UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION FIVE

COASTAL SUNBELT PRODUCE, INC.,

Employer

and **Case 05-RC-016605**

DRIVERS, CHAUFFEURS AND HELPERS
LOCAL UNION NO. 639 A/W INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

Petitioner

DECISION AND DIRECTION OF ELECTION

The Employer, Coastal Sunbelt Produce, Inc., is engaged in the business of produce distribution at its location in Savage, Maryland. The Petitioner seeks to represent a unit of all regular full-time drivers. A hearing officer of the Board held a hearing and the parties filed briefs with me.

As evidenced at the hearing and in the briefs, the parties disagree on whether employees in the following job classifications must be included in the bargaining-unit: (1) part-time drivers; (2) driver trainers; (3) mechanics; and (4) driver check-in coordinators, managers-on-duty, MobileCast coordinators, operations clerks, Road Net operators, and routers, which I shall refer to collectively as "operations personnel." At the hearing, the parties stipulated that yard jockeys should be included in the unit.

The Petitioner asserts that a unit consisting of all regular full-time drivers and yard jockeys is an appropriate unit. The Employer argues that failing to include part-time drivers, driver trainers, mechanics, and operations personnel would render the unit inappropriate. The

petitioned-for unit has approximately 190 employees, while the unit the Employer contends is appropriate includes about 253 employees.

At the hearing, the parties stipulated that there is no history of collective bargaining between the Employer and the Petitioner involving the Employer's facility in Savage, Maryland. The parties also stipulated that there is no contract bar or any other bar that would preclude the processing of the petition at issue.

I have carefully considered the evidence and arguments presented by the parties, at the hearing and on brief, regarding this issue. As discussed below, I conclude that the petitioned-for bargaining-unit must include regular part-time drivers, but that driver trainers, mechanics, and operations personnel[1] do not share such a close community of interest with drivers as to require their inclusion in the unit. Accordingly, I am directing an election in a unit that consists of all full-time and regular part-time drivers and yard jockeys. There are approximately 211 employees in the unit found appropriate.[2]

To provide a context for my discussion of those issues, I will first provide an overview of the Employer's operations. Then, I will present in detail the facts and reasoning that supports each of my conclusions on the issues.

I. OVERVIEW OF OPERATIONS

The Employer provides food service distribution of produce and dairy products in the Mid-Atlantic region of the United States. Company-wide, the Employer employs approximately

[1] At the hearing, the Employer stated that the following job classifications from the operations department should be included in the unit: operation clerks, routers, driver check-in coordinators, managers-on-duty, Road Net operators, and MobileCast coordinators.

[2] Since the unit that I find appropriate is broader than the petitioned-for unit, the Petitioner is granted fourteen (14) days from the date of this Decision to make an adequate showing of interest, if necessary. Should the Petitioner not wish to proceed to an election in the broader unit it will be permitted, upon request, to withdraw its petition without prejudice.

900 employees. At the Employer's facility in Savage, Maryland, there are approximately 190 full-time drivers, 21 part-time drivers, 2 driver trainers, 12 mechanics, and 25 to 28 employees in the operations department. The drivers report to Walter Vasquez, driver manager, or in his absence to whichever operations manager is on duty in the operations office. The driver trainers also report to Vasquez. The mechanics report to Pat Barnes, mechanics manager. The employees in the operations department report to either Stallo Callas, day operations manager, Justin Callas, night operations manager, or Jennifer Caplinger, logistics manager. Vasquez, Barnes, Caplinger, Stallo Callas, and Justin Callas report to Tracy Moore, vice president of operations. Moore reports to John Corso, CEO and president.

In addition to the job classifications listed above, the Employer employs customer service representatives, salespeople, and warehouse employees at its facility in Savage, Maryland. Customer service representatives and salespeople work in the operations office. Warehouse employees work in the warehouse.

All employees at the Savage facility have the same pay period and the same pay day. In addition, all employees operate under the same employee handbook and have the same benefits package. Their personnel files are all stored in the Human Resources office. All employees share a parking lot, break room, and smoking area.

A. <u>Drivers</u>

The Employer employs approximately 190 full-time drivers and approximately 21 part-time drivers at its facility in Savage, Maryland. Drivers deliver products to customers from northern New Jersey to Virginia Beach, Virginia. Before a driver begins making deliveries, he must go to the operations office, where he signs out a Nextel/MobileCast phone and get his keys and a manifest, which is used to record mileage and confirm deliveries. An operations clerk will

make sure that he is wearing his uniform and give the driver his invoices and truck number. The driver then places the "shorts," products which have not already been loaded by the warehouse workers, onto the truck.

While driving to make deliveries, the driver calls the operations office at least twice to check in. He may also call the operations office if he is lost or having problems reaching the customer. When a driver arrives at a delivery point, he greets the customer, unloads the product from the truck, and places the product wherever the customer requests. If the customer requests additional products or is unhappy with a product that has been delivered, the driver notifies the operations office of this through his Nextel/MobileCast phone. When the driver returns to the Employer's facility, he must fuel the truck and complete a post-trip inspection of the truck, including checking the truck's fluid levels. The driver must also complete paperwork about his deliveries and gives this paperwork to the driver check-in coordinator, who ensures that it has been completed correctly. The driver then goes to the operations office to turn in his Nextel/MobileCast phone and keys. If a driver wishes to make any delivery recoveries, which are additional deliveries to customers who need more product than what they received in their initial order, he may sign up to do so with an operations clerk.

In the course of their job duties, drivers use pallet jacks, hand carts, dock levelers, dock doors, jumper cables, and a Nextel/MobileCast phone. Drivers receive pallet jack training, regeneration training, dual tank truck training, and customer service training. According to their job description, drivers must have a minimum of two years experience in driving a commercial vehicle, and/or distributing products to clients, and/or produce experience. They must also be able to lift and/or move 75 pounds. They must be able to pass the Maryland Department of Transportation road test and are required to have a Class A, B, or C driver's license.

Full-time drivers wear uniforms displaying their names and the Employer's logo. Some part-time drivers do not have a uniform. The record evidence shows no other differences in the job duties or working conditions of part-time drivers as compared to full-time drivers.

According to their job description, drivers are part of the operations department. Drivers do not have a designated office space or work stations. Some drivers are paid hourly, some receive day-pay, and some are paid a salary. Drivers who receive hourly pay or day-pay can also receive incentive pay and bonuses for being on time, completing their paperwork correctly, the number of miles they have driven, and the amount of pieces they have delivered. The drivers' schedules vary, as some begin their work at 8:00 p.m., and others start in the early morning; most drivers begin by 11:00 a.m. Drivers use the same time clock as the driver trainer, mechanics, and operations personnel.

B. Driver Trainers

The Employer employs two driver trainers at its facility in Savage, Maryland. According to their job description, driver trainers are part of the human resources department. Driver trainers train full-time and part-time drivers through video presentations and by riding with them. They show drivers how to use equipment, perform pre-trip and post-trip inspections, greet customers, and properly complete paperwork.

Additionally, driver trainers are involved in the hiring process. A driver trainer gives a road test to job applicants for the driver position by riding in a truck as the applicant drives it. The driver trainer discusses the applicant's performance on the road test with Alan Monroe, a recruiter for the Employer. Mike Kelley, one of the driver trainers, testified that the Employer has not hired anyone as a driver whom he thought performed poorly on the road test. In addition

to participating in the hiring process, driver trainers complete paperwork and hold orientations for new drivers.

Driver trainers also perform accident follow-ups by riding in a truck with a driver who has been involved in an accident. Kelley sits on the Employer's accident review committee. The other members of the committee are Mike Flanigan, chief financial officer, Tracy Moore, vice-president of operations, and Joe Saya, fleet manager. The accident review committee examines accidents and discusses what action to take on a driver involved in an accident.

Both driver trainers used to be drivers. They have received training that is similar to the drivers' training, including pallet jack training and regeneration training. Like drivers, the driver trainers use the pallet jacket, hand truck, and Nextel/MobileCast phone. According to their job description, drivers must have a minimum of five years experience driving a commercial vehicle, and/or distributing products to clients, and/or produce experience. They must be able to lift and/or move 75 pounds. They must be able to pass the Maryland Department of Transportation road test and are required to have a Class A, B, or C driver's license.

Driver trainers wear uniforms that are different from the uniforms of all other employees. One of the driver trainers is paid hourly, and the other is a salaried employee. Neither receives incentive pay or bonuses. The driver trainers' schedules vary, as they depend on the schedule of the driver with whom they are riding. Kelley stated that he works five days per week and spends four of those days riding with other drivers.

C. Mechanics

There are approximately 12 mechanics working at the Employer's facility in Savage, Maryland. According to their job description, mechanics are part of the operations department. Mechanics perform preventative maintenance and repairs on trucks. They also perform weekly

audits of the trucks to make sure that the drivers are taking care of the vehicles. Mechanics work in the maintenance shop.

Employer witness Tracy Moore testified that mechanics spend about 25 percent of their time communicating with drivers. They speak with drivers in-person about maintenance issues that drivers have experienced, and they train drivers on preventative maintenance. If a driver experiences trouble with a truck while on the road, he may call the operations office which will transfer him to the maintenance shop so that he can get repair advice over the phone. If the driver cannot fix the truck, a mechanic may go to the driver's location in order to resolve the problem. The mechanic may bring another truck with him so that the driver can use the new truck to continue making deliveries. When this happens, the mechanic will help the driver unload products from the broken truck and load them onto the new truck. Mechanics may also drive trucks to pick up inventory; for example, a mechanic may drive to a Home Depot to get products that the Employer needs.

Mechanics, like drivers, receive pallet jack training, regeneration training, and dual tank truck training. According to their job description, mechanics must have two years of experience in the maintenance of machines and vehicles. They are not required to have a driver's license or to be able to pass a road test. They must be able to lift and/or move 50 pounds. The mechanics' uniforms are different from the drivers' uniforms. Some mechanics are paid hourly, and some are paid a salary. Mechanics' schedules vary; some arrive to work at 7:00 a.m., some arrive at 11:00 a.m., and some work on weekends.

D. <u>Operations Personnel</u>

The Employer asserts that approximately 25 to 28 individuals who work in its operations office should be included in the unit. These individuals are classified as driver check-in

coordinator, manager-on-duty, MobileCast coordinator, operations clerk, Road Net operator, and router.

Driver check-in coordinators meet with drivers who have returned from their routes and review the drivers' paperwork as well as any products that the drivers have returned to the facility. They work at the loading dock, which is outside of the operations office. According to the job description, the driver check-in coordinators also input the drivers' actual times into the Road Net system as needed. They must be have a high school diploma, clerical skills, two to three years of prior work experience, and the ability to move and/or lift up to 75 pounds. Driver check-in coordinators must also be able to respond to client complaints and inquiries, and to read and interpret documents. The job description for the driver check-in coordinator position provides that it is part of the transportation department.

The manager-on-duty (MOD) gives customers' orders and manifests to the drivers. The MOD also assigns deliveries and recoveries to drivers. Tim Blasi, MOD, testified that he runs the day operations and spends 75 percent of his day interacting with drivers. Blasi stated that he sometimes helps drivers load trucks. Blasi works five days per week from 10:00 a.m. until any time between 6:00 p.m. and 10:00 p.m. There are three MODs at the Employer's facility in Savage, Maryland.

The MobileCast coordinator notifies customers when drivers are running late and communicates with drivers to find out how long it will take them arrive at the customers' locations.

Operations clerks[3] handle calls from customers, give drivers their manifests, take calls from drivers while they are on the road, check drivers' paperwork, issue recovery work, record driver pay and mileage, and collect drivers' phones and keys when drivers return from their

[3] This job classification is referred to as "operations administrative support" in Employer's exhibit 10.

routes. Operations clerks sometimes assist drivers with loading and unloading trucks. According to Moore, operations clerks occasionally make deliveries; in October 2010, clerks made a total of three to four deliveries. Moore testified that operations clerks spend 50 to 75 percent of their time communicating with drivers; however, she could only specifically point to one to two hours worth of communication between operations clerks and drivers each day. Operations clerks work from work stations inside the operations office. According to the job description, the operations clerk position is in the operations department. The job description[4] provides that operations clerks must be competent using Microsoft Office, must have a high school diploma or General Education degree, and must be able to lift and/or move up to 25 pounds.

The Road Net operator is in charge of "shipping the driver." Road Net is a software system that allows operations personnel to monitor each route.

Routers coordinate deliveries to ensure that the Employer makes deliveries in the most efficient manner.

Operations personnel who work at night, including operations clerks and driver check-in coordinators, perform regeneration.[5] Some operations personnel use pallet jacks, hand trucks, dock levelers, dock doors, and the MobileCast/Nextel phones; however, the record is unclear as to which specific operations personnel use each of these pieces of equipment or the frequency of their use. Unlike drivers, operations personnel do not fuel trucks or perform pre-trip or post-trip inspections. Operations personnel do not complete the same paperwork that drivers fill out.

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[4] The Employer provided job descriptions only for the driver check-in coordinator and operations clerk.
[5] The regeneration process cleans a truck's engine in order to reduce emissions. Once a truck has been driven a certain number of miles, its engine will automatically shut down, and then the truck must go through the regeneration process in order to run again.

Operations personnel wear a uniform that is different from the uniform worn by drivers. The record evidence suggests that except for the driver check-in coordinators, all other operations personnel work from work stations or desks inside the operations office.

All operations personnel receive an hourly wage rate, except for managers-on-duty, who are salaried employees. Those who are paid an hourly wage rate are eligible for bonuses for being on time. The schedules for operations personnel vary, as the operations office is staffed 24 hours per day, 6 days per week.

II. ANALYSIS

A. Part-Time Drivers

Regular part-time employees are included in a bargaining-unit with full-time employees when the part-time employees perform work within the unit on a regular basis for a sufficient period of time during an appropriate calendar period to demonstrate that they have a substantial and continuing community of interest with the remainder of the unit. *Fleming Foods, Inc.*, 313 NLRB 948 (1994). While no single eligibility formula must be used in every case, the *Davison-Paxon* formula is the most frequently used, absent a showing of special circumstances. Id., citing *Trump Taj Mahal Casino*, 306 NLRB 294, 295 (1992). Under this long-standing formula, employees have a sufficient regularity of employment to illustrate a community of interest with unit employees if they regularly worked an average of four or more hours per week for the last quarter prior to the eligibility date. *Davison-Paxon Co.*, 185 NLRB 21 (1970). In the present case, the evidence demonstrates that part-time drivers have job duties and working conditions that are almost identical to those of full-time drivers. Moreover, the evidence does not demonstrate the existence of any special circumstances which would merit the use of a formula other than that set forth in *Davison-Paxon*. Therefore, part-time drivers are properly included in

the bargaining unit and will be eligible to vote if they have worked an average of four hours or more per week during the last calendar quarter prior to the eligibility date.

B. Community of Interest

In the present case, where the parties dispute which job classifications should be included and excluded from the unit, and where no other labor organization is seeking a unit larger or smaller than that requested by the Petitioner, the sole issue is whether or not the petitioned-for unit is an appropriate unit. *Lonergan Corp.*, 194 NLRB 742, 743 (1972). The Petitioner's desire regarding the unit is a relevant consideration. *Marks Oxygen Co.*, 147 NLRB 228 (1964); *Airco, Inc.*, 273 NLRB 348 (1984). Furthermore, while there may be more than one appropriate unit, it is not essential that the unit be the most appropriate unit. *Bartlett Collins Co.*, 334 NLRB 484 (2001); *Overnite Transportation Co.*, 322 NLRB 723 (1996).

In determining whether a unit is appropriate, the Board examines various factors which tend to show the presence or lack of community of interest in the employees' occupation, particularly their common experience, duties, wages, hours, and other working conditions. *E.H. Koester Bakery Co., Inc.*, 136 NLRB 1006 (1962). Therefore, in order to determine whether the petitioned-for unit, including mechanics, driver trainers, and operations personnel, is an appropriate unit, it is necessary to determine if these employees share such a close community of interest with drivers and yard jockeys that only a combined unit of all those employees is appropriate. To make this determination, I will examine their job description and duties, how they spend their time, where they work, their departmental placement, and their wages and benefits.

1. Driver Trainers

There are both similarities and differences between driver trainers and drivers. The job description for driver trainers shows that they do not have the same job duties as drivers. Driver trainers are responsible for training drivers, participating in the hiring of drivers, evaluating accidents, and riding with drivers who are experiencing trouble on their routes or have been in an accident. The job description also provides that driver trainers are part of the human resources department, while drivers are part of the operations department. According to the record testimony, however, drivers and driver trainers are supervised in common by Driver Manager Walter Vasquez.

Driver trainers have undergone the same training as drivers and have many of the same job requirements as drivers. In addition, when driver trainers perform ride-a-longs, their work schedules mirror those of the drivers they are observing. The record testimony shows that driver trainers spend at least 80 percent of their time with drivers. However, driver trainers are generally riding in trucks to observe and train drivers, and are not actually driving trucks. Also, the record evidence is unclear as to how much of this time is spent observing and evaluating job applicants.

While driver trainers are covered by the same employee handbook and receive the same benefits as drivers, the record provides no evidence of whether driver trainers' wages are similar to those of drivers. Unlike drivers, driver trainers are not eligible for incentives and bonuses. Furthermore, driver trainers do not wear the same uniforms as drivers. As one of the two driver trainers sits on the accident review committee with three managers, as both review drivers' performance and skills, and evaluate and discuss job applicants' skills with the Employer's

recruiter, I find that driver trainers' interests differ in significant respects from those of the drivers.

In summary, I find that the driver trainers do not share such a close community of interest with drivers and yard jockeys that they must be included in the unit in order for the unit to be appropriate.[6]

2. Mechanics

The job description of the mechanics shows that mechanics do not have the same job requirements as drivers. Mechanics also do not perform the same duties as drivers, as mechanics work in the maintenance shop and spend most of their work day performing preventative maintenance on the Employer's trucks. While according to testimony mechanics spend around 25 percent of their time interacting with drivers, most of this contact is with regard to vehicle repairs and maintenance. Mechanics do not share a work space with drivers, and they wear a uniform that is different from those worn by the drivers. Mechanics have a different supervisor than drivers.

While mechanics are covered by the same employee handbook and receive the same benefits, the record provides no evidence of whether mechanics' wages are similar to those of drivers. Because of the foregoing differences, mechanics do not share such a close community of interest with drivers and yard jockeys that they must be included in the unit.

3. Operations Personnel

Operations personnel spend their days checking paperwork, entering drivers' locations into computerized systems, and handling customers' orders. In order to perform these clerical functions, operations personnel communicate with drivers during much of the day. Operations

[6] In view of this result, I find it unnecessary to pass on the Petitioner's assertion that driver trainers are supervisors as defined by Section 2(11) of the Act.

personnel work in and around the operations office, and many work from workstations. Their uniform is different from that worn by the drivers. They have separate immediate supervision from the drivers.[7]

While operations personnel are covered by the same employee handbook and receive the same benefits as drivers, there is no evidence to establish that the wages of operations personnel are similar to those of drivers. Additionally, operations personnel are not eligible for the incentives and bonuses that drivers receive. Because of the foregoing differences, operations personnel do not share such a close community of interest with drivers as to require their inclusion in the unit found appropriate.[8]

III. CONCLUSIONS AND FINDINGS

Based upon the entire record in this matter and in accord with the discussion above, I find and conclude as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.

2. The Employer is an employer as defined in Section 2(2) of the Act and, as stipulated by the parties, is engaged in commerce within the meaning of Sections 2(6) and (7) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.

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[7] The drivers' immediate supervisor is Walter Vasquez. Vasquez does not supervise operations personnel. Only when Vasquez is not in the office do the drivers report to whichever supervisor is in the operations office.

[8] Though the Petitioner asserts that managers-on-duty are supervisors as defined by Section 2(11) of the Act and should therefore be excluded from the unit, because I have found that managers-on-duty do not share a such a close community of interest with drivers such that they must be included in the unit, there is no need to determine the supervisory status of managers-on-duty.

3. The parties stipulated that Drivers, Chauffeurs and Helpers Local Union No. 639 a/w International Brotherhood of Teamsters, is a labor organization as defined in Section 2(5) of the Act, and claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.

5. The parties stipulated that the Employer, Coastal Sunbelt Produce, Inc., a Delaware corporation, is engaged in the business of produce distribution. During the past 12 months a representative period, the Employer, in conducting its business operations described above, purchased goods, products and materials valued in excess of $50,000 directly from points located outside the state of Maryland.

6. I find the following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time drivers and yard jockeys employed by the Employer at its Savage, Maryland facility, but excluding all mechanics, driver trainers, operations personnel, warehouse employees, office clerical employees, confidential employees, managerial employees, professional employees, guards, and supervisors as defined in the Act.

IV. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by Drivers, Chauffeurs and Helpers Local Union No. 639 a/w International Brotherhood of Teamsters. The date, time, and place of the election will be specified in the notice of election that the Regional Office will issue subsequent to this Decision.

A. VOTING ELIGIBILITY

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of issuance of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such a strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

B. EMPLOYER TO SUBMIT LIST OF ELIGIBLE VOTERS

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.* 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within seven (7) days of the date of the issuance of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.) Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, National Labor Relations Board, Region 5, 103 South Gay Street, 8th Floor, Baltimore, MD 21202, on or before **November 26, 2010.** No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted to the Regional Office by electronic filing through the Agency's website www.nlrb.gov, by mail, by hand or courier delivery, or by facsimile transmission at (410) 962-2198. The burden of establishing the timely filing and receipt of this list will continue to be placed on the sending party.

C. NOTICE OF POSTING OBLIGATIONS

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for at least three (3) working days prior to 12:01 a.m. of the day of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least five (5) full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election

notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

RIGHT TO REQUEST REVIEW

Right to Request Review: Pursuant to the provisions of Section 102.67 of the National Labor Relations Board's Rules and Regulations, Series 8, as amended, you may obtain review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, DC 20570-0001. This request for review must contain a complete statement setting forth the facts and reasons on which it is based.

Procedures for Filing a Request for Review: Pursuant to the Board's Rules and Regulations, Sections 102.111 – 102.114, concerning the Service and Filing of Papers, the request for review must be received by the Executive Secretary of the Board in Washington, DC by close of business on **December 3, 2010**, at 5 p.m. (ET), unless filed electronically. **Consistent with the Agency's E-Government initiative, parties are encouraged to file a request for review electronically.** If the request for review is filed electronically, it will be considered timely if the transmission of the entire document through the Agency's website is **accomplished by no later than 11:59 p.m. Eastern Time** on the due date. Please be advised that Section 102.114 of the Board's Rules and Regulations precludes acceptance of a request for review by facsimile transmission. Upon good cause shown, the Board may grant special permission for a longer period within which to file.[9] A copy of the request for review must be

[9] A request for extension of time, which may also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. A request for an extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.

served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations.

Filing a request for review electronically may be accomplished by using the E-filing system on the Agency's website at www.nlrb.gov. Once the website is accessed, select the E-Gov tab and then click on E-filing link on the pull down menu. Click on the "File Documents" button under Board/Office of the Executive Secretary and then follow the directions. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

(SEAL) /s/ Wayne R. Gold

Wayne R. Gold, Regional Director
National Labor Relations Board, Region 5
Dated: November 19, 2010 103 S. Gay Street, 8th Floor
Baltimore, MD 21202