

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 8**

**NATIONAL OILWELL VARCO, L.P.**

**Employer**

**and**

**Case 08-RC-174497**

**INTERNATIONAL UNION OF OPERATING  
ENGINEERS, LOCAL 95**

**Petitioner**

**DECISION AND  
CERTIFICATION OF REPRESENTATIVE**

Pursuant to a Stipulated Election Agreement, an election was conducted on May 12, 2016 to determine whether a unit of employees of the Employer wished to be represented for purposes of collective bargaining by the Petitioner. The tally of votes shows that of the 41 eligible voters, 21 cast votes for the Petitioner, 20 cast votes against the Petitioner, and there were no challenged ballots.

On May 29, 2016, the Employer filed a timely objection to the election. Subsequently, a hearing on the objection was held on June 2, 2016. The Hearing Officer issued a Report on Objections on June 24 in which he recommended overruling the objection. On July 8, the Employer filed timely exceptions to the Hearing Officer's Report.

Pursuant to Section 102.69 of the Board's Rules, I have considered the record and the Hearing Officer's Report in light of the Employer's exceptions and arguments. I have decided to adopt the Hearing Officer's findings<sup>1</sup> and recommendations and find that a certification of representative should be issued.<sup>2</sup>

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<sup>1</sup> The Employer does not dispute any of the factual findings of the Hearing Officer but rather bases its objections on his legal analysis and conclusions.

<sup>2</sup> Regarding the Employer's First Exception:

I agree with the Employer that *Chicago Truck Drivers Local 101 (Bake-Line Products)*, 329 NLRB 247 (1999), a case relied on by the Hearing Officer, is not directly on point with the facts of the instant case. As a result, I do not rely on that case. Nevertheless, I agree with the Hearing Officer for the reasons he stated in his Report that the conduct alleged to be objectionable was not coercive and therefore did not affect the outcome of the election.

Regarding the Employer's Second Exception:

In affirming the Hearing Officer, I do not rely on *Whole Foods Market*, 363 NLRB No. 87 (2015), a case cited by him in his Report. Nonetheless, I agree with the Hearing Officer that there was nothing coercive about the conduct the employees engaged in and no evidence that the conduct affected the election outcome. Furthermore, I agree with the Hearing Officer that there was no evidence of an agency relationship between the employee/actors and the Union and thus the Union cannot be held accountable for their conduct. Moreover, the Employer offers no legal authority for its assertion that the Union had an obligation to intervene and put a stop to the employees' conduct.



### **CERTIFICATION OF REPRESENTATIVE**

IT IS CERTIFIED that a majority of the valid ballots have been cast for INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 95, and that it is the exclusive representative of all the employees in the following bargaining unit:

All full -time and regular part -time NDT positions in the old and new mills including inspectors, technicians, notch cutters, maintenance, mechanics, team leads, and operators but excluding all other non —professional employees, professional employees, technical employees, business and clerical employees, managerial employees, temporary employees, guards and supervisors as defined in the Act.

### **REQUEST FOR REVIEW**

Pursuant to Section 102.69(c)(2) of the Board's Rules and Regulations, any party may file with the Board in Washington, DC, a request for review of this decision. The request for review must conform to the requirements of Sections 102.67(e) and (i)(1) of the Board's Rules and must be received by the Board in Washington by August 15, 2016. If no request for review is filed, the decision is final and shall have the same effect as if issued by the Board.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the Request for Review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Dated at Cleveland, Ohio, this 1st day of August, 2016.

/s/Allen Binstock

Allen Binstock  
Regional Director, Region 8  
National Labor Relations Board

