

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

NESTLE DRYER'S ICE CREAM
Employer

and

Case 31-RC-66625

INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 501, AFL-CIO
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.¹

MARK GASTON PEARCE, Chairman

CRAIG BECKER, Member

BRIAN E. HAYES, Member

Dated, Washington, D.C., December 28, 2011.

¹ Member Hayes agrees that a unit of maintenance employees is an appropriate unit. However, he does not rely on *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB No. 83 (2011), or the Regional Director's finding that production employees do not share such an overwhelming community of interest with maintenance employees so as to compel their inclusion in the unit. Instead, Member Hayes finds that, under the traditional community-of-interest test, the interests of the petitioned-for unit are sufficiently distinct from the production employees. See *Newton-Wellesley Hospital*, 250 NLRB 409, 411-412 (1980), cited in his dissent in *Specialty Healthcare*, supra.