Award No. 830
BEFORE THEODORE K. HIGH, IMPARTIAL ARBITRATOR
In the Matter of the Arbitration Between
THE INLAND STEEL COMPANY,
INDIANA HARBOR WORKS
and
UNITED STEEL WORKERS OF AMERICA
LOCAL 1010
Arbitrator: Theodore K. High
September 24, 1990
This case came on for hearing before Theodore K. High, Impartial Arbitrator, on June 20th, 21st and 22nd, 1990, at Hammond, Indiana.
APPEARANCES
FOR THE COMPANY:
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FOR THE UNION:
Jim Robinson
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STATEMENT OF THE CASE
It appears that sometime prior to 1986, the Company developed what it called its "maintenance vision", a collection of ideas about how maintenance should function. The Company developed a document entitled "Summary Form of Maintenance Vision," which set forth the roles and responsibilities of various classifications in the maintenance vision. The Company also developed a document which described how the mission was to be accomplished, including specific goals and emphasis on multi-craft operations and a spares system. The emphasis was to be upon inspection and defining roles of repair groups.
Prior to this, the steel industry had been going through a bad time and found itself, including the company, at a competitive disadvantage with other steel industries throughout the world. Accordingly, the Company was attempting to find ways to increase the cost competitiveness of the Company, and to improve product reliability and on-time delivery. At some time prior to 1986, the Company developed a cooperative relationship with Nippon Steel Company of Japan. The company sent a number of employees to Japan to watch the Nippon works in operation. At the same time, employees of Nippon prepared a critique of the Indiana Harbor Works maintenance. Prior to 1980, the maintenance of the Company consisted primarily of responding to breakdowns as they occurred. Furthermore, the other maintenance that took place was on a time based basis, being performed at the expiration of a specific period of time. One of the changes sought by the Company was to increase the degree of inspection and, therefore, an increase in the ability to detect wear and tear on plant equipment, and to replace that equipment before a breakdown ensued.
One of the things that the Company officials found in Japan was that there were fewer maintenance employees assigned to specific operating units, but when a breakdown occurred, large numbers of maintenance employees were brought to the unit which had broken down to get the unit repaired and running again as quickly as possible. It appears that the Company decided not to adopt the completely centralized basis of maintenance that the Nippon Steel Company used, since it did not feel that that would work well at the Indiana Harbor Works, and that it would strain the relations between the operating personnel and the maintenance personnel.
It appears that some time prior to 1986, the Company proposed a new program of inspection and maintenance which would permit a great deal more of flexibility in the maintenance forces. Prior to that time, the maintenance forces had largely been assigned to specific operating units. It appears that the proposals were put to a plant-wide vote and was defeated by the union membership. Accordingly, prior to

the 1986 negotiations, the Company and Union met in a series of meetings in 1985 and 1986 concerning the concept of a mobile maintenance unit. After much discussion during negotiations, the parties included in the 1986 collective bargaining agreement an Appendix N which provides as follows:

ASSIGNED MAINTENANCE AGREEMENT

"The parties recognize the need to substantially improve the efficiency and productivity at the Indiana Harbor Works while assuring employment security for assigned maintenance employees. Therefore, in a joint effort to address the foregoing, the parties mutually agree to establish a new department designated as the Mobile Maintenance Department (M.M.D.). The purpose of this department will be to supplement mechanical, electrical, and welding maintenance work associated with scheduled repair downturns in various departments throughout the Indiana Harbor Works and to minimize the use of outside maintenance forces. The M.M.D. sequence diagram is shown in Attachment B of this Agreement."

As can be seen, the parties established in Appendix N a Mobile Maintenance Department (M.M.D.). The Company began making maintenance assignments which it contends are pursuant to Appendix N with the result that the instant grievances were filed. The disposition of the instant grievances turns upon the language which appears in Section N as follows: ". . . work associated with scheduled repair downturns in various departments throughout the Indiana Harbor Works . . . " It is the Union's position that the above quoted language restricts the use of mobile maintenance service to the occasion when a complete production unit goes down for repairs. The Company's position is that the mobile maintenance forces can be used in any work associated with the repairs, even without an entire unit going down. The parties have been unable to resolve the grievances and therefore they are before the Arbitrator for disposition.

ISSUE

The issue for disposition is whether the Mobile Maintenance Department employees may be assigned to work other than maintenance work which takes place when an entire production unit goes down for repairs.

DISCUSSION

The intention of the parties in inserting this language into the Collective Bargaining Agreement is central to a proper interpretation of that language. Unfortunately, the intention of the parties which may have been expressed in negotiations leading to the insertion of this language in the Collective Bargaining Agreement, which is central to determining the meaning of the language, is not available to the Arbitrator. Appendix C.M.P. AC. 2 of the Agreement provides as follows:

"AC. 2 2. The proposals made by each party with respect to changes in the prior Basic Labor Agreement and the discussions had with respect thereto shall not be used, or referred to, in any way during or in connection with the arbitration of any grievance arising under the provisions of the new or prior Basic Labor Agreement."

Accordingly, the decision in this case will have to be made upon evidence which is extrinsic to the negotiations. This, of course, requires the Arbitrator to attempt to determine the intention of the parties when negotiating the language in dispute without having access to anything relating to the negotiations themselves in which the parties expressed their intention.

The parties spent a good deal of the hearing on the issue of the meaning of the word "downturn". The Union called a number of witnesses all of whom testified that a downturn was a commonly used and understood term in the Indiana Harbor Works which meant a turn (or shift) during which an entire production unit was down for repairs. It argues on the basis of this evidence that the parties intended only that the mobile maintenance department employees be used when a unit was down under the circumstances. The Company, on the other hand, introduced evidence to the effect that various expressions were used to denote the same thing. In addition to downturn, the various company witnesses said that the term "repairturn" and other terms were sometimes used.

The Union reinforces its contention that a downturn means taking a production unit out of service by contrasting the downturns of production units with other parts of the Indiana Harbor Works. For example, it called three witnesses who described the operations of the coke plant. The witnesses testified that in coke plants there are no downturns at all. As a result, the term "downturn" is never applied to the coke plant operation. The coke plant operation is done in such a fashion that some parts of the batteries of the coke operations can be repaired while other parts continue to operate. It is, therefore, unnecessary to shut down an entire production unit for repairs at any time.

The Union contrasts this with downturns on blast furnaces and two Union witnesses described these downturns. Those witnesses indicated that the term "downturn" only was applied to the occasion when the entire blast furnace went out of production, or when the "wind" is taken off. This means that the blast of hot air which is a necessary part of the furnace operation is turned off and the production of the furnace ceases.

This is important for this case for the reason that in the stock house, from which a blast furnace is charged, there are mirror opposite facilities. Thus, there are a series of scrap bins, shakers, and vibrating feeders on each side of the stockhouse. One such line of this equipment can be shut down, while undergoing repairs, while the other continues to operate and continues to charge the furnace. It is the Union's position that this does not constitute a downturn, since repairs are taking place while the furnace, being fed from the stockhouse, continues to operate. The Union also introduced into evidence exhibits which were schedules which showed the term "downturn" being used. The downturn was also contrasted in the Union's evidence with a "furnace rebuild" or a "firewatch". The furnace rebuild as the name suggests is the rebuilding of a furnace, whereas the firewatch is the assignment of a skeleton crew to watch for fires or other accidents, but to perform no maintenance or repair work.

The Union objected to evidence of the Company's motivation for initiating the mobile maintenance service on the ground that it was not relevant to the issue of what, in fact, the collective bargaining agreement provides. These objections were overruled on the ground that the language of the collective bargaining agreement, in the absence of evidence concerning the negotations, was not clear as to the motivation of the intention of the parties in agreeing to that language. The Company points out that the initial portion of Appendix N, marginal paragraph AN.1 indicates that the parties recognize the need to improve substantially the efficiency and productivity at Indiana Harbor Works while assuring employment security. Thus, the Company argues that the maintenance vision was being carried out in the language of that marginal paragraph. The Company points out that other provisions in Appendix N provide for job security, a guarantee of no lay-off or demotion except in the case of departmental shutdowns, technological changes, or decreased operations to a certain number of assigned maintenance employees. In addition, an assigned maintenance employee displaced from his job has the right to bump a junior employee assigned to the mobile maintenance department on a temporary basis. The Union also received a right to transfer rights grandfathered to journeymen. A guaranteed minimum base force complement of 67% of the list of employees in the assigned maintenance sequences was established. In addition, there were enhanced pensions for 100 assigned maintenance craftsmen and the recall of laid off craftsmen to replace those who retired. There are a number of other benefits given to the assigned maintenance sequence employees in the marginal paragraph. The Company argues that it would not have given up all of these rights to these employees without some corresponding benefit to it in the use of the mobile maintenance employees greater than that contemplated by the Union's position.

While the Company's position is understandable, it cannot be determined from the evidence whether, in fact, it did give up those rights without getting corresponding benefits, as it argues it would not. Since there is no access by the Arbitrator to evidence of the parties' negotiations, whether or not all of these benefits given to employees of the assigned maintenance sequence was in return for greater latitude in use of the M.M.S. employees cannot be determined.

The Company argues that, contrary to the Union's evidence, there is no set and uniform definition of the term "downturn". It argues that while the Union witnesses attribute the term "downturn" to the shutdown of the pickle line, the sintering plant, the hot mill, the recoil line and taking the wind off the blast furnaces as examples of downturns, company witnesses described other examples of downturns. The Company's witnesses stated that scheduled repairs on smaller units where sub-units of production equipment such as cranes, an ore bridge, conveyor system, coilers, reheat furnaces, and other examples are also downturns on that subunit or piece of equipment. The Company's evidence is to the effect that the term "downturn" is one which is not a generic word, but is interchangeable with other terms, including "shutdown," "outage," and "repairturn." The Company's witnesses testified that all of these terms mean an opportunity to perform planned maintenance work on equipment which is out of service. For example, a senior staff engineer of the Company testified that he uses the terms "downturn," "repairturn" and "outage" interchangeably because he uses the different terms with different people. In-some areas, such as the coke plants, the term "downturn" is unknown. Therefore, he testified, he uses all of those terms in his work. He further testified that the term is used when production stops on the equipment being repaired, but not a departmental downturn. Thus, the Union's argument that the coke plant is an example where the term "downturn" is not used, and was meant to indicate that the local maintenance department employee should not work in the coke plants, is cited by the Company's witnesses as not meaning that the maintenance employees were not to be assigned to work there, but, instead, that the interchangeable terms apply and that it was contemplated by the parties that they be assigned to a unit such as coke batteries where the term "downturn" is not used to describe the repair of equipment.

While, as I have indicated, the fact that the Company gave broad concessions in connection with the institution of the mobile maintenance department, such as enriched pensions, great degrees of job security, etc., does not necessarily mean that they got the concession as to broad jurisdictional lines for the M.M.D, it would seem, however, that the parties must have contemplated a broader degree of work jurisdiction for the M.M.D. than entire production units down for scheduled downturn. This notion is supported by the fact that, as the evidence seems to indicate, the phrase "scheduled repair downturn" was, apparently, not in use prior to 1986. Furthermore, the notion of repair downturns has not been applied to some substantial portions of the mill, such as the coke batteries. The manager of the M.M.D. testified that at least three groups do the planning, as contemplated in the definition of "schedule" as it appears in the Appendix. He testified that the planning, in which the Union relies, of the operations planning department is done, but in addition, the assigned maintenance area of each operting department does planning and that the M.M.D. itself also does planning of maintenance projects.

The Company's Vice President of Materials and Services testified that the Company's plan was to institute the M.M.D. in all departments of the Company. This testimony was uncontradicted and strongly indicates that the term "repair downturn" was to be applied in every department of the mill. It follows, then, that the parties were creating a new term and a new concept by adopting the language "scheduled repair downturn" and were not intending that the Company's assignment of work to the M.M.D. be confined to those portions of the mill in which the term "downturn" was used and that the use of the M.M.D. not be confined to single large production units being down. In the absence of any evidence to the contrary, I must assume that the parties intended that the new term "scheduled repair downturn" apply to all departments of the plant and that it not be limited to downturns of production units. Otherwise, the language "throughout the Indiana Harbor Works" would be meaningless.

GRIEVANCE NO. 31-S-52

Beginning in March of 1989, M.M.D. assigned eight mechanics from its forces to work at Number 7 blast furnace department every Tuesday. These mechanics were to perform planned preventive maintenance on various items of equipment that were scheduled down. These were items of equipment scheduled down while the Number 7 blast furnace was operating. This work included maintenance on the dock hopper, Stacker-Reclaimers, conveyor systems, stockhouse and cranes. The area maintenance supervisor of raw materials estimated that about 5% of the man-hours in rebuilding coke and miscellaneous bins are worked by the M.M.D. The evidence is clear that the design of the blast furnace is such as to incorporate duplicate equipment in all of the equipment ancillary to the furnace itself. Clearly the purpose of this duplicate equipment is to prevent maintenance work to be done on some portion of the equipment while the rest of the equipment continues to operate in support of the furnace. Having found that the term "scheduled repair downturns" as used in Appendix N does not require that the entire blast furnace be down, it follows that scheduled repair downturns for equipment, designed to be out of operation while other equipment does the same work, falls within the definition of "scheduled repair downturn" as that term is used in Appendix N. It follows that the grievance is not well made and should be denied.

AWARD

Grievance No. 31-S-52 is denied.

GRIEVANCE NO. 25-S-128

The grievance arose in the 80 Inch Hot Strip Mill. The evidence shows that there are 17 cranes in this Mill and that 1 crane each week is down for 8 hours for inspection and maintenance. The Company's Manager of Maintenance and Equipment testified that at least since 1984 there was a planned program of taking cranes out of service for 8 hours to do this inspection and maintenance work. This maintenance work appears on the schedule of the 80 Inch Hot Strip Mill. The evidence shows that the cranes cannot be taken out of service during the Mill downturn for the reason that they are needed in the maintenance and repair work which is done during the downturn. In March of 1988, crane 82 was down for an entire week for structural repairs and preventive maintenance work. The evidence shows that this crane feeds the furnace and the aim of the work being done was to improve the reliability of it. Timing was also critical because of the construction of a walking beam furnace. This furnace was going to eliminate an area which was typically used as a repair bay for this crane. Consequently, the Company wished to have the work finished while that bay was still available for doing so. The evidence shows that there were months of planning for the work on the crane and that it took 20 turns to complete it. The Section Mananger testified that it could not have been completed in time if the M.M.D. employees had not been assigned to the preventive maintenance work which was done. In view of the foregoing evidence, which was not contradicted, I must find that the work in question by the M.M.D. personnel was work associated with a scheduled repair

downturn of crane 22. Accordingly, I must find that Grievance No. 25-S-128 is not well made and should be denied.

AWARD

Grievance denied.

GRIEVANCE NO. 25-S-149

This grievance involves work done on #2 Transfer Buggy in the 80 Inch Hot Strip Mill. This Buggy is a piece of equipment which drags slabs from the slab yard area to the Mill for heating in the furnace, prior to the slab being rolled into strips. It appears that the Buggy broke down. The evidence shows that the M.M.D. employees worked on this Buggy on the 11-7 and 7-3 turns of November 30, 1988, and that the work consisted of making preparations for and then assisting the assigned maintenance personnel at the 80 Inch Hot Strip Mill in performing a cable change. This work happens to have taken place during the time of a downturn of the 80 Inch Hot Strip Mill, which the Union acknowledges. Its position, however, is that the Transfer Buggy breakdown was not part of scheduled maintenance. The evidence shows that the repair of the Buggy was discussed during the planning for the 80 Inch Hot Strip Mill shutdown by members of the supervisors assigned maintenance group and the M.M.D. The evidence also reveals that the work on the part which broke down was not performed by the M.M.D., but by the assigned maintenance crew. The supervisor of the M.M.D. testified that the work of replacing the drum, which had caused the breakdown, was planned and done by the assigned maintenance personnel of the 80 Inch Hot Strip Mill and that, while the Buggy was down, the routine maintenance work on the Buggy was done by employees from the M.M.D. during the Mill downturn. While it is conceded by the Company that work on a breakdown was not that work for which the M.M.D. was designed, the evidence indicates that those employees were confined to the scheduled routine maintenance during the time the Buggy was down. Accordingly, I cannot find that Grievance No. 25-S-149 has merit and it should be denied.

AWARD

Grievance No. 25-S-149 is denied.

GRIEVANCE NO. 32-S-26

1. This grievance involves 5 different items of work. The first item of work is the regular assignment of M.M.D. mechanics to work at the 76 Inch Hot Strip Mill 5 days a week building up twin roll sets for the hot run-out tables. The run-out tables transport the flat strip of steel from the Mill to the coilers. The evidence shows that there are 648 rolls making up 324 twin sets in the Mill. The manager of the Mobile Maintenance Systems testified that the number of rolls in the Mill requires that there be 5 to 7 rebuilt twin sets on hand to replace any that go bad. He testified that the task of rebuilding the twin sets is work associated with a scheduled repair downturn because the M.M.D. employees remove the damaged rolls during the Mill downturn and reinstall the rolls that have been rebuilt during the prior week. Unlike the other grievances, this grievance was filed by members of the M.M.D. itself. While it is true that the build-up of rolls is associated with planned downturns, although the evidence shows that occasionally they are used for breakdowns (the majority of the build-up rolls appear to be used in accordance with routine maintenance), the regular assignment of M.M.D. employees to this work is inconsistent with the reasons given in the Company's evidence for the establishment of the Department in the first place. The purpose in the Company's evidence for creating the Department in the first place is to have a mobile force which can be deployed to take care of specific maintenance needs on a planned repair downturn. There is nothing in the evidence to suggest that the parties had contemplated this kind of permanent assignment when agreeing upon Appendix N. For this reason and for the reason that some of the rolls so built up are used in emergency breakdowns, I must find that the work building up these rolls is not that work which is contemplated by the parties in entering into Appendix N.

2. The second portion of this grievance relates to several assignments of work to the M.M.D. One of them is work performed on an oil system providing lubrication to mill operation equipment. It appears that the work on the oil system involved changing and cleaning filters, strainers, and screens. It also involved the changing of soaking pit covers and repairing pit covers for the next change. The evidence indicates that the changing of the filters and screens took place while the mill was in operation and, indeed, the oil system was in operation. It appears that the change took place during operation by virtue of the ability of the maintenance employees to bypass the specific filters and screens which were being changed and cleaned. This is to be contrasted with the stockhouse in which there was no bypassing taking place, but a complete alternative and identical system of equipment in the stockhouse which could perform the same work as the one which was taken out of service. Here the lubrication system continued in service and, in no way could be considered as work associated with a scheduled repair downturn. Accordingly, I find that this work was

not consistent with the provisions of Appendix N. Similarly, the pit covers for the soaking pit, according to the evidence, was work being performed while the soaking pits were in operation. The evidence fails to demonstrate that the work was done in association with repair work done on a scheduled downturn.

3. The third portion of the grievance protests work performed on a grating. It appears that the M.M.D. employees were assigned to work which they were unable to perform because the equipment upon which they were to work was not taken out of service. Accordingly, they were assigned to repair some grating. The Company's justification for this is that the Company was unable to make an alternate assignment for the M.M.D. in the period of time after it was learned that the equipment to be worked on was out of service. Accordingly, this assignment was made instead of sending the M.M.D. employees home. While it seems that this is good for the employees and does avert the employees being sent home and the Company paying for the show-up time for the employees in question, I can find no provision in Appendix N which permits this sort of assignment. In view of the Company's evidence, it can hardly be contended that this was work associated with a scheduled downturn. Indeed, the nature of it was that it was unscheduled work and only done in lieu of work which had been scheduled, but could not be performed.

In view of the foregoing, it is my finding that the work on the oil system, the soaking pit covers, and the repair of the floor grating, was work not contemplated by the parties to be performed by M.M.D. in Appendix N.

4. The fourth portion of the grievance protests the work of M.M.D. being assigned to routine maintenance on grinders. Grinders are machines which work on back-up rolls, which are then scheduled for replacements during downturns. The Company's position is that these are machines which work on the rolls which, in turn, then are assigned during downturns and that the work in question is, therefore, work associated with routine repair downturns. This issue, obviously, calls into question the extent to which the word, "associated", can be applied to maintenance work. While in a very general sense, the repair of grinders is associated with the work that the grinders do, the fact is that this work is done, according to the evidence, on an as needed and frequent basis, not during the downturn. Therefore, whether or not the grinders work on rolls which are to be used during a repair downturn, it is clear from the evidence that the grinders themselves are not repaired on this basis. Accordingly, I must find that this is not work contemplated by the parties to be done by the M.M.D. by Appendix N.

The Union withdrew that portion of Grievance No. 32-S-26 which related to building up the spare deflector roll for #5 galvanized line.

Grievance No. 32-S-26 is granted to the extent indicated above. After the final date of hearing in the above matter, it was decided by the parties that the issue of remedy about which no evidence has been adduced, would be remanded to the parties for discussion and implementation. Accordingly, it is awarded that any remedy occasioned by the foregoing decision be remanded to the parties for decision as to remedy.

/s/ Theodore K. High
Theodore K. High
Impartial Arbitrator
Date: September 24, 1990
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