

Award No. 896
IN THE MATTER OF THE ARBITRATION BETWEEN
INLAND STEEL COMPANY

and

UNITED STEELWORKERS OF AMERICA
LOCAL UNION 1010

Arbitrator: Terry A. Bethel

October 18, 1995

OPINION AND AWARD

Introduction

This is a base rate case concerning the tundish reconitioner occupation at No. 2 BOF. The case was tried over three days in the fall of 1994. In addition, I toured the tundish reconitioning facility before the hearing began. The union's case was presented by Joe Gutierrez and Jim Robinson. Brad Smith presented the company's case. Both parties filed pre-hearing briefs, post-hearing briefs, and post-hearing reply briefs. I received the post-hearing briefs at the beginning of June, 1995.

Appearances

For the company:

B. Smith -- Arb. Coord., Union Rel.

W. Krill -- Staff Wage Analyst

W. Sammon -- Bus. Sec. Mgr., 2 BOF

P. Berklich -- Proj. Rep., Union Rel.

K. Kahl -- Caster Supervisor, 2 BOF

For the union

J. Gutierrez -- Base Rate Chair

J. Robinson -- Staff Rep.

D. Stevenson

M. Bochenek

D. Woolsey

P. Fernandez

G. Gutierrez

A. Jacque

Background

The tundish reconitioner is a three level skill-base sequence at No. 2 BOF. As its name implies, the sequence's primary responsibilities is to recondition and refurbish tundishes which are used as part of the continuous casting process at No. 2 BOF. During the hearing, the parties described in detail the various tasks performed by the tundish reconitioners. Because this work is not itself in dispute, I need not record the process with great precision, though certain matters will be discussed in analysis of the various factors. In brief, when a tundish is taken from the casting floor, it is transported to the tundish reconitioning area, where the covers and gate mechanisms are removed. It is then taken to the jack stand where a tundish reconitioner attempts to remove the skull. Subsequently, it is moved to the tilt stand where, typically, the skull is chipped out by use of a gradall. The tundish then proceeds to the mason area where it is relined by masons, with the assistance of a tundish reconitioner. The tundish is then dried at the drying stand. Finally, a refurbished gate is installed and the tundish is made ready for service. Each of these tasks is performed by tundish reconitioners, who typically rotate through the various assignments.

Discussion

There are six factors at issue in this case, each of which I will address separately. The parties have stipulated that the issue is whether the company has properly coded these six factors. Before approaching the factor analysis, I must address some preliminary issues which cut across arguments made by the parties for several individual factors. One of the problems in this case is that the parties use two different classification systems in the same plant. Some jobs are classified under the CWS manual and some under the Inland Job Description and Classification Manual (Inland Manual). Indeed, that apparently is the case with respect to tundish reconitioners themselves. Those employees doing that work at No. 4 BOF were classified under the Inland Manual, while those at issue in this case -- from No. 2 BOF -- are classified under CWS. Both parties agree that the manuals are different, that they cannot be used interchangeably, and that comparisons used under one are not necessarily valid under the other. In short, one cannot "mix and match" the manuals but must stay within one system or another.

The difficulty in this case is that the use of two different systems seems to obscure one of the principal purposes of job classification systems. Such systems are intended to establish objective methods for evaluating jobs, which eliminates inequities. In theory, a workplace classified under only CWS or only the Inland Manual would be free of inequities from job to job. That overriding purpose may be thwarted, however, when the parties classify some jobs under one system and some under another. Because the systems do not work in the same way, it is entirely possible that the same job would be evaluated differently under the two manuals, with the CWS system producing a higher or lower pay rate than would be obtained under Inland Manual classification. And this disparity may be exacerbated even more starkly in individual factors.

The union sometimes points to such disparities in this case and argues that I must use "common sense and reason" in accommodating the two systems. Otherwise, it says, I will perpetuate inequities between the two systems. In my view, however, this argument misstates my task.

I agree that the use of two different job classification systems in the same workplace may cause inequities and I agree that one of the purposes of job classifications systems is to eliminate inequities. Nevertheless, the parties have not given me the task of integrating the Inland Manual and CWS. As the parties stipulated in this case, the issue is whether the tundish reconditioner at No. 2 BOF is properly classified under the CWS manual. In making that decision, the question is whether the CWS manual was properly applied. Comparisons to the Inland Manual are not properly a part of my responsibility, even if inequities exist between Inland and CWS. Those inequities are not the fault of improper application of CWS or Inland Manuals. Rather, they are the consequence of the decision to use two different systems in one workplace. But trying to accommodate the two different systems would destroy them both. The parties, should they choose to do so, can develop a hybrid system that draws on both Inland and CWS principles. But they have not given me that task and I will not do it. Nor can I accommodate complaints that employees doing the same work but classified under the Inland Manual are paid more money than employees classified under CWS.

In addition to the problems generated by the use of two different classification systems, the union also asserts that I must take into account the fact that the job at issue in this case is skill-based and that the CWS manual does not address this new method of classifying jobs. Although I understand that the skill-base concept is relatively new to these parties and that it is not directly addressed by CWS, I find no great difficulty in applying CWS principles. Moreover, I think it is necessary to keep in mind the fact that, though the tundish reconditioner is a skill based occupation, is still a position rated job. Thus, certain craft principles alluded to by the union seem inappropriate in this case.

As I understand skill base, it has benefits for both the company and the union. Under traditional organization, the tasks accomplished by a sequence are broken out into several position rated jobs, each of which performs a relatively limited function. Under skill-base, however, the company obtains the flexibility of having numerous employees, each of whom can perform the entire range of tasks available and each of whom can be rotated through various work stations. This eliminates (or at least reduces) the jurisdictional conflicts that sometimes arise between occupations. The company can assign tundish repair tasks to anyone in the sequence with significantly less concern that an employee will complain that he is being asked to work outside the narrow boundaries of his occupation.

The employees in the sequence also gain some benefit in return for this relaxation of occupational boundaries. In theory, at least, if the tundish repair sequence contained rigid boundaries, the employees would do the same limited tasks all of the time and they would be compensated accordingly, with some occupations paying more than others. Of course, the employees may find it advantageous to rotate assignments and to have the opportunity to perform a variety of tasks. Probably more significant, however, are the financial consequences. With skill-base jobs, employees are paid for what they know and not necessarily what they do on a particular day. Thus, an employee who performs menial and repetitive tasks (though there would not appear to be many of these for tundish reconditioners) is paid the same as the employee who spends his day performing the most complex and challenging work available to the sequence. In short, even though a traditional classification system would result in some employees making more than others (perhaps considerably more) a skill-based system insures that all employees in the sequence will get paid the same, no matter what work they may do during the day.

Moreover, skill-based classifications do not merely result in all employees making an average of the pay rates that would prevail in a traditionally classified sequence. This is because employees are paid for what they know and not necessarily what they do. In the tundish reconditioning area, for example, employees are coded for the highest level of skill necessary to work in the sequence, even though their daily assignment

may not utilize those skills. Obviously, it would have made little sense for the union to have given up its traditional occupational lines and resulting classifications in exchange for pay that was averaged across the sequence. The employees in the lower paying jobs would then have benefited at the expense of those with more valuable skills. The compromise was to train everyone with the same skills, to rotate the employees through the various assignments, and to pay them as though they used the highest skills everyday. This, in fact, is what skill-based means.

Despite these differences between traditional and skill-based occupations, and despite the fact that CWS does not expressly account for skill-based jobs, I find little difficulty in applying the CWS system to the job at issue here. The first four factors, in fact, take account of the special skills of skill-based employees and compensate them accordingly. Although the union claims that the nature of skill based work should also have an effect on certain other factors, I am unable to accept its arguments. I will address the arguments in more detail in my consideration of the individual factors.

As noted, the hearing in this case spanned three days, with substantial testimony about each of the six factors in dispute. Given the volume of testimony, the repetitive nature of some of it, and the substantial amount of argument included in the testimony, I will not review all of it in detail. I have listened to the tape, reviewed my notes, and studied the briefs the parties filed. The results of those efforts are included in my separate consideration of the disputed factors.

Factor 5

Factor 5 is responsibility for materials. It measures the responsibility of the employee to prevent loss through damage to materials, with the loss caused by the actions or negligence of the employee. This factor is rated in two ways: one must consider both the degree of care required and the probable monetary loss. The parties agree that the level of care required is properly coded at C. However, they disagree about the probable monetary loss. The company asserts that the probable loss is up to \$100 <FN 1> and merits a numerical classification of .7. The union argues that this is too low and claims that it should be given a numerical classification of 1.2, which covers a loss of up to \$250.

The company's classification is based on a review of three MJs. First, the company cited MJ 68, the Nozzle Setter, where the employee's primary function is to set the nozzle in the well of the ladle. This duty, the company says, is somewhat similar to installation of the slide gate mechanism in the tundish. At least, the hazard the work produces is similar because improper performance could cause a running stopper. The nozzle setter is rated at C.7, which is what the company claims is appropriate for the tundish reconitioner. The company also points to MJ 61, the Steel Pourer in the open hearth. Again, the danger of negligent performance here is a running stopper which, the MJ says, could cause a loss of as much as 10% of the mold. Using a formula that values the steel lost and takes its salvage value into account, the estimate is that the loss would be \$140.

Thus, this position gets a C,1.2, since the loss is more than \$100 and less than \$250. Finally, the company points to MJ 624, the continuous caster steel pourer. This person pours the steel into the mold or tundish and, like the open hearth steel pourer, could cause a running stopper with a \$140 loss (using the same formula which, again, estimates a loss of no more than 10%).

Using the same percentage found in MJ 61 and MJ 624, the company reasons that a running stopper on the slab side of the caster would cause a loss of not more than 10% of the heat. However, roughly half of the steel produced at No. 2 BOF goes through the combi caster. A loss of one strand due to a defective gate would not necessarily cause any loss of product, since the heat could be completed on the other strand. Thus, the company says that the percentage of loss to be estimated for a bad gate on the combi caster is 0. And, since about half of the steel goes through the slab caster (which has an estimated loss of not more than 10%) and half through the combi caster (with 0 estimated loss) the total risk is only about 5%. The same formula used in MJs 61 and 624 yields an estimated loss of only \$70, which falls into the .7 numerical classification for a loss of more than \$50 and up to \$100.

The union points out that, while the company estimates the probable loss in the 2 BOF occupation at issue here, it estimates a loss of \$1000 in the similar operation at No. 4 BOF. As the company points out, however, No. 4 BOF is classified under the Inland manual, not the CWS manual. While it is conceivable that certain kinds of comparisons might be made between the manuals, in general I agree with Bill Krill's testimony that it is inappropriate to "mix and match" the two classification systems. In particular, since the dollar values at issue in the CWS and Inland manuals bear no actual relationship to market values, and since they are calculated on different formulas, they are useful only for comparison within the manuals. In short, it makes no sense to contrast the estimated loss of \$100 in the CWS manual against the estimated \$1000 loss in the Inland manual.

The union is on firmer ground, however, when it questions the company's assumptions about the probability of loss on the combi side. In theory, as Bill Krill testified, it should be possible to continue the cast without loss when one of the strands goes down. In fact, however, it appears that such an event often occasions a loss, -- or, at least, that the possibility of loss is not "virtually non-existent." <FN 2> Thus, the union introduced evidence of large skull sizes that resulted from one strand casts. It is true, as the company argues, that not all of these large skulls were caused by the negligence of the tundish reconditioners. But that isn't the point. The company's principal witness testified that the risk of loss on the combi side was "virtually non-existent." The union has shown, however, that the risk of loss is real. It seems clear, then, that negligence from the tundish reconditioner could lead to a loss that exceeds the company's estimate. I agree with the company's assertion that the loss which could result from a running stopper on the combi side is variable and that it is difficult to measure. Given the union's evidence, however, I am persuaded that the estimate of 0 loss is unrealistic and that the resulting estimate of 5% is too low. It seems reasonable to speculate that the loss on the combi side could be at least 5%. Using the company's methodology, that could result in the loss of 7.5% with a value of about \$110. Thus, I find that the union has sustained its burden of demonstrating that Factor 5 warrants a coding of C 1.2 <FN 3>

Factor 6

This factor considers responsibility for tools and equipment. Like factor 5, Factor 6 is coded in two ways, by the degree of attention required and by the probable damage that might occur at any one time. The company asserts that moderate attention and care are required and evaluates the probable damage at a medium level. Thus, the company codes the job at C medium, with a numerical classification of .7. The union says that close attention and care are required and that the proper coding is D medium, which gives a numerical classification of 1.5. Obviously, the parties agree that the medium level is appropriate. Their disagreement centers on the probability of damage. The company points to language in the C coding that says a job requirement is to "prevent damage to light mobile equipment such as tractors, trucks and cranes." The union, on the other hand, focuses on the language in the D coding that says "prevent damage to heavy duty mobile equipment such as locomotive cranes and heavy duty cranes."

During the first day of hearing, the parties focused only on the gradall operated by the tundish reconditioner, which the company says compares to the "tractors, trucks, and cranes" listed in factor C, and the company pointed to three MJC's where the operation of comparable equipment warranted a C medium coding. <FN 4> The union notes, however, that the locomotive crane was used as a benchmark under the Inland Manual for classification of other employees who operate a gradall and that MJC 657 gives the locomotive craneman a D high coding.

The union acknowledges that it is improper to mix the two classification systems, but it says that it is appropriate to consider the historical understanding of comparisons within the plant in making comparisons under the CWS system. Thus, one must exercise some discretion in classifying the gradall as either heavy duty or light mobile equipment. In making that determination, the union says it is appropriate to look at how the gradall has been viewed historically in other comparisons.

I cannot say that such comparisons would never be appropriate. But I was impressed by the company's argument that it makes no sense to incorporate within the CWS system, comparisons made in other systems. The company asserted -- and the union did not rebut -- that it used the locomotive crane to help classify the gradall under the Inland Manual because that was a comparison mandated by the manual itself. Thus, the company did not decide that the gradall and the locomotive crane were comparable and it should not be saddled with the Inland Manual's direction to make a particular comparison when the parties decide to use a different classification system.

Under CWS, factor 6 seems to define light mobile equipment to include such things as trucks, tractors and light cranes, and it seems to classify as heavy equipment such things as locomotive cranes. I understand that the locomotive crane and the gradall may have been viewed similarly under the Inland Manual. But the CWS manual contemplates that classification decisions will be made within the confines of that system. The question, then, in evaluating the gradall as light or heavy equipment, is how it compares to the examples given in the CWS system. I realize that this may cause inequity among similar jobs classified under two different system. But, as I have already observed, that is the consequence of the parties' decision to use two systems.

I have some sympathy for the union's claim that the gradall is, in fact, a heavy duty piece of equipment or, at least, that the parties have treated it as such in other areas of the plant. Moreover, I was impressed with the technical expertise of union witness Gerald Gutierrez, who said that he does not consider the gradall to be light duty equipment. But the classification of the gradall as light or heavy in fact is not necessarily the

task before me. As I pointed out at the hearing, the CWS manual does not give me the luxury of more than two classifications. Whether aptly named or not, the manual divides equipment into only two categories -- light and heavy. The question then becomes how the manual makes that distinction. The issue is not how some other manual or some other plant does it. I have no doubt that, for some purposes, the gradall may be viewed as heavy duty equipment. But the question here is how it is to be classified under CWS.

I understand the union's argument that the CWS manual does not list a gradall. Given the significant technical advances in the steel industry, the manual no doubt omits much of the equipment, skills and processes used to make steel today. That does not mean, however, that I am free to develop my own system or that I can look outside the CWS to classify the gradall as light or heavy. Rather, I agree with the company's claim that the proper approach is to make comparisons to equipment that is listed in the manual. Based on such comparisons, principally on the basis of the MJC's cited by the company, I find that gradall should be classified as light equipment under the CWS.

In addition to the gradall, the union argues that the tundish reconditioner operates a heavy duty crane. Jerry Gutierrez testified that the crane in the tundish reconditioning area has a capacity of 155 tons. During the hearing, I voiced some doubt about whether I could consider the union's claim that the crane was heavy duty equipment for purposes of factor 6. Although his testimony on the third day of hearing as somewhat confusing, Joe Gutierrez testified unambiguously on the second day that he had not advanced the crane issue prior to the arbitration hearing. Thus, prior to the hearing, the only issue debated by the parties was the classification of the gradall as light duty or heavy duty equipment. Moreover, I note that the statement of the union position for Factor 6 appended to the stipulation mentions only the gradall and omits any reference to the crane.

I agree with the company's claim that theories of recovery cannot be advanced for the first time in arbitration. That issue arose in two different ways in this arbitration. The company objected to the fact that the union had not previously advanced certain arguments prior to arbitration -- like the crane under this factor. In addition, the company objected to union reference to various MJC's that were not pointed out to the company prior to the arbitration hearing. Although I agree that it would have been better to disclose all MJC's to review prior to the arbitration hearing, I think that the question of new theories and the use of previously undisclosed MJC's are not necessarily the same.

The MJC's furnish the parties a basis for argument. Like previous arbitration awards -- which are not always disclosed to the other side prior to a hearing -- the MJC's allow a party to argue for a particular conclusion based on facts adduced at the hearing. As such, they do not necessarily raise new issues or present previously undisclosed facts. They merely furnish a vehicle for application of the facts. The problem with the crane, however, is different. Here, the company asserts that it processed this case through to arbitration without even realizing that there was an issue over the crane.

The grievance procedure is the parties' opportunity to present the facts as they believe them to be and to discuss possible theories based on those facts. Obviously, the system cannot work to settle cases unless the parties have a frank discussion of their positions. Typically, that is not a problem between these parties, who have a mature working relationship. There are occasional claims that new facts are presented for the first time in arbitration, but serious difficulties are quite rare. Here, however, the claim is not merely that the union has failed to disclose certain facts, but that it failed to advise the company of a significant issue in the case. Thus, the company representative claimed -- and Mr. Gutierrez' testimony affirmed -- that the company was not aware that the crane was even at issue until the arbitration hearing. Obviously, the failure to disclose this contention meant that the parties had no opportunity to discuss it in the proceedings leading to arbitration.

Because the matter was not disclosed until arbitration and because it is not included in the stipulation or the union's statement of issue, I find that I am unable to consider it in this case. I offer no opinion about whether it can be raised in some other way or in some subsequent proceeding. I find merely that I cannot consider it as part of this proceeding.

Factor 7

Factor 7 considers an employee's responsibility for operations. The company codes the job at C, resulting in 1 point while the union urges a D coding for 2 points. The company points to paragraph 3 under the C coding, which it says describes the tundish reconditioner's duties: "Perform auxiliary or service operations when closely associated with production units or process." The union relies on language from the D coding which says "responsible for performing assigned maintenance work of large producing units." In that connection, the union notes that the tundish reconditioner is sometimes called to the casting floor to correct problems with gates. Moreover, the union correctly asserts that the skill base concept for this occupation

includes both operational and repair functions. Because the tundish reconitioner has responsibility for repair and because that necessitates mechanical skills, the union says that the employees should be coded at the highest level of their skill. Thus, the reference to a millwright MJC.

I agree that the tundish reconitioner must sometimes perform maintenance or repair work on the casting floor and that the employees have substantial training in such tasks. But I fail to see what that has to do with this factor. The additional training that these employees receive and the skills that training imparts are already taken account of in the first four factors. Factor 7 does not ask what skills the employee has.

Rather, it asks what responsibility he has for continuing the operation. The union must do more, then, than prove that the tundish reconitioner has some of the same skills as a millwright. It must prove that he uses those skills to perform "assigned maintenance work on large producing units." Although there was testimony that tundish reconitioners are sometimes called to the casting floor to work on gate mechanisms, that falls short of the standard required by code D.

By contrast, the MJCs cited by the company for this factor seem particularly apt. MJC 66, Ladle Liner describes duties that are quite similar to those performed by tundish reconitioners, and receives a C coding for factor 7. Similarly, the nozzle setter from MJC 68 receives a C coding. The union relies on MJC 456, Millwright. I realize that the tundish reconitioner performs some repair or maintenance duties as a result of the skill based nature of the job. Nevertheless, I think it is not appropriate to compare him to an assigned maintenance mechanic, who performs work on all equipment throughout a major producing unit. Both the scope and the nature of the repair work done by tundish reconitioners differs substantially from the work performed by a millwright.

The union has not sustained its burden of proving that the D coding is warranted for this factor. <FN 5>
Factor 10

Factor 10 is concerned with physical effort, with an instruction to "select the level that best describes the average degree of muscular exertion required throughout the turn." The company codes this factor at C, which describes moderate physical exertion, while the union requests a D coding for heavy physical exertion. There is no doubt that there is some heavy exertion involved in the tundish reconitioner's job. However, the tundish reconitioner has many duties, some of which could appropriately be described as light, or even minimal. Since tundish reconitioners rotate assignments, it is not appropriate to focus solely on the hardest part of the job. This is, after all, an average factor. Thus, I think the company's reference to MJC 66, 67, and 359 are appropriate.

One of the principal difficulties in this case hinges on the skill-based notion that employees are paid for the highest level of skill obtained, whether they use it on a particular assignment or not. The disagreement, however, does not relate to those factors that focus principally on skill. Rather, the parties are at odds over two of the three so-called average factors. These are factors 10 (physical effort) and 11 (surroundings). The instructions for each factor directs the evaluator to select a level that describes the average condition faced by the employee. In fact, however, the union does not do that in its calculations for these two average factors. Instead, the union essentially looks at the highest or most difficult task performed by the employee and, purportedly acting in accordance of the notion that an employee is paid for the highest level of skill, argues that this requirement mandates a higher coding than selected by the company. In my view, this methodology is incorrect not only for skill-based employees, but also for all position rated jobs.

The instructions do not say that employees are to be coded for the highest level of effort or for the worst possible surroundings. Rather, the manual takes into account the fact that an employee's working conditions might vary during the turn. Part of it may be spent in uncomfortable surroundings, and part of it in an air conditioned pulpit; part of the work day may require considerable physical strain, while the remainder of it may involve work at a computer station. The CWS takes these variations into account by directing that the evaluator measure the average effort expended by the employee or the average conditions he faces during the turn. Thus, no employee is coded at a particular level simply because some of his work might fall at that level. There is no reason to suppose that skill-based employees should be treated differently. They, too, face various conditions and expend varying amounts of effort. Like all other employees, one must consider the totality of their work in order to determine the average conditions they face.

The union's real argument is that since skill-based occupations are really just combinations of other position rated jobs more limited in scope, it is unfair to minimize the effort and surroundings factors for some assignments by combining them with other, less demanding duties. This, obviously, is similar to the reasoning employed for coding skill-based employees at the highest level of skill, explained more fully above. In short, the union claims that the coding should equal that which would be appropriate for the most demanding physical assignment faced by a tundish reconitioner. However, in contrast to factors 1 through

4, factors 9, 10, and 11 are supposed to be average factors. Thus, it is one thing to avoid an average in the skill factors because it would hurt the employees with the highest skills, but it another thing to do so where the factors are intended to measure the average conditions faced by the employee.

In summary, although the union has established that there is some heavy exertion involved in this occupation, it has not proven that, on average, a D coding is warranted.

Factor 11

This factor evaluates surroundings, defined as the general conditions under which the work is performed and the extent to which those conditions make it disagreeable. Like factor 10, physical effort, this is an average factor and it measures the average working conditions. Many of the comments I made concerning factor 10 are equally relevant here. In short, it is not appropriate to look merely to the worst of the working conditions. Rather, this is an average factor that takes into account all of the work surroundings.

The company coded the job at B, which recognizes exposure to heat (including both weather and hot materials), inside and outside conditions, with the outside work protected by a cab, and "continually dirty or greasy work or exposure to wetness and some fumes and smoke." Clearly, the employees are sometimes subjected to lead fumes, the building it hot (particularly in the summer), and the entire work areas is very dusty.

The company points to several MJCs, including the polishing machine operator (MJC 330) who works in conditions made "disagreeable and dangerous" by abrasive dust, yet still gets a B coding. In addition, it cites other MJCs which reference continually dirty or very dirty or greasy work, all of which get a B coding. The company does not deny that the tundish reconditioning area is dirty and dusty and that tundishes are hot when they return from the caster. But it asserts that the conditions do not differ appreciably from those to which CWS assigns a B coding.

The union cites MJC 483, the bricklayer helper. There is no doubt that tundish reconditioners do some of this kind of work. However, the company says that the bricklayer helper gets a C coding because he works in furnaces that remain hot, which the tundish reconditioner does not do. In addition, since only about 18 to 20 tundishes are relined a year, tundish reconditioners probably spend less time in this activity than the bricklayer helper.

The union also cites MJC 36 where the dirty conditions and extreme heat warrant a D coding, and MJC 77, where the employee is exposed to considerable dust and is required to wear a respirator. The union notes that the tundish reconditioners are exposed to extreme heat when the tundishes are returned from the casting floor and that the skulls remain hot when the employees chip at them from the gradall. The union says it is not uncommon for hot metal to escape from the skulls and that the heat has sometimes been severe enough to crack the windshield on the gradall. The company denied that the heat is this extreme or that there is significant exposure to hot metal.

In addition, the union cites MJC 426, noting that this gets a C coding because of exposure to lead fumes. Similarly, tundish conditioners work around lead and may occasionally have to melt lead to get it off of gates. However, the company says that the lead burner helper in MJC 436 works around lead "all the time" and was often involved in activities that melted lead and, thus, created fumes. By contrast, only about 11% of the casts involve lead and not all of those require melting in order to clean lead off the gates.

This is among the most difficult factors to classify. I would be inclined to support the union's claim for a C coding if there were more evidence that tundish reconditioners are regularly subjected to molten metal. The only union witness with first hand knowledge of this was Demetria Woolsey. Although I thought her testimony was credible, she was somewhat hesitant to make estimates about hot metal exposure and her testimony in this regard was very careful. Although company witnesses may have discounted the risk too severely, I am inclined to believe that this is an uncommon occurrence. Indeed, Sammon questioned whether it happened more than once or twice a year.

In summary, because I think the union overestimates the exposure to hot metal, and because I think that the other environmental factors are captured sufficiently by the B level, I find that the B coding is appropriate for factor 11.

Factor 12

This factor considers the hazard of severe injury. No one questions that such possibility exists in the tundish reconditioner area. The workers chip at skulls with a gradall and they incur the possibility of splashes from hot metal remaining in the tundish, though there is a disagreement about how often this happens. In addition, there is some climbing involved and they work around moving equipment. The disagreement centers on the extent of the exposure. The company coded this factor at B, noting that there is some exposure to hot metal or objects and other injuries. The union argues that a C coding is applicable. It

claims that the tundish reconditioner has significant exposure to hot metal as well as to the hot tundishes. In addition, it claims that the tundish reconditioner performs work that is similar to the millwright and, accordingly, faces similar hazards.

The company cited several MJCs, including MJC 56, where the hot metal car operator transports the car without a cover and is, therefore, exposed to hot metal burns. He gets a B coding for Hazard. Particularly relevant is MJC 66, the Ladle Liner, who performs similar work under similar circumstances, and gets a B coding. The company tendered 394 as an example of a classification that warrants a C coding. The Wiper, the company says, has a much more extensive exposure to burns from hot metal than the tundish reconditioner.

Although there is some exposure to burns from hot metal, the evidence does not support the union's claim that this warrants a C coding. Based on the evidence, I am unable to find that exposure to hot metal happens more than rarely. Nor do I think their work can be compared to that of a millwright. The descriptions contained in the B level, as well as the MJCs cited by the company, convince me that the B level is appropriate in this case.

The union has proven that a coding of C 1.2 is warranted for factor 5.

The union has not proven that the company's coding for each of the other factors in dispute is in error.

Thus, I find that the following codings are warranted:

Factor 6 -- C/md

Factor 7 -- C

Factor 10 -- C

Factor 11 -- C

Factor 12 -- B

/s/ Terry A. Bethel

Terry A. Bethel

October 18, 1995

<FN 1> These amount bear no relationship to the value of the steel today. Rather, they are calculated on 1946 values and are principally useful for purposes of comparison to MJCs.

<FN 2> In fact, union witness Dan Stevenson testified that when one strand goes down, the company is normally not able to complete the heat without a loss of hot metal. Although he did not necessarily agree with union testimony, section manager Sammon agreed that the loss of one strand will sometimes cause a loss of hot metal.

<FN 3> The union also asserts that this factor should take into account the cost of materials used in relining the tundish. Because I have found that the union has sustained its burden in any event, I need not consider this issue.

<FN 4> As I will discuss below, the union also asserts that the crane is at issue in this case.

<FN 5> The parties also spent considerable energy debating whether there is a "bank" of tundishes available, a fact that is important because the instructions for factor 7 say that "excess capacity . . . [is an indicator for] lowering of the classification. . . ." I note that the instructions do not use the word "bank" so I need not decide what that term means. The company did establish that there are typically (though not always) additional tundishes available. The union questioned whether the additional tundishes would be sufficient to handle all possible contingencies. Although it is not clear to me that such proof is necessary to satisfy the standard of "excess capacity," I need not resolve this issue because I am convinced that the company's evidence justifies a C coding based on the responsibilities of the reconditioner.