

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

SKW CONSTRUCTORS,

CASE NO.: 05-RC-100098

Employer,

vs.

INTERNATIONAL UNION OF
OPERATING ENGINEERS, LOCAL 37,
AFL-CIO,

Petitioner.

**SKW CONSTRUCTORS' EXCEPTIONS TO HEARING OFFICER'S REPORT AND
RECOMMENDATIONS ON THE CHALLENGED BALLOTS**

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June 27, 2013

Pursuant to the National Labor Relations Board's Rules and Regulations, including Section 102.69 thereof, the Employer, SKW Constructors (hereinafter "SKW" or the "Employer"), respectfully files the following Exceptions to the Hearing Officer's Report and Recommendations on Challenged Ballots issued on June 13, 2013.

<u>Num.</u>	<u>Page</u>	<u>Exception</u>
1	1	The Employer excepts to the Hearing Officer's finding that two individuals who cast the ballots are temporary employees and are to be excluded from the unit.
2	1	The Employer excepts to the Hearing Officer's recommendation that the two challenges claiming temporary employee status be sustained.
3	4	The Employer excepts to the Hearing Officer's reliance on the testimony of John Martin as it was hearsay and he had no personal knowledge related to Joseph Eller or Richard Beerbower
4	4	The Employer excepts to the Hearing Officer's finding that Mr. Beerbower was told he would be at the project long term a few weeks after his transfer to the Project as he clearly testified that he was aware of this assignment at the time he cast his ballot.
3	6	The Employer excepts to the Hearing Officer's conclusion that if appropriate, a Certification of Representative should issue.
4	6	The Employer excepts to the Hearing Officer's finding that Joseph Eller was a temporary employment based on testimony related to Richard Beerbower.
5	6	The Employer excepts to the Hearing Officer's finding that 6-weeks is a finite period of time.
6	6	The Employer excepts to the Hearing Officer's finding that Beerbower and Eller were temporary employees as of April 14.
7	6	The Employer excepts to the Hearing Officer's finding that it was irrelevant Beerbower and Eller were told they would remain on the project.
8	6	The Employer excepts to the Hearing Officer's recommendation that the challenges to the ballots of Beerbower and Eller be sustained.
9	6	The Employer excepts to the Hearing Officer's conclusion that the challenges to the ballots of Beerbower and Eller claiming temporary employee status be sustained.
10	6	The Employer excepts to the Hearing Officer's conclusion that if appropriate, a Certification of Representative should issue.

WHEREFORE, the Employer respectfully requests that the Board reject those portions of the Hearing Officer's Report and Recommendations on Challenged Ballots excepted to, and conclude, in accordance with the record evidence and relevant decisional authority, that the Union's challenges to the ballots of Richard Beerbower and Joseph Eller be overruled and their ballots be opened and counted.

Date: June 27, 2013



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