



United States Government

NATIONAL LABOR RELATIONS BOARD

Region Four

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March 17, 2009

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Re: Hanson Aggregates BMC, Inc.
Cases 4-RD-2048 and 4-RD-2055

Gentlemen:

This letter confirms the Region's determination to reinstate the previously dismissed petition in Case 4-RD-2048, and to suspend further proceedings in that case and in Case 4-RD-2055 pending the disposition of a series of related unfair labor practice charges identified below.

On September 27, 2005, I issued a letter dismissing the petition in Case 4-RD-2048 subject to reinstatement, if appropriate. This decision was based upon my determination that as a remedy for unfair labor practice conduct alleged in Complaints that were pending at the time the Board would extend the Union's certification year which would preclude consideration of the question concerning representation raised by the petition. The litigation of the Complaints referenced in my September 27, 2005 letter resulted in the Board issuing a Decision and Order in *Hanson Aggregates, BMC, Inc.*, 353 NLRB No. 28 (September 30, 2008). While that Board

Order provided for extensive remedial relief, the Administrative Law Judge, with Board affirmance, rejected the General Counsel's request to extend the Union's certification year. Based on the failure to obtain this remedy, I am reinstating the petition in Case 4-RD-2048.

On December 9, 2005, a separate petition was filed in Case 4-RD-2055. The parties involved in that case were orally notified by the assigned Board Agent that the petition would be held in abeyance pending the disposition of the unfair labor practice cases which were the subject of the Board Order referred to above. In addition, on December 13, 2005, I issued a Notice postponing indefinitely the hearing previously scheduled in Case 4-RD-2055.

I have now determined that both of the subject decertification petitions will be held in abeyance pending the disposition of a series of unfair labor practice charges. The charges are in three categories – those which are the subject of the Board Order issued on September 30, 2008, later charges which I have separately found to be meritorious, and more recent charges currently under investigation. The cases which are the subject of the Board Order are: Cases 4-CA-33330, 4-CA-33508, 4-CA-33547, 4-CA-34290, 4-CA-34362, 4-CA-34363, and 4-CA-34378. The newer meritorious cases are: Cases 4-CA-34678, 4-CA-34827, 4-CA-34931, 4-CA-35031, 4-CA-35134, 4-CA-35140, 4-CA-35160, 4-CA-35189, 4-CA-35377, 4-CA-35487, 4-CA-35553, 4-CA-35663, 4-CA-36099, 4-CA-36157 and 4-CA-36256. By letter dated February 27, 2009 (a copy of which is enclosed), I identified the meritorious allegations of these charges, the remedial steps to be taken to dispose of them, and the steps to be taken by the Employer to comply with the Board's Order in the litigated cases. The charges currently under investigation (Cases 4-CA-36468, 4-CA-36510 and 4-CA-36530) allege that the Employer violated Section 8(a)(5) of the Act by: (1) unilaterally changing hours of work, employee schedules, health insurance benefits, and safety bonuses; and (2) generally refusing to bargain with the Union.

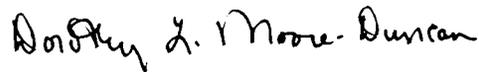
The National Labor Relations Board has a general policy of holding in abeyance a representation case where concurrent, unresolved unfair labor practice charges are filed by a party to the representation case and the charges allege conduct that would interfere with employee free choice in an election. *Bally's Park Place*, 338 NLRB 443, *Overnite Transportation Co.*, 333 NLRB 1392, 1393, fn. 6 (2001); NLRB Casehandling Manual Section 11730, et seq. As the conduct in the cases referred to above interferes with employee free choice, I will continue to suspend further proceedings in the subject representation cases pending the disposition of the charges in these unfair labor practice cases.

Right to Request Review: Pursuant to the National Labor Relations Board Rules and Regulations, you may obtain a review of this action by filing a request therefor with the National Labor Relations Board, addressed to the Executive Secretary, National Labor Relations Board, Washington, DC 20570, either by mail (eight copies) or by electronic filing through the Agency's website at www.nlr.gov. A copy of the request for review must be served on each of the other parties to the proceeding, and with the Regional Director either by mail or by electronic filing. Guidance for electronic filing can be found under the **E-Gov** heading on the Agency's website. This request for review must contain a complete statement setting forth the facts and reasons upon which it is based. The request for review must be received by the Executive Secretary of the Board in Washington, D.C., by the close of business on **Tuesday, March 31, 2009**. Upon good cause shown, however, the Board may grant special permission for a longer

period within which to file. The request for extension of time should be submitted to the Executive Secretary of the Board in Washington, D.C., and a copy of any such request for extension of time should be submitted to the Regional Director, and to each of the other parties to this proceeding.

The request for review and any request for extension of time must include a statement that a copy has been served on the Regional Office and on each of the other parties to the case in the same or a faster manner as that utilized in filing the request with the Board.

Very truly yours,



DOROTHY L. MOORE-DUNCAN
Regional Director

cc:

Lester A. Heltzer, Executive Secretary, NLRB, Washington, DC 20570

Mr. R. Jeffrey Carrey, Hanson Aggregates BMC, Inc., 852 Swamp Road & Route 232, Penns
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