the main line" as "cleanup." According to Mr. Grau, "[i]f there's any packages that aren't caught in the initial culling, such as overlapping packages that can be easily missed, those are called doubles. They need to be separated properly. So that's part of the cleanup. . . . Anything also that is not picked up that could be damaged and any odd-sized pieces that aren't properly culled initially can be picked up and - - and removed at this point."

Mr. Grau testified, on cross examination by APWU, with regard to the video's depiction of singulated mail being culled. Mr. Grau described the action displayed as "flow cleanup." According to Mr. Grau, this work is necessary "[b]ecause sometimes after the initial culling, there are still pieces that aren't properly prepared for - - for induction, and that can be any additional broken or damaged pieces that aren't picked up initially, any what's called doubles . . . overlapping pieces that aren't necessarily caught or observed initially." They try to find "doubles" to prevent only one of two bar codes being scanned and the two pieces will be sorted together. Also, a piece might be "oddly positioned," which prevents the bar code from being read. Mr. Grau testified that ". . . doubles is a main - - main factor of that flow cleanup."

<u>Facing</u>

Mr. Grau, on direct, agreed that "facing" of packages was not as necessary on the USS because ". . . it's equipped with a six-sided scanning tunnel so that it will read a legible - - a readable bar code or address information on any

surface of a six-sided package." Mr. Grau testified, on re-direct, that "mail flow cleanup" is not the same as "facing."

Rejects on the USS

Mr. Grau testified, on direct, that a package can be rejected if it ". . . did not get a legitimate scan of information off - - off of the package, then it will not sort down a discharge lane. It will have to be rejected, and that means it will go onto the reject loop." According to Mr. Grau, the video showed ". . . an example of a piece that gets rejected because it didn't get the proper scan data off of the scan tunnel. And now you can see where the piece is then evaluated by the operator. The information is keyed in, and then it is prepared for re-induction back into the system." Mr. Grau testified that any mail that is not scanned properly through the tunnel cannot be sorted because the sort information has not been identified. Consequently, it must be rejected. "So the sort plan will then push it off on - - using a pusher, push it off onto the - - the reject belt, where it then rotates around and then is presented to the operator, where they will then look at the package, read what information is available for the - - the code, the five - - three or five-digit ZIP code in and then key that in for sortation."

Package Sortation on the USS

Mr. Grau testified, on direct, that the video showed that ". . . the finalized mail coming off that is accurately sorted off to the discharge lane based on the sort plan, and then the piece is distributed to the right container for finalized dispatch."

The APWU's Claim that
Thirty Percent of Mail Run
On the USS is Rejected

Mr. Grau was asked, on direct, concerning the APWU's claim, in it's protest of the USPS's craft determination in favor of the NPMHU craft, in which the APWU asserted that it had been discovered that at least 30 percent, if not more, of the mail run on the USS was rejected and that keying is an integral part

of the distribution function. Mr. Grau disagreed with the accuracy of that assertion and testified:

> It's based on how you define the – the term "reject." So the amount of mail in the percent that not sorted is, I think, what is being referred to when you - - when they talk about 30 percent of the mail being rejected.
>
> So more accurately stated, 30 percent of the mail is not sorted. And it doesn't have to be and it most often is not because it cannot read the label. Most often, it can read the label, but it cannot sort for other reasons, most - - most notably because a lane is full. When a lane is full, you can't push the package down to the lane, so it has to recirculate on the - - on the machine. In some cases, it recirculates multiple times, which adds - - adds to that percent not sorted number.
>
> So that's really what drives that larger number relate to what actually is not read by the machine and, thus, has to be rejected for keying.
>
> ***
>
> Okay. So the percent keyed is the amount of mail that does not get sorted that has to be rekeyed. The percent not sorted is all the mail that doesn't go down the sort lane for whatever reason. . . . It's [i.e., keyed mail] 4.9 percent of all the mail that's inducted or all the mail that's run on the machine.
>
> ***

According to Mr. Grau, on cross by APWU, the above data on the number of rejects keyed was collected for fiscal year 2020. Mr. Grau testified that there had been no analysis of the number of rejects keyed for 2019, which was the year the dispute concerning the craft determination had been filed.

Sweeping

Mr. Grau testified, on direct, with regard to the responsibilities of the Sweeper on the USS:

> . . . As the bullets indicate here, they set up the containers associated with the sort plan and assign the MTEL placecards that will define the – the destination of the mail.
>
> When the mail comes off the discharge lane, they will pick up the piece, identify the piece for the proper container, and place it into the container for the appropriate sort.
>
> Once the container is full, they will close out the MTEL placard and then stage it for dispatch.

***

Current Utilization
Of the USS

Mr. Grau testified, on direct, that, currently, the USS is utilized at 28 locations. According to Mr. Grau, the USPS started using the USS in 2016. Mr. Grau testified that the USPS is scheduled to deploy two more USS machines in 2021, and that it has not been determined that any will be added after those.

Testimony of Shannon Richardson, USPS

Shannon Richardson testified, on direct by USPS, that she currently serves as the Acting Manager for Labor Relations, APWU Contract Administration. Ms. Richardson testified that she became the Acting Manager after Ricky Dean retired in January 2021. Prior to that, Ms. Richardson started as a transitional employee at a Remote Encoding Center in the Clerk Craft. She moved to a position as a District Labor Relations Specialist in the USPS District Office in Omaha, Nebraska. In 2013, Ms. Richardson moved to Labor Relations Specialist positions first with USPS Headquarters, Policy and Programs, and

then with the USPS's APWU Contract Administration. Ms. Richardson testified that her primary duties in her current position include overseeing and administering the CBAs between the USPS and the APWU, including providing guidance to the field. They are involved in the resolution of disputes, national-level arbitrations, national CBA renewal negotiations, and oversee the National Dispute Resolution Committee [NDRC herein] under the RI-399 procedures. Ms. Richardson testified that she had been involved with other craft determination proceedings, including the proceeding involving the ADUS machine.

The "Tech & Mech" Meetings
On the USS – NMO Sorting
December 2018 & December 2019

Ms. Richardson, on cross by NPMHU, testified, with regard to the "Tech & Mech" meetings held in December 2018 by the USPS's engineers and technicians and representatives of the APWU and the NPMHU, that the purpose of these meetings is: ". . . to provide information to the unions about upcoming mechanizations or technological changes that would be going into facilities that could have, . . . impacts on bargaining unit, whether Mail Handlers or APWU or potentially any other bargaining unit employees." Ms. Richardson, on cross by NPMHU, noted that the USS Summary, for the "Tech & Mech" Meeting held in December 2018, states [as the first bullet point]: "USS is the evolution of the HSUS and LCUS [High Speed Universal Sorter and Low Cost Universal Sorter]". Ms. Richardson testified that the HSUS and LCUS still are in operation in the USPS. Ms. Richardson agreed that the USS was not intended to replace the HSUS and/or the LCUS but, rather, it was intended to be in addition to those machines. Ms. Richardson noted that the next bullet point stated: "[The USS is the] USPS's large volume NMO machine".

Ms. Richardson, on cross by NPMHU, testified, with regard to the power point presentation for the "Tech & Mech" meeting on December 12, 2019, for the USS, that it referred to: "Non-Machinable Outsides (NMO) Sortation Program," Technological and Mechanization Meeting, Presenter: Hilkey Malcom [Engineering]. The power point program stated, as relevant: "Non-Machinable Outside (NMO) challenges continue . . . Slow manual sortation . . . Lack of scanning reduces visibility for the customer". Ms. Richardson agreed that the USPS was trying to find a solution to the NMO problem, one of which

solutions was the USS machine. Ms. Richardson noted that the power point program stated that "NMO volumes are approximately 5 percent of parcel volume". Ms. Richardson stated that she did not know the percentage but she "anticipated that NMOs would be a relatively small volume in the - - in the larger collective of overall parcel volume." Ms. Richardson testified that she was aware that the sorting of NMOs had been assigned to the Mail Handler Craft; she stated that she was not aware that that had started in 1979, which was when the RI-399 Guideline system commenced.

Ms. Richardson agreed, on re-direct by USPS, that the USS was intended and introduced to process NMOs and that, to the best of her knowledge, the USS still was used to process NMOs.

The USPS Craft Determination
Process – The Site Visits

Ms. Richardson testified that she worked the preparation of the USPS's Craft Determination letter, dated July 12, 2019. Ms. Richardson testified that she had served on the NDRC, attended NDRC meetings and scheduled the site visits for the USS in Portland, Oregon. She drafted the Craft Determination letter for Mr. Dean's signature after soliciting the positions of both Unions.

According to Ms. Richardson, with regard to the Craft Determination process under the RI-399 Guidelines, the USPS arranges a site visit with both Unions.

> We will solicit their input on whether, one, we need to make a craft jurisdiction and two, whether we - - if we do, what do they believe it should be . . . and get their input on that.
>
> And then after we receive that input, we will evaluate again the 399 principles, arbitration authority, the input from both unions, and made a final craft determination in which we provide to the unions and then subsequently to the field for implementation in those locations that have the equipment.

***

The USPS's Craft Determination
Letter, Dated July12, 2019

Ms. Richardson testified, on direct-examination by the USPS, that the Craft Determination Letter, issued on Jully 12, 2019, in this case involving the USS, was that the operation of the equipment in its entirety would go to the Mail Handler Craft.

Ms. Richardson testified, on cross-examination by APWU, that she was not aware whether there had been two deployments by the USPS of the USS, with a first deployment of eight and a subsequent deployment of 12 – 14 machines. Ms. Richardson testified that she was not sure of the number of machines deployed as of the time the Determination letter issued, but stated that she could determine the number from the documents provided. Ms. Richardson agreed that, in the Determination letter, it was stated that, at that time the USPS had deployed eight USS machines, and had plans to deploy 15 additional machines in 2019 and 2020.

The "Scan Where You Band"
Operation on the USS

Ms. Richardson testified on direct, that, in the Craft Determination letter with regard to the USS operation in Portland, Oregon, they stated that the "scan where you band" operation really was separate, "not an operation of the USS itself or a function of the USS itself, and so that - - that was not factored into the craft determination on the USS."

Ms. Richardson testified, on cross by APWU, that, at the time of the site visit to Portland, Oregon, that location had a "Scan Where You Band" attached to the USS. Ms. Richardson agreed, based on a review of a spreadsheet document provided by the USPS at the request of the APWU, that several, but not all, of the USS machines which had been deployed had "Scan Where You Band" units attached. According to Ms. Richardson, that decision is made at the local level. Ms. Richardson agreed that there was a Craft Determination letter which had issued with regard to the work performed on the "Scan Where You Band" operations [See quoted below.]

Ms. Richardson, on cross-examination by APWU, agreed that the letter refers to the Clerk Craft for the Scan Where You Band work and notes that, in the USPS's Craft Determination letter for the USS, there was a ". . . footnote that makes reference that the USS currently installed in the Portland P&DC has an automated scan where you band component, and then it goes on to say the clerk craft is the primary craft for operation of the automated scan where you band when attached to a USS. So that is still our position."

Craft Determination Letter
"Scan Where You Band" Operation,
Dated January 23, 2002

The Craft Determination letter, dated January 23, 2002, issued by the USPS, for the "Scan Where You Band" operation, states, as follows:

> The Postal Service has reviewed the work performed in connection with Semi-Automatic Scan-Where-You-Band (SASWYB) in order to evaluate the appropriate primary craft assignments.
>
> It is our determination that for the purposes of craft jurisdiction, the work performed on SASWYB is not significantly different from work performed on the predecessor Air Contract Collection System (ACDCS) and Scan-Where-You-Band (SWYB) equipment.
>
> The primary craft assignments for SASSWYB are the same as those previously made for ACDCS and SWYB
>
>> The clerk craft is the primary craft for operation of the equipment, and the mail handler craft is the primary craft for providing allied labor in support of the equipment. Allied labor includes facing and loading of mail onto the feed portion of the equipment, as well as off-loading of mail and sorting it into containers for dispatch.
>
> These are primary craft assignments only. In accordance with the April 18, 1992, Memorandum of Understanding (Re: Dispute Resolution Procedures), "All local craft jurisdictional assignments

which are not already the subject of a pending locally initiated grievance will be deemed as a proper assignment for that facility."

Therefore, due to the similarity to the predecessor equipment, craft assignments currently in place in specific facilities for ACDCS and SWYS should not be changed based on the installation of SASWYB.

***

USS - Dumping

Ms. Richardson, on direct, testified that she was familiar with the "dumping" operation on the USS. Ms. Richardson testified that that term is found in the RI-399 Work Designations and that "It's generally assigned to mail handlers. Dumping would be commonly seen in the 399, and mail handlers would be designated as the primary craft."

USS - Culling

Ms. Richardson, on direct, testified, with respect to the term "culling": "Similar to dumping, the culling is generally assigned to the mail handler craft as the primary assignment.

USS - Sweeping

Ms. Richardson testified, with respect to the term "sweeping," that that term appears in the RI-399 Work Designations and that the assignment generally is to the "Mail handler craft, similar with the dumping and the sweeping - - or dumping and the culling."

USS - Keying

Ms. Richardson testified, with respect to which craft the work duty of "keying" generally is assigned:

I don't know that we have designated a particular craft for keying. I think there was a reference or a question earlier regarding keying, and the position of the Postal Service has taken as referenced in - - I believe it was a Peter Sgro letter [see quoted below] regarding keying itself that we don't - - keying - - keying alone is not a determination for making a craft decision.

***

Asked, on direct, why the USPS sometimes would give keying to one craft and sometimes to another, Ms. Richardson testified:

> It would be based on a number of factors. It could be the - - you know, I don't know that it's any one thing what we look at that, but it could be where the location of the keying is.
>
> If it's generally done maybe on the front end and there is some other thing that goes along with it, like a facing - - the work that would need to happen occur in conjunction with the keying, we might assign it to the clerk craft.
>
> If that's not the case, if it's somewhere else on the piece of equipment or - - and in the particular case of the USS, we made reference to the minimal amount of work that was going to be performed by a keyer, and that - - that weighed into our decision-making regarding the application of the keying and who the appropriate craft would be.

***

Ms. Richardson testified, on cross by APWU, that the letter [quoted below] refers to ". . . the semiautomatic scan where you band, and it makes reference to that that would be the same as those previously made for the ACDCS and the scan where you band equipment. And it restates what that determination was."

<u>Letter, Peter Sgro, USPS</u>
<u>Re: Keying Function as Sole</u>

Craft Jurisdictional Determinator
Dated July 14, 1997

The letter referred to above by Ms. Richardson, was from Peter Sgro, USPS Acting Manager, Contract Administration (APWU/NPMHU), Re: Keying Function as Sole Craft Jurisdictional Determinator, dated July 14, 1997, sent to Human Resources Managers (All Areas) and (Districts), states:

> This memorandum is to clarify the procedure for determining craft jurisdiction when establishing a new or changing an existing operation.
>
> As you are aware, the RI 399 is the primary guideline used when making craft determinations relative to mail processing work functions. Therefore, those guidelines should be followed when making a craft determination.
>
> Some manually performed operations are being automated both by national and local level initiatives. It has been alleged that there is a perception in the field that since clerk craft employees generally perform keying operations, all work involving keying is automatically clerk work. For your information, there is no established rule where craft determination is predicated on whether it is a keying operation.

***

RI-399, Mail Processing Work Assignment
Guidelines, Dated 2/16/1979
Section II, Implementation Criteria,
C. "Distribution Activities"

Ms. Richardson was asked to read into the record, RI-399, Mail Processing Work Assignment Guidelines, dated 2/16/1979, Section II. Implementation Criteria, C. "Distribution Activities," which states:

C. Where the functions of obtaining empty equipment, obtaining unprocessed mail, loading ledges and sweeping are an integral part of the distribution function and cannot be efficiently separated, the entire operation will be assigned to the primary craft performing the distribution activity.

***

Ms. Richardson, on direct, was asked to explain this provision:

> What this - - this talks about the distribution activities and whether or not you can efficiently separate that from those activities.
>
> So it would not be efficient to segregate every single piece of everything, because, you know, you might say, okay, well, the clerk craft gets - - gets point A and the mail handlers get step B and everything. So then you're constantly having to pull people in and out in order to perform the work as opposed to just having one solid fluid movement, and that's the most efficient way to handle that particular portion or function of the equipment.

***

Asked, on direct, if Section II.C had been considered when making the assignment of the keying function, Ms. Richardson testified: "Yeah. I think we - - we considered that in evaluating the keying function." Asked if there was a "bright-line test" for when Section II.C was applied, Ms. Richardson responded:

> No. I don't know that we have a bright-line test. There's no clear-cut - - cut line. And with the - - with the keying in the USS, again, we made reference to it was minimal, and we don't have a bright on that on when it - - when it crosses a threshold of minimal or de minimis into substantial and - - and now warrants the need for evaluation or looking at it from - - where it's no longer efficiently separated.

***

Asked on direct, in the absence of a bright-line test/strict threshold what would lead the USPS to find that the keying work on the USS was sufficiently minimal to make Section II.C applicable, testified:

> Well, just the fact that, you know, based on the numbers and the volume of packages that are - - that end up on that particular reject arm that have to go through the keyer is considerably low to the point where it's not necessary for them to, per se, staff it 100 percent of the time. They - - you know, depending on the volume of mail that they're running and the times they're running it or any of that and over what time period they have to get it done, that it really could be a very small percentage of time that somebody needs to actually be keying any package for – for continued sortation.
>
> ***

Ms. Richardson, on cross-examination by APWU, testified, with regard to the RI-399 Mail Processing Work Assignment Guidelines, that the USS is a mechanized parcel sorter. ". . . it's automation to process parcels." Ms. Richardson testified that, during the craft determination process the USPS looked into these Guidelines and that she was familiar with Operation 105, Mechanized Parcel Sorter, No. 4, "Distribution of parcel post through the use of parcel sorting machines," for which the Primary Craft listed was Clerk. Ms. Richardson, asked whether they had taken Operation 105 into consideration during the craft determination process, testified: "I don't necessarily know that we singled out individual ones and said, this likens to that, but - - but as a whole that, you know, collectively, this is consistent with the determinations with 399, as well as the other pieces of equipment." Ms. Richardson agreed that the following was accurate, with regard to Operation 050/055, Priority Mail Distribution, No. 6, "Distribution of priority mail.", for which the Primary Craft listed was Clerk.

Ms. Richardson testified, on cross by APWU, with respect to the employee on the video of the operation of the USS, referred to as a mail flow cleanup person, whose function was to separate parcels:

> I guess it depends on what you mean by separate. My understanding is that that individual standing there is to make sure they aren't like doubled up and that the machine will actuall scan for the bar code or the address or whatever it needs in order to get it to the right arm for separation. . . .
>
> . . . So he arranges - - he or she arranges the parcels before they go into the camera - - into the [tunnel with the camera]. . . [w]hen necessary. . . .
>
> ***
>
> I don't think that person ensures that they have a readable bar code. It just makes sure that it's not - - there's not another package or that would be blocking it that would prevent it from - - from scanning the package, any individual package appropriately, because it is a six-sided scanner, so - - but the person isn't going to necessarily know whether or not it is a valid bar code that is on the package.
>
> ***
>
> That it's in a position to be readable.
>
> ***

<u>Allied Work –</u>
<u>"Scan Where You Band"</u>

Ms. Richardson was asked, on direct, about the concepts of "allied work" and "Scan Where You Band," as related to craft determinations. Ms. Richardson testified:

> So in looking at this letter [quoted above] that the Postal Service provided to the unions, this references a semiautomatic scan where you band and makes reference to the craft jurisdiction, that it's not significantly different from the work performed on the predecessor Air Contract Data Collection System and the scan where you band equipment.

> And in the middle of that document, the indented paragraph talks about allied work, while the clerk craft is the primary craft for operation of the equipment and the mail handler is the primary craft for providing allied labor in support of the equipment.
>
> And then it goes on to, you know, break down what allied labor includes, and it specifically identifies facing and loading of mail onto the feed portion of the equipment, as well as the off-loading of mail and sorting it into containers for dispatch.
>
> So in reference to the final arms that I believe Lynn [Ms. Pallas-Barber] testified to, there was talk about having to actually physically pick up the - - the package off the arm and place it into a container, that this would be consistent with what's referenced here, the off-loading of mail and sorting it into containers for dispatch as part of the allied labor, which, again, you can see is assigned to the mail handler craft.
>
> ***

Ms. Richardson testified that "cost does not come into play" when making craft determinations. Ms. Richardson denied that the Mail Handlers were chosen because they are less expensive.

<u>USPS's Records Regarding</u>
<u>The Types of Parcels Run</u>
<u>On the USS (other than NMOs)</u>

Ms. Richardson testified, on cross by APWU, that, in response to a Request For Information [RFI herein] filed by the APWU, for the USPS's records showing the types of parcels run on the USS, other than NMOs, that the USPS does not track that degree of "granular" information. Ms. Richardson agreed that the types of parcels processed on the USS includes both "machinable" and "non-machinable" parcels. Ms. Richardson agreed that the USS, when it issued the Craft Determination letter for the USS, viewed the USS as an NMO machine. Ms. Richardson testified that she was not familiar with a document [which had been submitted as an exhibit by the NPMHU] regarding the asserted evolution of the High Speed Universal Sorter and the Low Cost Universal Sorter, at the time they

prepared the Craft Determination letter for the USS, but she stated, "We would have considered the fact that it was a universal sorter in relation to, also, there are the high speed and the low cost universal sorters that also work with NMOs. As far as - - specific language that it's an evolution, I don't know that we [Ms. Richardson and Mr. Dean] use that word, per se." Ms. Richardson testified, ". . . We considered the high speed, the low cost, both of those pieces of equipment, and other pieces of equipment in . . . application of the RI-399 principles when making the . . . craft determination." Ms. Richardson could not recall whether they also had considered the Low Cost Tray Sorter. Ms. Richardson agreed that the USPS currently does not have a primary craft jurisdiction designation at the national level for the High Speed Universal Sorter. She was not sure regarding the craft designation for the Low Cost Universal Sorter. Ms. Richardson agreed that the craft designation, at least for the High Speed Universal Sorter, is made locally.

Ms. Richardson testified, on cross by APWU, that one of the considerations on which the USPS relied for the craft determination on the USS in favor of the Mail Handler Craft was that the USS processes NMOs. Ms. Richardson noted that there is a reference in the document that the USS is a large-volume NMO machine. Ms. Richardson agreed that the USS ". . . has the capability to process more than . . . NMOs, but this is what it was deployed to process was NMOs. . . . That was the intention of the machine was to process - - to handle the NMO volume." Ms. Richardson added, with regard to other mail being processed on the USS: "I think if they're comingled in with the NMOs, they're not - - they're not separated before being dumped on the piece of equipment or before arriving at the facility, then it has the capability, but it is my . . . understanding that that is not the primary - - the primary function of that piece of equipment is not to process - - not intended to process these - - the smaller parcels." With regard to whether the USS processes "machinable" parcels, Ms. Richardson testified: "We acknowledge that in our - - in our RFI tht it does - - it does have the ability to process NMOs as well as - - machinable and non-machinable pieces of - - pieces of mail." Ms. Richardson testified that the USS, ". . . at some point in time processed a piece of non - - a piece of machinable parcel. . . . I do not know how much machinable parcel." Ms. Richardson testified that she would agree with the testimony of the USPS's technical expert, Mr. Grau, to the extent that he had testified that the USS could process parcels weighing up to 70 pounds, and that the USS could process Priority Mail and small parcels. Ms. Richardson testified that she was not sure if the processing of small parcels on the USS varies by facility. Ms. Richardson was not sure if the

USS could process flats or bundles. She stated her belief that the USS had the ability to process parcels that could be processed on the APBS, the SPBS and the APPS. Ms. Richardson acknowledged that there was nothing stated by the USPS in the Craft Determination letter for the USS with regard to the USS processing machinable parcels, Priority Mail, flats, or bundles.

Ms. Richardson, on cross by NPMHU, agreed that machinable parcels that might end up on a USS also could have been processed on the APPS machine, which had been assigned to the Mail Handler Craft.

The RI-399 Update
In June 2019

Ms. Richardson testified, on cross by APWU, with regard to the craft designations made locally for the High Speed Universal Sorter:

> I know that as part of the update RI-399 MOU that was agreed upon in 2019, there was a reference to the fact that there is no national craft determination for these two pieces of equipment and that we would leave it up to the - - you know, it would be based on local - - local craft jurisdiction would . . . dictate that.

***

The Gamser Craft Jurisdiction
Arbitration Award, dated
1981

Ms. Richardson was asked, on cross by NPMHU, if she was familiar with the Craft Jurisdiction Arbitration Decision and Award issued by Arbitrator Howard Gamser, dated 1981, and whether she and Mr. Dean had considered that Award in making the craft determination for the USS. Ms. Richardson responded: "We . . . would have looked at other awards related to 399, which would include the Gamser award."

Testimony of Rick Bloomquist

Rick Bloomquist testified, on direct by APWU, that he works as a Lead Clerk for Tour 3 Flats Section at the West Valley P&DC in Phoenix, Arizona. He has served as a Steward for about 20 years, a Step 2 Designee for 15 and, currently, as Director of Industrial Relations for the Phoenix Metro Area Local, as well as the head of the LDRC for the APWU in Phoenix. Mr. Bloomquist testified that, as a Lead Clerk, he works with supervisors to help facilitate their work, prints labels, and make sure that the mail flows correctly. He also works as a Flat Sorter on the machines and flats. Mr. Bloomquist testified that the facility has the following machines: two APBSs, the former SPBSs; one SPSS; one USS; a "Scan Where You Band" area; a couple of manual parcel areas; five AFSM 100s for the flats; and two FSS that DFS the flats.

The Operation of the USS
In the West Valley P&DC

Mr. Bloomquist testified, on direct, that the USS first was used in the West Valley P&DC in about mid-2018 and that he has worked on the USS. Mr. Bloomquist testified that he has performed keying duties. According to Mr. Bloomquist, at the time the USS first was installed, ". . . we did not have a jurisdiction letter, and they staffed it similar to the Low Cost Universal Sorter that we used to have." According to Mr. Bloomquist, previously, he had worked on the SPSS and on the APBS and he had performed various manual parcel distribution operations, as well as working on the flats.

Local Craft Jurisdiction
Determination – USS

Mr. Bloomquist testified, on cross by NPMHU, that he had worked in the Phoenix area for 26 years and worked in the West Valley facility for 15 years. Mr. Bloomquist testified that the USS arrived in the West Valley facility in mid-2018, which was before the issuance of the national jurisdiction determination letter for the USS, which issued in July 2019, the Clerk Craft was assigned to sweep the mail on the runoffs or arms. According to Mr. Bloomquist, "They were assigned, actually, the sweeping and the keying duties, similar to the LCUS." Mr. Bloomquist agreed that the Plant Manager in West Valley in

November 2018 had issued a local craft determination on the USS machine. "The local determination assigned the mail handlers to everything but the keying. The keying was determined to be clerk work." Mr. Bloomquist testified that the staffing of the USS at that time was the same as on the LCUS until the local craft determination letter issued so that, from about July to November 2018, it was staffed with Clerks. Mr. Bloomquist testified: "Prior to the national jurisdiction letter, we had not gotten into the local jurisdiction letter yet."

Local Craft Determination
Letter, dated November 5, 2018

The Local Craft Determination Letter, dated November 5, 2018, states, among other things: "The manual sweeping and cull/manage station are similar to the duties currently performed by a Mail Handler." The letter also states that the primary jurisdiction of the sweeping on the USS is the mail handler craft. Mr. Bloomquist agreed, on cross by NPMHU, that, prior to the local craft determination, Clerks were working on some of the sweeping on the USS for a few months in the West Valley facility. Mr. Bloomquist agreed that, at that time, there were no bid jobs on the USS; they were staffed with PSE Clerks and with Mail Handlers or MHAs. According to Mr. Bloomquist, before the local craft determination letter, "[t]he mail handlers were doing the dumping, the loading and the dumping, and the clerks were doing the sweeping and the keying." Mr. Bloomquist testified that the Clerks challenged the local letter in the Local DRC procedures. Mr. Bloomquist agreed that the USPS did not agree with the APWU's position, nor did the NPMHU, and the local determination had been appealed by the APWU to the Regional DRC. Mr. Bloomquist testified that they were at the Regional DRC level when the National Craft Jurisdiction Determination letter issued.

Sweeping on the USS

Mr. Bloomquist testified, on direct, with regard to sweeping on the USS:

> Those runoffs, the general term that is used in Phoenix is that those runoffs is where the sweeping takes place. That five-digit distribution takes place on each one of those runoffs, and then

when those containers get full, they sweep those containers out for the mail handlers to dispatch, the drivers - - to dispatch.

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It was . . . exactly the same as what was done on the Low Cost Universal Sorter. It is different from the sweeping that is done on the APBS and the SPSS, because the sweeping on those machines, there is no five-digit distribution. The machine does that distribution, and then the full containers get swept out.

So while they like to lump the sweeping on the USS as just sweeping, it's a five-digit distribution, in my opinion, and then also the sweeping function.

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Mr. Bloomquist testified, on cross by USPS, that he had worked on the USS on occasion before the local craft determination and agreed that, at that time, Clerks were assigned to work on the distribution portion at the end of sweeping.

Types of Mail Run
On the USS

Mr. Bloomquist testified, on direct, with regard to the type of mail run on the USS:

A wide variety. You name it, it ran it. With the exception of very thin flats, individual flats, it - - those are too thin to run on that machine. But it ran parcel post, Priority, first-class, sacks. Whether those sacks were Priority periodicals or bulk mail third class, it ran everything, still does.

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. . . It . . . the non-machinable outsides many times come from - - are culled off the other machines because they - - the USS can run larger parcels than many of the other machines. So what gets culled

off of those machines will then go to the USS, and if it's too big for the USS, it then goes to our manual parcel operations.

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Like such things as the - - the tubes. Tubes can't be run on the USS, so those get done manually. We do have sometimes really large 6-foot, 7-foot-tall parcels that cannot run on the USS or any other machine. So, yes, those - - are really outsides.

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Mr. Bloomquist, on direct, testified that it was hard to state the percentage or number of NMOs processed on the USS compared to other parcels ". . . because there's such a wide variety of - - of mail that was run over there, because the rejects that came off the APBS and the rejects that came off the APPS were just simply sent over to the USS. Both of those machines rarely reran their rejects. They would just simply ship them off to the USS. So there was a wide variety of sizes, shapes, machinable, non-machinable mail that got ran on the USS."

<u>LCUS</u>

Mr. Bloomquist, on direct, testified with regard to whether the USS replaced another machine: "To an extent, it replaced the Low Cost Universal Sorter. The Low Cost Universal Sorter had been dismantled for about two years by the time we got the USS in." Mr. Bloomquist testified, with regard to how the LCUS had been staffed, ". . . we had a local jurisdiction letter that – signed by all three parties that gave the loading, dumping and - - well, there was no real dumping. It was just loading - - loading and dispatch to the mail handlers and the keying and sweeping that I described earlier to the clerk craft." Mr. Bloomquist agreed that this was the same type of sweeping that is done on the USS. ". . . [i]t's the five-digit distribution of the mail that comes down each one of those runoffs. On the Low Cost Universal Sorter, we had 12 runoffs. The USS has 16. . . The mail came down each one of those runoffs. The clerk would do a five-digit distribution, and then when the container - - into a container. When the container got full, they swept that container out for the mail handler to

dispatch from there." Mr. Bloomquist testified that he had bid into the LCUS job in 2008 and had worked on it for about six years. According to Mr. Bloomquist: "In my experience, the Low Cost Universal Sorter was simply a straight-line version of what is currently the USS. . . The USS now is a carousel where the mail can actually loop around, where the USS [sic] actually just terminated after 12 slides. But other than that, they're exact same machine. In fact, when the USS was installed, the manufacturer and the gentleman in charge of installing it was the same . . . ."

Mr. Bloomquist testified, on cross by NPMHU, that ". . . the LCUS was a straight-line version of the USS." Mr. Bloomquist testified that the USS was not "100 percent" like the LCUS because ". . . the USS - - is a carousel, and the LCUS was a straight line that terminated at some point. Other than that and the automatic feeders and dumpers that are on the USS, they're - - apart from that, they're exactly the same machine."

Mr. Bloomquist testified, on cross by USPS, that he had worked a bid job on the LCUS for about six years. Mr. Bloomquist testified that the USS was "[u]pdated [from the LCUS] in the fact that it had dumpers and automatic readers, . . . scanners. The rest of it was exactly the same function."

Mr. Bloomquist agreed, on re-cross by NPMHU, that he had argued, in local meetings and presentations, that the USS is very similar to, or an update of, the LCUS. Mr. Bloomquist agreed that neither the USPS, nor the NPMHU, had agreed with the APWU's position.

<u>USPS Letter</u>
<u>Re: USPS Local Management's</u>
<u>Craft Determination - LCUS</u>
<u>Dated October 2006</u>

The USPS letter, dated October 2006, regarding the craft determination on the LCUS states:

> In order to meet service requirements, keyers and sweepers on the LCUS will be required to have the Arizona scheme knowledge. In consideration of this and all operational

> requirements, as well as in thorough consideration of all the information you provided, including your position papers, it has been determined that the loading function on the LCUS will be assigned to the mail handler craft and the keying and sweeping function will be assigned to the clerk craft.
>
> ***

Mr. Bloomquist agreed, on cross by NPMHU, that, when the LCUS initially was installed the sweeping and the keying were assigned to the Clerk Craft at least in part because they were required to have scheme knowledge. Mr. Bloomquist added that he had worked on the LCUS for six years and that, "[b]y the time I left the LCUS, all scheme requirements were no longer required. They had stripped all the scheme requirements off the bid jobs."

Parcel Sorter

Mr. Bloomquist testified, on direct, with regard to whether the West Valley P&DC had a parcel sorter, that many of the machines he described [see above] sorted packages.

Testimony of Bill Schweiker

Bill Schweiker testified, on direct by APWU, that he worked as a Lead Mail Processing Clerk at the NDC in Philadelphia, Pennsylvania, which previously had been the Philadelphia BMC. Mr. Schweiker worked for the USPS for 34 years. Mr. Schweiker currently serves as the Director of the Clerk Craft. He had been a Steward for the Clerks for over 20 years. Mr. Schweiker described his duties as a Lead Mail Processing Clerk includes working in the Parcel Sorting Machine [PSM herein] area, which had two PSMs. Mr. Schweiker testified that he oversees the area subject to direction from supervision. He sets the lineups for the keyers and makes sure that there is equipment available for each employee.

Mr. Schweiker testified, on cross by NPMHU, that he was familiar with the National Arbitration Decision that prohibits Lead Clerks from supervising Mail Handlers.

Mr. Schweiker testified, on direct by APWU, that in the Philadelphia NDC they have the following machines: Flat Sequence Sorter [FSS herein]; Automated Parcel Post Singulator [APPS herein]; Sack Sorting Machine; LCUS; High Speed Tray Sorter; APBS; two PSMs; and a USS. Mr. Schweiker testified that the USS was installed in about July 2020.

The USS

Mr. Schweiker testified, on direct by APWU, that the USS in the Philadelphia NDC is staffed by all Mail Handler employees. According to Mr. Schweiker, the USS ". . . was supposed to be an NMO sorter, but on a daily basis, there's machinable parcels that are within the dimensions of a machinable parcel that are worked there every day by Mail Handlers. . . . Along with NMOs." Mr. Schweiker testified that, based on his observation of the USS operation from his bid job on an adjacent machine ". . . about 70 percent of the mail that's run on that machine is machinable parcels, within the dimensions of machinable parcels, which in recent history here at the NDC, the dimensions of a machinable parcel is 27 by 17 by 17, less than 25 pounds. . . . And they do run some NMOs on that machine, but the larger NMOs - - and I'm going to say anything longer than 4-foot - - basically, they can't work them on that machine. Because the turn on that machine, the parcels will just fall right on the floor - - not the parcels - - the NMOs will fall right on the floor." According to Mr. Schweiker, with non-machinable parcels they ". . . have to work them manually, and we have a manual NMO area. They call them spiders. They have large spiders set up to work them there." Mr. Schweiker testified that this manual sorting work on NMOs is done by Mail Handlers.

The Low Cost Universal Sorter

Mr. Schweiker testified, on direct by APWU, the Low Cost Universal Sorter [LCUS herein] is similar to the USS. Mr. Schweiker agreed that the LCUS is an updated version of the USS with respect to the Philadelphia NDC operation, ". . . except for where the dumping becomes involved. Now they've

got automatic dumpers here for the USS, and for the Low Cost, it was - - they just manually put the mail onto the belts. They have a singulator. I think - - I believe on our Low Cost, it was able to read the parcels going up. The parcels that weren't read stopped, and they had a mail handler that would key them." According to Mr. Schweiker, the LCUS was staffed with "all mail handlers."

Testimony of Peter Harkins

Peter Harkins, testified, on direct examination as a rebuttal witness for the APWU, that he is employed at the Springdale Annex, in the P&DC facility in Cincinnati, Ohio, as a Lead Mail Processing Clerk. The Springdale Annex has been in operation for three years, since June 2017. He has been a USPS employee for 31 years and serves as a Union Steward for the APWU. Mr. Harkins testified that his duties as a Lead Mail Processing Clerk include preparing weekly schedules, overtime lists, vacation lists, counting the mail, setting up machines, switch programs. Mr. Harkins testified that at Springdale they have the following machines: Bundle Sorters, originally four, now two; at one time they had a Spider 050; a USS became operational in November 2020; an SPSS is going to be installed.

The USS

According to Mr. Harkins, on direct by APWU, the USS is staffed as follows: three dumpers with three Mail Handlers; one singulator, "that's typically a mail handler, sometimes a clerk"; ten "arms or legs on the opposite side of the machine, and that's staffed by mail handlers and clerks as needed"; three "Scan Where You Band" arms or legs on one side of the machine "staffed by clerks that do the scanning, and clerks and mail handlers do the sorting after it's been scanned"; one reject station, "and that is staffed by the clerks or a mail handler or a supervisor as needed".

Mr. Harkins testified that the mail ". . . comes off the bumbers [sic, dumpers], and it goes around the - - a U-turn, and then it's a wide belt. So there - - there might be mail doubled and tripled up side by side, and they want the mail to go down single file so that it can go through the camera." Mr. Harkins testified that somebody singulates the mail to make sure that one piece is not on top of another. Mr. Harkins testified, with regard to the "arms or legs" that

the ". . . mail comes off each of the arms or legs. There are ten of them. And they have a horseshoe configuration with boxes, and that individual will read the ZIP code on the box and then sort it into the proper container for distribution." Mr. Harkins testified that he has worked on the USS. Mr. Harkins testified, with regard to sweeping on the USS, that the work he described regarding the end of the arms or legs was not "sweeping," which would go directly into a container for dispatch, but, rather, the packages had to be sorted by ZIP codes. "Somebody has to look at the package and determine where they're going to place it." Mr. Harkins testified that the mail run on the USS is ". . . primarily Priority parcels that are too big for the APBS, Automated Parcel Bundle Sorter." According to Mr. Harkins, ". . . they'll run anything on it that they need to, because when it's busy, they just need to process the mail. So they'll put it - - the mail comes from the - - the truck, and all the mail is mixed up in a, you know, container. . . . So the mail handler will dump it onto the belt, and at that point, they have the option to sort it out into a separate container, but they basically can't keep up with it. So they don't separate it all, and it goes down the legs. And once it goes down the legs, it just gets processed. And they'll put whatever mail on there they need to to keep the mail going." Mr. Harkins testified that the USS cannot process parcels over 48 inches long or over 70 pounds. That mail is processed manually ". . . by primarily mail handlers, but depending on staffing, by clerks as well."

<u>The Spider 050</u>

Mr. Harkins testified, on direct by APWU, that, before the USS became operational in November 2020, they processed the larger parcels on the Spider 050 machine, which had two dumpers, six conveyors, and a platform on top at which two Clerks scanned parcels and ". . . then sent them down the - - one of the six decline conveyors, where they were sorted by clerks. That was entirely a clerk machine except for the two mail handlers doing the dumping."

THE POSITIONS OF THE PARTIES

The positions of the Parties are set forth in their respective post-Arbitration hearing briefs which hereby are incorporated by reference and made a part of this Opinion.

ARBITRATOR'S FINDINGS AND CONCLUSIONS

The Arbitrator concludes, for the following reasons, that the APWU has failed to meet its *heavy burden of proving* that the USPS acted improperly and in a manner which has been demonstrated by the protesting Union to have been arbitrary, capricious, unreasonable, and that the craft determination constituted an abuse of the USPS's discretion with regard to its issuance of the Craft Jurisdiction Determination letter for the USS, dated July 12, 2019, in favor of the Mail Handler Craft for all positions on the USS, including the employees performing the dumping, singulating, keying, and removing/sweeping of parcels/packages from the USS, with the exception of the staffing of the "Scan Where You Band" operation when present, which work was awarded to the Clerk Craft, with allied work on that operation assigned to the Mail Handler Craft.

The Arbitrator finds that the evidence presented by the USPS and the NPMHU supports their position that the USPS acted properly, in accordance with the guiding principles of RI-399, including: the presentations regarding the USS at the "Tech & Mech" Meetings with both Unions in 2018 and 2019; the observations by representatives of the USPS, the APWU and the NPMHU, of the operation of the USS made during site visits; consideration of the respective statement of position submitted by each Union; consideration of the guiding craft determination principles of RI-399; consideration of previous Craft Jurisdiction Arbitration Awards; consideration of craft determinations for other machines. The Arbitrator finds that the craft determination for the work performed on the USS in favor of the Mail Handler Craft appropriately was based on the facts reasonably known to the USPS officials at the time they made these determinations, including the presentations at the "Tech & Mech" Meetings, the observations made of the operation at the site visits and the RI-399 guiding principles.

The Arbitrator notes that the USPS's Craft Determination letter, dated July 12, 2019, states, in relevant part:

> The USS processes non-machinable objects (NMOs), which are inducted on the system through parcel dumpers. The system singulates and orients the parcels and barcodes are read by a six-

sided scan tunnel and camera system. The USS is modular and can be configured based on available space, with the number of outputs ranging from 4 to 18, and can scan and sort parcels up to 2,200 per hour. Currently, there are eight sites that have a USS. The Postal Service plans to install 16 additional USSs in 2019 and 2020. /1 [See Footnote 1 below.]

After reviewing the equipment operation, carefully considering the input from the APWU and the NPMHU, and applying the principles of RI-399, the Postal Service has determined the primary craft operation of the USS is the Mail Handler Craft. The volume of rejected parcels, requiring the operation of the one keying station, is minimal and could not be efficiently separated from the other duties performed on the USS. The reject keying station is not integral to the distribution operation of the machine. [Emphasis supplied.]

The actual number of employees required to perform the duties associated with the USS at any time will be determined based on local configuration and operational needs. Where the USS has already been installed and is operational, assignments of the appropriate craft in accordance with this determination will be made as expeditiously as possible no later than 90 days from the date of this letter.

[Footnote 1]. The USS currently installed in the Portland P&DC has an automated Scan Where You Band (SWYB) component. As of the date of this determination letter, this is the only USS equipment with SWYB directly attached to the machine. *The Clerk Craft is the primary craft for operation of the automated SWYB units when attached to a USS.* [Emphasis supplied.]

In accordance with the Memorandum of Understanding, Update of Regional Instruction (RI) 399 Procedures, dated June 28, 2018, the above stated craft designation will go into effect no sooner than 45 days from the receipt of this notice.

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The Arbitrator, based on the reasons discussed herein, concludes that: the craft determinations made by the USPS in favor of the Mail Handler Craft, with the exception of the Clerk Craft for the Scan Where You Band operation, reasonably were based on the appropriate considerations noted and the guiding principles of RI-399; the craft determinations made by the USPS in favor of the Mail Handler Craft, with the exception of the Clerk Craft for the Scan Where You Band operation, have not been shown to have been arbitrary, capricious or unreasonable, nor have they been shown to have constituted an abuse of the USPS's discretion to make these determinations under RI-399. For all these reasons, the APWU's grievance protesting the USPS's craft determinations in favor of the Mail Handler Craft is denied in all respects.

The Processing of NMOs
On the USS

The Arbitrator concludes that the USPS has demonstrated that the most significant purpose of the USPS's development of the USS was to process parcels/packages, referred to as NMOs, which were larger in dimension and weight than those parcels/packages which the parcel. sorting machines which previously had been placed in operation had been able to process. In this regard, the Arbitrator notes that Mr. Grau testified, with respect to the type of parcels/packages which the USS was intended and designed to process:

> . . . The machine was designed to process the larger packages, which are known as non-machinable outsides. These are too big and too heavy to be properly processed on the other - - we call then machinable sorters, you know, the machines that were referred to in other testimony earlier.
>
> So this machine, by virtue of its, you know, larger scale and larger size, is able to handle the larger packages, up to 70 pounds and up to - - let's see - - 48 inches in length, and then also provide for what we call automatic induction, which is using a six-sided scanning tunnel so that it doesn't have to be handled for locating a bar code for reading kind of work.
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The Arbitrator notes that Ms. Richardson testified, on cross by the NPMHU, as follows, with respect to the processing of NMOs on the USS. According to Ms. Richardson the Unions were informed about the new USS machines at the "Tech & Mech" Meeting held in December 2018. Ms. Richardson noted that the USS Summary for that "Tech & Mech" Meeting, states [as the first bullet point]: "USS is the evolution of the HSUS and LCUS [High Speed Universal Sorter and Low Cost Universal Sorter]". Ms. Richardson testified that the HSUS and LCUS still are in operation. She agreed that the USS was not intended to replace the HSUS and/or the LCUS but, rather, the USS was intended to be used in addition to those machines. Ms. Richardson noted that the next bullet point stated: "[The USS is the] USPS's large volume NMO machine".

Ms. Richardson testified that the power point presentation on the USS for the "Tech & Mech" meeting on December 12, 2019, states: "Non-Machinable Outsides (NMO) Sortation Program," Technological and Mechanization Meeting. The power point program for that meeting states, as relevant: "Non-Machinable Outside (NMO) challenges continue . . . Slow manual sortation . . . Lack of scanning reduces visibility for the customer". Ms. Richardson agreed that the USPS was trying to find a solution to the NMO problem, one of which solutions was the development of the USS. Ms. Richardson noted that the power point program stated that "NMO volumes are approximately 5 percent of parcel volume". Ms. Richardson stated that she did not know the percentage, but she "anticipated that NMOs would be a relatively small volume in the - - in the larger collective of overall parcel volume." Ms. Richardson testified that she was aware that the sorting of NMOs previously had been assigned to the Mail Handler Craft; she stated that she was not aware that that had started in 1979, which was when the RI-399 Guideline system had commenced. The Arbitrator notes that Ms. Richardson, on re-direct, agreed that the USS had been intended and introduced by the USS to process NMOs and that, to the best of her knowledge, the USS still was used to process NMOs. Ms. Richardson also testified that the amount of NMOs processed was anticipated to be relatively small as compared with the overall number of parcels processed on the USS. Nevertheless, the purpose of developing the USS was to process these larger parcels/packages along with the rest of the parcels to be processed.

The Arbitrator recognizes that the use of the term "NMO" to describe the parcels/packages which actually are processed on the USS is somewhat of a misnomer. The term "NMO" previously had been used, accurately, to refer to

those parcels/packages which were too large to process on the machines used before the USS, such as the HSUS or the LCUS, and that the USS was designed and developed for the purpose of processing parcels/packages which could not be processed on these machines. The Arbitrator notes that the term NMO still is used despite the fact that some of the larger parcels/packages which could not have been processed on the earlier machines now can be processed on the USS. The Arbitrator notes that there remain parcels/packages which still are too large to be processed on the USS and thus still constitute "NMOs" with regard to the parcels processed on the USS. These larger parcels/packages must be removed manually from the USS after they are dumped on the induction belt and before they otherwise would be moved by the conveyor belt into, and through, the scanning tunnel on the USS because they would not fit into the scanner tunnel. Such oversized parcels/packages, or NMOs, which are beyond the capabilities of the USS, must be processed manually after they are removed from the USS.

The Arbitrator notes, in this regard, that Ms. Richardson agreed in her testimony that the types of parcels processed on the USS includes both "machinable" and "non-machinable" parcels. Ms. Richardson agreed that, when the USPS issued the Craft Determination letter for the USS, viewed the USS as a machine to process NMOs. Ms. Richardson testified that she was not familiar, at the time the craft determination letter was prepared, with a document [which was submitted at the instant hearing as an exhibit by the NPMHU] regarding the asserted evolution of the High Speed Universal Sorter and the Low Cost Universal Sorter. She stated: "We would have considered the fact that it was a universal sorter in relation to, also, there are the high speed and the low cost universal sorters that also work with NMOs. As far as - - specific language that it's an evolution, I don't know that we [Ms. Richardson and Mr. Dean] use that word, per se." Ms. Richardson testified, ". . . We considered the high speed, the low cost, both of those pieces of equipment, and other pieces of equipment in . . . application of the RI-399 principles when making the . . . craft determination." Ms. Richardson could not recall whether they also had considered the Low Cost Tray Sorter. Ms. Richardson agreed that the USPS currently does not have a primary craft jurisdiction designation at the national level for the High Speed Universal Sorter. She was not sure regarding the craft designation for the Low Cost Universal Sorter. Ms. Richardson agreed that the craft designation, at least for the High Speed Universal Sorter, is made locally.

Ms. Richardson testified, on cross by APWU, that one of the considerations on which the USPS relied for the craft determination on the USS in favor of the Mail Handler Craft was that the USS processes NMOs. Ms. Richardson noted that there is a reference in the craft determination document that the USS is a large-volume NMO processing machine. Ms. Richardson agreed that the USS ". . . has the capability to process more than . . . NMOs, but this is what it was deployed to process was NMOs. . . . That was the intention of the machine was to process - - to handle the NMO volume." Ms. Richardson added, with regard to other mail being processed on the USS: "I think if they're comingled in with the NMOs, they're not - - they're not separated before being dumped on the piece of equipment or before arriving at the facility, then it has the capability, but it is my . . . understanding that that is not the primary - - the primary function of that piece of equipment is not to process - - not intended to process these - - the smaller parcels." With regard to whether the USS processes "machinable" parcels, Ms. Richardson testified: "We acknowledge that in our - - in our RFI that it does - - it does have the ability to process NMOs as well as - - machinable and non-machinable pieces of - - pieces of mail."

The Arbitrator notes that Ms. Richardson testified that she agreed with the USPS's technical expert, Mr. Grau, to the extent that he testified that the USS could process parcels weighing up to 70 pounds, and that the USS could process Priority Mail and small parcels. Ms. Richardson testified that she was not sure if the processing of small parcels on the USS varies by facility. Ms. Richardson was not sure if the USS could process flats or bundles. She stated her belief that the USS had the ability to process parcels that could be processed on the APBS, the SPBS and the APPS. Ms. Richardson acknowledged that there was nothing stated by the USPS in the Craft Determination letter for the USS with regard to the USS processing machinable parcels, Priority Mail, flats, or bundles. Ms. Richardson, on cross by NPMHU, agreed that machinable parcels that otherwise might end up on a USS also could be processed on the APPS machine, which had been assigned to the Mail Handler Craft.

The Arbitrator concludes that the USPS's determination to award to the Mail Handler Craft all of the positions on the USS, with the exception of the Scan Where You Band operation, when present, which was awarded to the Clerk Craft, was consistent with the history of the award of positions to Mail Handlers on other machines which process NMOs at Bulk Mail Centers, now Network Distribution Centers, and other large mail processing plants, and with the actual

work functions which must be performed on the various positions on the USS, as well as in light of the guiding principles of RI-399.

The Arbitrator, based on the above, finds that the USPS has demonstrated that the USPS, in evaluating relevant factors in the formulation of the craft determination for the USS, found highly significant that the USS was intended and designed for the purpose of processing NMOs, i.e., parcels/packages which could not be processed on other machines, such as the HSUS or LCUS. The Arbitrator recognizes, as did these USPS officials, that there remain some NMOs which exceed the dimensions of parcels/packages which can be processed on the USS and which, therefore, must be processed manually and that a significant amount of the parcels/packages processed on the USS includes priority mail and other smaller parcels which could be processed on the other machines but are dumped onto the USS and processed together with the larger NMOs which the USS was designed and intended to process.

The Arbitrator notes that, in the Opinion and Award of Arbitrator Howard Gamser, American Postal Workers Union, AFL-CIO, and National Post Office, Mail Handlers, Watchmen, Messengers, and Group Leaders Division of the Laborers International Union of North America, AFL-CIO, Case No. AD-NAT-1311, dated October 13, 1981, Arbitrator Gamser denied claims by the APWU regarding the assignment by the USPS of outside parcels and NMOs to the Mail Handler Craft. This Arbitrator notes that Arbitrator Gamser stated, with regard to the determination by the USPS in favor of the Mail Handler Craft as the primary craft for Function 4 or Operation 100: "manual distribution of parcel post, without scheme knowledge". This Arbitrator notes that Arbitrator Gamser stated: "[i]n the past, it is true, much of the parcel post operation was worked by Clerks." Arbitrator Gamser stated, "[w]ithout scheme knowledge presently being required, the rational[e] for making [the parcel post operation] a primary clerk assignment no longer exists." Arbitrator Gamser concluded that the evidence presented did not support a finding of a national practice. Arbitrator Gamser also found, with respect to the handling of non-machinable outsides, that such packages, which are too large, bulky or heavy to be processed by machine:

> . . . are distributed, at present, through Bulk Mail Centers. The present method employed for their distribution does not require nor employ scheme knowledge. The testimony did indicate that

> such 'parcels' are brought to the distribution point by Mail Handlers and they are physically taken away by Mail Handlers. Requiring the intervention of a Clerk to direct the flow of such NMOs would interrupt the integration of such operations which may be achieved by having the same individuals handle the whole process of non-scheme NMO sortation.
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> ***

This Arbitrator notes that the RI-399 guidelines for the Bulk Mail Centers, for the NMO Operation lists Mail Handlers as the Primary Craft for "1. NMO sorting; and 2. Transporting containers and empty equipment." This Arbitrator notes that Arbitrator Gamser stated in his Opinion that the RI-399 directive to take into account efficiency and productivity would be violated if the primary assignment of such operations required NMO sorting to be performed by employees other than the Mail Handler Craft.

This Arbitrator notes that the RI-399 Guidelines, in the Primary Craft Designations, includes Operation 100 Outgoing Parcel Distribution, which lists the Mail Handlers as the Primary Craft for the following functions: 1. *Transporting empty equipment.; 2. *Obtaining mail from staging area.; 3. *Dumping sacks or containers.; 4. *Manual distribution of parcel post, without scheme knowledge.; 6. *Pulling and dispatching sacks or other containers.; 7. *Containerizing and transporting mail to dispatch areas.; 8. *Hanging sacks and inserting labels." [* "In offices where the tasks of obtaining empty equipment, obtaining unprocessed mail, loading ledges, sweeping and containerizing is an integral part of the distribution function, the entire operation is a function of the primary craft performing the distribution."]. The only function in Operation 100 for which the Clerks are the Primary Craft states: 5. Manual distribution of parcel post requiring scheme knowledge." The Arbitrator notes that there is no dispute that any manual distribution of parcels/packages which may be performed on the USS does not require scheme knowledge and that any manual distribution may be required without regard to whether the particular parcels/packages for which manual distribution may be performed on the USS may be: an NMO within the limits of size and weight which the USS was designed to process, but on which the address information or coding cannot be obtained by automatic scanning; an NMO which, because of its larger size or weight cannot be processed through the scanner on the USS; or whether the

parcel is Priority mail or one of the other types of parcels which could have been processed on the LCUS or HSUS but may have been mixed-in with the parcels dumped on and, therefore, processed by, the USS.

The Arbitrator notes that the APWU relies on the listing of Clerks as the Primary Craft for the "[d]istribution of parcel post through use of parcel sorting machines," in RI-399, Operation 105, Mechanized Parcel Sorter. Operation 105 lists Mail Handlers as the Primary Craft for the following functions: "1. *Transporting empty equipment.; 2. *Obtaining mail from staging areas.; 3. *Dumping sacks or containers.; [No function 5 is listed.]; 6. *Pulling and dispatching sacks or other containers.; 7. *Containerizing and transporting mail to dispatch areas.; 8 *Handling sacks and inserting labels. [* "In offices where the tasks of obtaining empty equipment, obtaining unprocessed mail, loading ledges, sweeping and containerizing is an integral part of the distribution function, the entire operation is a function of the primary craft performing the distribution."]." Clerks are listed as the Primary Craft for "4. Distribution of parcel post through the use of parcel sorting machines." The Arbitrator agrees with the position of the USPS set forth in its post-Arbitration hearing brief that the fact that smaller, non-NMO parcels which could be processed on machines other than the USS, such as the LCUS or the HSUS, but can be, and have been, processed on the USS, does not change the reliance by the USPS - at the time that it made the craft determination in favor of the Mail Handlers - that the processing of NMOs larger than those which could be processed on the LCUS or HSUS, was considered to be the primary purpose for designing and developing the USS. Again, the work performed on the USS, as described below, in the processing of NMOs, including dumping/loading mail, singulating/culling mail, and sweeping mail, has been assigned to Mail Handlers as the Primary Craft.

<u>Dumping/Loading Parcels</u>
<u>And Packages on the USS</u>

The Arbitrator notes Mr. Grau's testimony, on direct, with regard to the dumping/loading operation of the USS: ". . . the mail is brought over to the station where the mail - -the container itself can be loaded into the container unloader or dumper. So there's one of these container unloaders depicted in this induction area. . . . So the mail gets placed into the unloaders, and after

the mail is unloaded, these devices, those unloaders, are returned to their original position, and the empties are removed."

Ms. Richardson, on direct, testified that she was familiar with the "dumping" operation on the USS. Ms. Richardson testified that that term is found in the RI-399 Work Designations and that "It's generally assigned to mail handlers. Dumping would be commonly seen in the 399, and mail handlers would be designated as the primary craft." Ms. Richardson, on direct, testified, with respect to the term "culling": "Similar to dumping, the culling is generally assigned to the mail handler craft as the primary assignment."

The Arbitrator notes that the NPMHU points out in its post-Arbitration hearing brief that, the guidelines in RI-399 include many instances of "dumping" and that, in each case, the Mail Handlers were assigned as the Primary Craft for that operation. The Arbitrator finds that the USPS appropriately relied on the assignment of "dumping" work to Mail Handlers as the Primary Craft to be consistent with the RI-399 guidelines and prior Jurisdictional Arbitration Awards.

Automatic Singulating and "Culling"
Of Parcels and Packages on the USS

The Arbitrator notes that Mr. Grau testified with regard to "culling" of the packages, using the "shepherd's hook": "The mail often doesn't flow freely out of the containers, so it needs to be guided out, and it needs to settle properly on the conveyor belt. So that's what the culler is doing there. . . . They're also looking to remove pieces that are not going to properly be processed on the machine. So those include any damaged packages, tubes, rolls, anything oversize greater than 42-inch length by 28 wide. . . . Now, there's also an undersized piece that can actually - - the reason for that, 1-inch thickness is - - is - - it can singulate and it can scan that type of piece. The problem is, when you have that - - if you remember the pusher pushing off the box off the discharge lane, there's a gap to allow that pusher to work properly. The gap wouldn't pick up a one-inch piece. That's why it's not acceptable on the machine." Mr. Grau referred to the activity "just prior to the merge of the induction line into the main line" as "cleanup." According to Mr. Grau, "[i]f there's any packages that aren't caught in the initial culling, such as overlapping packages that can be easily missed, those are called doubles. They

need to be separated properly. So that's part of the cleanup. . . . Anything also that is not picked up that could be damaged and any odd-sized pieces that aren't properly culled initially can be picked up and - - and removed at this point."

The Arbitrator notes that Ms. Richardson testified, with respect to the term "culling": "Similar to dumping, the culling is generally assigned to the mail handler craft as the primary assignment." The Arbitrator finds that the USPS appropriately relied on the assignment of "singulating" and "culling" work to Mail Handlers as the Primary Craft to be consistent with the RI-399 guidelines and prior Jurisdictional Arbitration Awards.

"Facing" Not Required;
Automatic Scanning of Parcels
Through the Six-Sided Scanner
And Travel of the Parcel to the
Correct Run-Out Arm/Leg Based
On Three- or Five-Digit Zip Codes
In the Sort Plan

Mr. Grau, on direct, agreed that "facing" of packages was not as necessary on the USS because ". . . it's equipped with a six-sided scanning tunnel so that it will read a legible - - a readable bar code or address information on any surface of a six-sided package." Mr. Grau testified, on re-direct, that "mail flow cleanup" is not the same as "facing."

The Arbitrator notes that the USPS has taken the position [see the above-quoted letter from the USPS to both Unions, dated 2014] that all scanning functions are craft neutral or not craft specific. Thus, the USS has a six-sided scanning operation which automatically reads the address or bar coding information on packages, such that the parcels do not have to be faced in order for the parcel to be scanned. The Arbitrator finds that this consideration did not require a determination by the USPS that, based on the scanning function, the craft determination for the employees on the USS had to be one or the other craft. The Arbitrator notes that the six-sided scanning device on the USS is unlike the single overhead camera on the ADUS, SPSS and SPBS machines, each of which requires the employee to align and face the parcel in an upright position so that it can be scanned. Consequently, neither the traditional functions of singulating and facing each parcel are required to

be performed on the USS. The Arbitrator notes that an employee utilizing a "shepard's crook" is required to assist in getting some of the parcels out of the bin and on to the induction belts and to make sure that the automated singulation of parcels occurs. Another employee may be required to assist in "cleaning up" the flow of parcels by making sure that parcels which have been singulated automatically in fact do not overlap which would prevent the scanner from being able to read one of the parcels. Similar work has been performed by a Mail Handler on the ADUS, for example.

Keying - Processing of
Rejects on the USS

The Arbitrator notes that Mr. Grau testified, on direct, that a package can be rejected by the USS if it ". . . did not get a legitimate scan of information off - - off of the package, then it will not sort down a discharge lane. It will have to be rejected, and that means it will go onto the reject loop." According to Mr. Grau, the video showed ". . . an example of a piece that gets rejected because it didn't get the proper scan data off of the scan tunnel. And now you can see where the piece is then evaluated by the operator. The information is keyed in, and then it is prepared for re-induction back into the system." Mr. Grau testified that any mail that is not scanned properly through the tunnel on the USS cannot be sorted because the sort information has not been identified. Consequently, it must be rejected. "So the sort plan will then push it off on - - using a pusher, push it off onto the - - the reject belt, where it then rotates around and then is presented to the operator, where they will then look at the package, read what information is available for the - - the code, the five - - three or five-digit ZIP code in and then key that in for sortation." The Arbitrator notes that Mr. Grau testified about the APWU's assertion that at least 30 percent, if not more, of the mail run on the USS was rejected, such that keying of the rejects is an integral part of the distribution function. Mr. Grau disagreed with the accuracy of that assertion:

> It's based on how you define the – the term "reject." So the amount of mail in the percent that not sorted is, I think, what is being referred to when you - - when they talk about 30 percent of the mail being rejected.

So more accurately stated, 30 percent of the mail is not sorted. And it doesn't have to be and it most often is not because it cannot read the label. Most often, it can read the label, but it cannot sort for other reasons, most - - most notably because a lane is full. [Emphasis supplied.] When a lane is full, you can't push the package down to the lane, so it has to recirculate on the - - on the machine. In some cases, it recirculates multiple times, which adds - - adds to that percent not sorted number.

So that's really what drives that larger number relate to what actually is not read by the machine and, thus, has to be rejected for keying.

***

Okay. *So the percent keyed is the amount of mail that does not get sorted that has to be rekeyed. The percent not sorted is all the mail that doesn't go down the sort lane for whatever reason. . . . It's [i.e., keyed mail] 4.9 percent of all the mail that's inducted or all the mail that's run on the machine.* [Emphasis supplied.]

***

The Arbitrator notes that Mr. Grau testified that the above data on the number of rejects keyed was collected for fiscal year 2020. Mr. Grau testified that there had been no analysis of the number of rejects keyed for 2019, which was the year the dispute concerning the craft determination had been filed. Consequently, the Arbitrator notes, the USPS officials who made the craft determination for the USS could not have been aware of the information about the amount of keying performed on the USS in 2020. In any event, as explained by Mr. Grau, the amount of keying required is significantly less than the total amount of rejects which required additional processing, but not keying.

The Arbitrator notes that Ms. Richardson - asked, on direct, if Section II.C had been considered when the USPS made the craft determination regarding the keying function on the USS - testified: "Yeah. I think we - - we considered that in evaluating the keying function." Asked if there was a "bright-line test" used when applying Section II.C, Ms. Richardson responded:

> No. I don't know that we have a bright-line test. There's no clear-cut - - cut line. And with the - - with the keying in the USS, again, we made reference to it was minimal, and we don't have a bright on that on when it - - when it crosses a threshold of minimal or de minimis into substantial and - - and now warrants the need for evaluation or looking at it from - - where it's no longer efficiently separated.
>
> ***

The Arbitrator notes that Ms. Richardson was asked what, in the absence of a bright-line test/strict threshold, would lead the USPS to find that the keying work on the USS was sufficiently *minimal* to conclude that Section II.C was applicable. Ms. Richardson testified:

> Well, just the fact that, you know, based on the numbers and the volume of packages that are - - that end up on that particular reject arm that have to go through the keyer is considerably low to the point where it's not necessary for them to, per se, staff it 100 percent of the time. They - - you know, depending on the volume of mail that they're running and the times they're running it or any of that and over what time period they have to get it done, that it really could be a very small percentage of time that somebody needs to actually be keying any package for – for continued sortation.
>
> ***

The Arbitrator notes that Ms. Richardson testified that she was aware of the letter from Peter Sgro, USPS Acting Manager, Contract Administration (APWU/NPMHU), Re: Keying Function as Sole Craft Jurisdictional Determinator, dated July 14, 1997, sent to Human Resources Managers (All Areas) and (Districts), which states:

> This memorandum is to clarify the procedure for determining craft jurisdiction when establishing a new or changing an existing operation.

> As you are aware, the RI 399 is the primary guideline used when making craft determinations relative to mail processing work functions. Therefore, those guidelines should be followed when making a craft determination.
>
> *Some manually performed operations are being automated both by national and local level initiatives. It has been alleged that there is a perception in the field that since clerk craft employees generally perform keying operations, all work involving keying is automatically clerk work. For your information, there is no established rule where craft determination is predicated on whether it is a keying operation.* [Emphasis supplied.]

***

The Arbitrator notes that Ms. Richardson testified, with respect to which craft the work duty of "keying" generally is assigned:

> I don't know that we have designated a particular craft for keying. I think there was a reference or a question earlier regarding keying, and the position of the Postal Service has taken as referenced in - - I believe it was a Peter Sgro letter [see quoted above] regarding keying itself that we don't - - keying - - keying alone is not a determination for making a craft decision.

***

Asked, on direct, why the USPS sometimes would give keying to one craft and sometimes to another, Ms. Richardson testified:

> *It would be based on a number of factors. . . . I don't know that it's any one thing what we look at that, but it could be where the location of the keying is.*

If it's generally done maybe on the front end and there is some other thing that goes along with it, like a facing - - the work that would need to happen occur in conjunction with the keying, we might assign it to the clerk craft.

If that's not the case, if it's somewhere else on the piece of equipment or - - and in the particular case of the USS, we made reference to the minimal amount of work that was going to be performed by a keyer, and that - - that weighed into our decision-making regarding the application of the keying and who the appropriate craft would be. [Emphasis supplied.]

***

The Arbitrator finds that the USPS acted reasonably and in good faith, and in a manner consistent with the guiding principles of RI-399 and previous Craft Jurisdiction Arbitration Awards insofar as it awarded the work of keying "rejects" on the USS to the Mail Handler Craft. The Arbitrator credits the testimony of Mr. Grau and Ms. Richardson that the number of parcels rejected because the address or bar code information on the parcel could not be read by the scanner – and for that reason had to be keyed - constitutes only about five per cent of the total number of parcels which are "rejected". The Arbitrator credits the testimony that the far larger number of parcels which must be reprocessed on the USS are parcels on which the address or bar code information could be determined by the scanner so that the parcel was sent to the designated runoff arm/leg, but the parcel could not be processed onto the designated arm/leg because the runout area was full. Such parcels had to be reprocessed on the USS without the need for any additional keying and these parcels constituted a far larger proportion of the total which required keying in order to be processed.

Consequently, the Arbitrator finds that the USPS reasonably determined that the number of parcels which actually needed to have address or bar code information keyed manually was minimal and did not warrant the assignment of an additional employee in the Clerk Craft. The Arbitrator notes that the "keying" function has not been recognized by the USPS as the sole or determinative basis for the assignment to either of the crafts. See the USPS letter [quoted above] from Peter Sgro, dated July 14,1997. The Arbitrator finds,

for these reasons, that the USPS, in making the craft determination for the USS, reasonably concluded that: the reject keying station was not integral to the distribution function on that machine; and, for that reason, the keying operation could not have been separated efficiently from the other duties performed by Mail Handler Craft employees.

Scan Where You Band Operation

The Arbitrator notes that the Craft Determination letter, dated January 23, 2002, issued by the USPS, for the "Scan Where You Band" operation, states:

> The Postal Service has reviewed the work performed in connection with Semi-Automatic Scan-Where-You-Band (SASWYB) in order to evaluate the appropriate primary craft assignments.
>
> It is our determination that for the purposes of craft jurisdiction, the work performed on SASWYB is not significantly different from work performed on the predecessor Air Contract Collection System (ACDCS) and Scan-Where-You-Band (SWYB) equipment.
>
> *The primary craft assignments for SASSWYB are the same as those previously made for ACDCS and SWYB*
>
> > *The clerk craft is the primary craft for operation of the equipment, and the mail handler craft is the primary craft for providing allied labor in support of the equipment. Allied labor includes facing and loading of mail onto the feed portion of the equipment, as well as off-loading of mail and sorting it into containers for dispatch.* [Emphasis supplied.]
>
> These are primary craft assignments only. In accordance with the April 18, 1992, Memorandum of Understanding (Re: Dispute Resolution Procedures), "All local craft jurisdictional assignments which are not already the subject of a pending locally initiated grievance will be deemed as a proper assignment for that facility."

Therefore, due to the similarity to the predecessor equipment, craft assignments currently in place in specific facilities for ACDCS and SWYS should not be changed based on the installation of SASWYB.

***

The Arbitrator notes that Ms. Richardson testified, as follows, about the concepts of "allied work" and "Scan Where You Band," as related to craft determinations:

So in looking at this letter [quoted above] that the Postal Service provided to the unions, this references a semiautomatic scan where you band and makes reference to the craft jurisdiction, that it's not significantly different from the work performed on the predecessor Air Contract Data Collection System and the scan where you band equipment.

And in the middle of that document, the indented paragraph talks about allied work, while the clerk craft is the primary craft for operation of the equipment and the mail handler is the primary craft for providing allied labor in support of the equipment.

And then it goes on to, you know, break down what allied labor includes, and it specifically identifies facing and loading of mail onto the feed portion of the equipment, as well as the off-loading of mail and sorting it into containers for dispatch.

So in reference to the final arms that I believe Lynn [Ms. Pallas-Barber] testified to, there was talk about having to actually physically pick up the - - the package off the arm and place it into a container, that this would be consistent with what's referenced here, the off-loading of mail and sorting it into containers for dispatch as part of the allied labor, which, again, you can see is assigned to the mail handler craft.

***

Ms. Richardson testified that "cost does not come into play" when making craft determinations. Ms. Richardson denied that the Mail Handlers were chosen as the Primary Craft for allied labor because they are less expensive. The Arbitrator finds these reasons to be appropriate regarding the assignment of Clerks to the Scan Where You Band operation on the USS when present at a facility and Mail Handlers as the allied labor for other functions on the USS.

Sweeping/Removal of the Parcel/Package
By An Employee Who Sorts/Places It
Into the Appropriate Container, Labeled
With Three- or Five Digit Zip Codes
Which Container Is Removed When Full
And Staged for Shipment

The Arbitrator notes that Mr. Grau testified, on direct, with regard to the responsibilities of the sweeping work performed on the USS:

> . . . As the bullets indicate here [i.e., on the power point presentation at the Tech and Mech meeting on the USS], they set up the containers associated with the sort plan and assign the MTEL place cards that will define the – the destination of the mail.
>
> When the mail comes off the discharge lane, they will pick up the piece, identify the piece for the proper container, and place it into the container for the appropriate sort.
>
> Once the container is full, they will close out the MTEL placard and then stage it for dispatch.
>
> ***

Mr. Grau testified, on direct, that the video showed that ". . . the finalized mail coming off that is accurately sorted off to the discharge lane based on the sort plan, and then the piece is distributed to the right container for finalized dispatch."

The Arbitrator notes that Ms. Richardson testified, with respect to the term "sweeping," that that term appears in the RI-399 Work Designations and that the assignment generally is assigned to the "Mail handler craft, similar with the dumping and the sweeping - - or dumping and the culling."

The Arbitrator notes that Mr. Bloomquist testified, on direct by the APWU, with regard to the sweeping operation on the USS:

> Those runoffs, the general term that is used in Phoenix is that those runoffs is where the sweeping takes place. That five-digit distribution takes place on each one of those runoffs, and then when those containers get full, they sweep those containers out for the mail handlers to dispatch, the drivers - - to dispatch.
>
> ***
>
> It was . . . exactly the same as what was done on the Low Cost Universal Sorter. It is different from the sweeping that is done on the APBS and the SPSS, because the sweeping on those machines, there is no five-digit distribution. The machine does that distribution, and then the full containers get swept out.
>
> So while they like to lump the sweeping on the USS as just sweeping, it's a five-digit distribution, in my opinion, and then also the sweeping function.
>
> ***

The Arbitrator finds that, as asserted by the USPS and by the NPMHU, the sweeping operation is conducted by an employee who is located between two of the arms/legs, onto which parcels automatically are distributed based on the sort code which sends parcels which have been scanned on the USS to the arm/leg appropriate for that three- or five-digit Zip code. The employee at that location removes each parcel from the arm/leg to which it has been directed by the machine and places it, based on the code, into the appropriate container which has been pre-labeled with that code. The container, when full, is removed from the arm/leg and moved to a location where it is staged for dispatch. The employee who removes the parcel from the arm/leg and places

it in the appropriate container does not have to make any determination other than to place the parcel in the appropriate container matching the Zip code on the parcel. The employee is not required to have, or to exercise, any scheme knowledge.

The Arbitrator notes the following statement in the Opinion and Award of Arbitrator Dana Edward Eischen, Case No. H7C-NA-C 32, dated April 24, 1998:

> IV. The Designation of Mail Handlers as Primary Craft for Spreading the Mail
>
> Once again, I reiterate the narrow parameters of the question submitted for determination in this case. As reflected in the Issue Statement and in testimony, "spreading the mail" is the taking of containers of mail to letter carrier cases when those containers are marked with a carrier route identifier. . . . The mail which is spread already has been grouped or distributed to the individual carrier route and marked with a number corresponding to a number on the carrier case. Thus, all that is required of the employee spreading the mail is waiting in a staging area at the delivery unit, or has just been unloaded from a truck at a station or branch, the pre-identified and marked mail to be spread to be moved from where it is located to the appropriate letter carrier case.
>
> The general parameters for describing the types of Postal Service work performed by clerks and the types of Postal Service work performed by mail handlers are well-established. Thus, it cannot be gainsaid that the transporting the mail ("movement of mail from Point A to Point B") is a function primarily assigned to and performed by the mail handler craft. Nor does anything in this record call into question the countervailing truism that the functional duties and responsibilities of clerks primarily are described in terms of performing different types of "distributions."
>
> The custom, practice and tradition of mail transportation by mail handlers and mail distribution by clerks, reflected in statutory

position descriptions [Title 39, former United States Code, Sections 3514(d) and 39 U.S.C. Section 3515] and current position descriptions (USPS Exh. 3 and 4-6), permeates the primary craft designations set forth in RI-399 that where a function is "an integral part of the distribution function, the entire operation is a function of the primary craft performing the distribution." [The "asterisk" requirements that the function be "efficiently separated" and that there be "four (4) or more hours of continuous work consisting of one or more work functions in one or more operations designated to the same primary craft" are applicable to "spreading the mail". But the "integral to distribution" qualification is inapplicable in this case because, for reasons explained *infra*, "spreading the mail", as defined in the Issue Statement, *supra*, is neither distribution of mail nor is it "an integral part of the distribution function"; rather it is transportation of mail].

***

The Arbitrator recognizes that the facts of the instant case differ from those involved in the case before Arbitrator Eischen, here the parcels are taken from the arms/legs of the USS and placed in the appropriately [pre-labeled container and that the full containers are removed to a staging area from which they are to be removed from the facility instead of being taken to the appropriate carrier case but, in the Arbitrator's judgment, the analysis used by Arbitrator Eischen is appropriate in this case. That is, the Arbitrator finds that the USPS appropriately determined that this processing of parcels/packages at the end of the operation on the USS - i.e., the placement of each parcel in the appropriately pre-labeled container and the removal and replacement of each filled container - constituted "sweeping" and that Mail Handlers properly were assigned as the Primary Craft to perform that work of "transporting" the mail. The Arbitrator notes that the NPMHU, in its post-Arbitration hearing brief, states that the tasks of pulling containers and sweeping mail appear in over 20 operations in the RI-399 Guidelines, that containerizing and transporting mail appears many times in the Guidelines, and that, in each case, the Primary Craft designation for that function is awarded to the Mail Handler Craft.

The Arbitrator concludes, for the reasons set forth above, that the USPS acted appropriately, in accordance with the principles of the RI-399 guidelines and prior Jurisdictional Arbitration Awards and other relevant considerations insofar as it made the determination on the Mail Handlers as the Primary Craft for the positions on the USS, with the exception of the Scan Where You Band operation when present, that the claim by the American Postal Workers Union, with regard to the positions on the Universal Sorting System (USS), is denied in all respects.

AWARD

The Arbitrator concludes, for the reasons set forth above in the Opinion, that the claim by the American Postal Workers Union, with regard to the positions on the Universal Sorting System (USS), is denied in all respects.

_____

Joseph M. Sharnoff, Arbitrator
National Jurisdictional Disputes

Dated: May 24, 2022
Oakton, Virginia