

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

ASARCO LLC and SILVER BELL MINING LLC

Employer/Petitioner

CASE 28-RM-255301

**UNITED STEEL, PAPER AND FORESTRY, RUBBER
MANUFACTURING, ENERGY, ALLIED INDUSTRIAL
AND SERVICE WORKERS INTERNATIONAL
UNION, LOCAL 937**

Union

REQUEST FOR REVIEW

ASARCO LLC and SILVER BELL MINING LLC, (“Asarco”) the Employer/Petitioner in the above proceeding, by their attorneys, Richard A. Russo and Paul H. Burmeister of Davis & Campbell L.L.C., pursuant to Section 102.71(b) of the Board’s Rules, submits the following Request for Review of the February 4, 2020 decision of the Regional Director of Region 28 to hold in abeyance the RM petition filed by Asarco in Case No. 28-RM-25530 (“RM Petition”). This Request is necessary because: (1) a substantial question of law or policy is raised because of the absence of, or a departure from, officially reported Board precedent; (2) there are compelling reasons for reconsideration of an important Board rule or policy; and (3) the Regional Director’s action is, on its face, arbitrary or capricious.

I. Background Facts.

Asarco operates a mining facility in Marana, Arizona (“the Silver Bell Mine”). A bargaining unit consisting of production and maintenance employees at that location is represented

by the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 937 (“the Union”).

On January 28, 2020, Asarco filed the RM Petition. (Exhibit 1) Concurrent with the filing of the RM Petition, Asarco submitted to the Regional Director evidence demonstrating that Asarco maintained a good-faith reasonable uncertainty regarding the majority status of the Union. *Levitz Furniture Co.*, 333 NLRB 717, 727 (2001). The evidence included the following:

- The Union commenced a strike against Asarco on October 13, 2019. Of the 144 employees currently employed by Asarco at the Silver Bell Mine, 128 employees chose not to strike, and another 3 employees abandoned the strike and returned to work. Only 11 employees are currently on strike. 2 employees were on a leave of absence at the time of the strike, and to date, remain inactive employees on leave. (Exhibit 2, Affidavit of Stacy Sinele and attached spreadsheet, Paras. 11-12, submitted to Regional Director with RM Petition)
- Of the 144 employees, on information and belief, only 14 are members of the Union. On information and belief, 66 employees never joined the Union. Additionally, since the strike commenced on October 13, 2019, at least 29 employees have resigned their membership with the Union. Prior to the strike, another 33 had already resigned from the Union (this totals at least 62 who resigned; 2 other employees revoked their authorization for dues deduction, but it is unknown if they resigned from the Union). (Exhibit 2, Affidavit of Stacy Sinele and attached spreadsheet, Paras. 13-14, submitted to Regional Director with RM Petition) In resigning from the Union, each of these employees is indicating that they no longer want the Union to represent them because the revoked Union membership form specifies that the employee is authorizing the

Union to act for the employee as a collective bargaining agent in all matters pertaining to employment at the Silver Bell Mine.

- A number of employees made statements to Asarco regarding their dissatisfaction with the Union, including but not limited to, statements regarding getting rid of the Union, the Union being useless, the workplace being better without a Union, and it being a mistake to join the Union as their loyalty is to Asarco.

These numbers are telling -- 131 out of 142 (92%) active employees choose not to strike, at least 128 out of 142 (90%) employees have chosen not to be members of the Union, and a number of employees have made anti-Union statements and/or expressed a desire not to have a Union. Thus, Asarco has demonstrated that it has a good-faith reasonable uncertainty as to the Union's continued majority status at the Silver Bell Mine under the standards of *Levitz, supra*.

The Regional Director apparently initially accepted the above evidence as sufficient to satisfy the *Levitz* standard, as he issued a Notice of Hearing with respect to the RM Petition, setting a representation hearing for February 5, 2020. (Exhibit 3)

However, on January 27, 2020, after the RM Petition had been filed, the Union filed an unfair labor practice charge against Asarco (28-CA-255235). (Exhibit 4)

On February 3, 2020, the Regional Director issued an order that "pending the investigation and disposition of the *related* unfair labor practice charges" filed against Asarco, the scheduled February 5 hearing would be postponed indefinitely. (Emphasis added) (Exhibit 5) The Regional Director provided no rationale or reasoning supporting the "relatedness" of the charges to the RM Petition.¹

¹ Between January 28 – January 30, 2020, five other unions, representing employees at ASARCO facilities in Sahuarita, Hayden and Kearney, Arizona and Amarillo, Texas, filed identical charges.

On February 4, 2020, the Regional Director then issued a letter stating that the RM Petition filed by Asarco “will be held in abeyance pending the investigation and disposition of the *related* unfair labor practice charges filed against Asarco[.]” (Exhibit 6) No rationale or reasoning supporting the “relatedness” of the charges to the RM Petition was provided by the Regional Director.

After receiving the Regional Director’s February 4 letter, Asarco submitted a letter to the Regional Director that requested, pursuant to NLRB Case-Handling Manual Section 11730.7, that the Regional Director promptly provide to Asarco the specific reasons for his decision to hold the processing of the RM Petition in abeyance. (Exhibit 7) To date, no response has been provided by the Regional Director.

II. The RM Petition Should Be Processed Because the Regional Director’s Action is, on its Face, Arbitrary or Capricious.

- a. The Regional Director did not find that the unfair labor practice charges would interfere with employee free choice in an election or would be inherently inconsistent with the petition itself.

Under Board Rule 103.20, Regional Directors are authorized to hold election petitions in abeyance only if the party requesting the block submits sufficient evidence that the alleged conduct, if proven, “would interfere with employee free choice in an election or would be inherently inconsistent with the petition itself.” 29 C.F.R. 130.20. In this case, no such finding was made by the Regional Director. Rather, the Regional Director only determined that the unfair labor practices were “related” to the RM Petition. This is not the appropriate standard.

As none of those unions represent employees at the Silver Bell Mine such charges are inapposite to the RM Petition. The Regional Director acted erroneously in citing to such charges in his February 4, 2020 decision to hold the RM Petition in abeyance.

The Regional Director's "block" of the RM Petition failed to comply with the standards set by Board Rule 103.20 and is therefore arbitrary and capricious.

- b. The Regional Director failed to comply with the Board's Case Handling Manual by failing to provide Asarco with any reasons for holding the Petition in abeyance.

On February 4, 2020, the Regional Director issued a letter stating that Asarco's RM Petition "will be held in abeyance pending the investigation and disposition of the *related* unfair labor practice charges filed against Asarco[.]" (Exhibit 6) No rationale or reasoning supporting the "relatedness" of the charges to the RM Petition was provided by the Regional Director.

Section 11730.7 of the Board's "Case Handling Manual, Part Two, Representation Proceedings" states as follows:

The Board agent handling the matter should inform the parties of any determinations made with regard to concurrent charges and petitions and the reasons therefor. If any party requests the reasons in writing, the regional director should promptly provide them. If the determination is to hold the petition in abeyance, the letter should also inform the parties of their right to obtain review by the Board of this determination under Sec. 102.71 of the Rules and Regulations. (Emphasis added)

The Regional Director's February 4 letter did not inform Asarco of any "reasons" for holding the RM Petition in abeyance. Pursuant to the above CHM Section, Asarco then submitted a letter to the Regional Director requesting that he promptly provide the specific reasons for his decision to hold the processing of the RM Petition in abeyance. (Exhibit 7) To date, no response has been provided by the Regional Director.

The Regional Director's "block" of the RM Petition failed to comply with the procedures established by the Board in its Case Handling Manual and is therefore arbitrary and capricious.

- c. The unfair labor practice charges do not support a conclusion that the alleged conduct, if proven, would interfere with employee free choice in an election or would be inherently inconsistent with the petition itself under Rule 103.20.

As stated above, the Regional Director's letter of abeyance failed to even articulate any interference the alleged unfair labor practices would have upon employee free choice, let alone set forth any evidence in support thereof. Moreover, Asarco submits that the nature of the unfair labor practice charge at issue is not of such a nature that would, or even could, lead to a subsequent expression of disaffection by the bargaining unit employees at the Silver Bell Mine with the Union under the above standards.

As demonstrated in the showing of good faith reasonable uncertainty, of the 142 active bargaining unit employees, 66 of those employees had *never* joined the Union at any time during their employment. Therefore, any alleged conduct of Asarco within the 180-day period prior to the filing of the charges could not have impacted or affected their decision to disavow union membership. In addition, 30 employees resigned their membership prior to August 1, 2019 (180 days prior to the filing of the charges). (Exhibit 2, Affidavit of Stacy Sinele and attached spreadsheet, Paras. 13-14, submitted to Regional Director with RM Petition). Therefore, a total of 96 of the 142 active employees took their actions of disavowing union membership *prior to* the time any of the alleged unfair labor practices could have affected their free choice.

At the very least, the Board should require the Regional Director to hold a *Saint-Gobain* hearing as a precondition to blocking an election based on the Union's unfair labor practice charge. *Saint- Gobain Abrasives, Inc.*, 342 NLRB 434 (2004). At such an adversarial hearing the Union would have to meet its burden of proof that a "causal nexus" exists. As the Board noted in *Saint-Gobain*, "it is not appropriate to speculate, without facts established in a hearing, that there was a causal relationship between the conduct and the disaffection. To so

speculate is to deny employees their fundamental Section 7 rights.” *Id.* at 434. ²

III. The RM Petition Should Be Processed Because a Substantial Question of Law or Policy is Raised Because of the Absence of, or a Departure from, Officially Reported Board Precedent.

Under the Board’s current blocking policies, the RM petition should be processed as an exception to the blocking policy under the authority of *American Metal Products Co.*, 139 NLRB 601 (1962).

At the time the Petition was filed, a strike against Asarco at the Silver Bell Mine was in progress; 11 bargaining unit employees were on strike.

Section 9(c)(3) of the National Labor Relations Act (“NLRA”), 29 U.S.C 159(c)(3), states:

Employees engaged in an economic strike who are not entitled to reinstatement shall be eligible to vote under such regulations as the Board shall find are consistent with the purposes and provisions of this act in any election conducted *within twelve months after the commencement of the strike.* (Emphasis added)

Although some of the unfair labor practice allegations the Union has filed purportedly relate to the parties’ bargaining, the Board has held that strikers are *presumed to be economic strikers* unless and until they are found by the Board to be unfair labor practice strikers. *Bright Foods, Inc.* 126 NLRB 553 (1960); *Times Square Stores Corporation*, 79 NLRB 361, 365 (1948) (“an initial finding that a strike was caused by unfair labor practices may be made only in unfair labor practice proceedings”). Therefore, the 11 striking employees must, for purposes of the RM

² Asarco acknowledges that the *St. Gobain* case involved a single unfair labor practice, and that under current Board law a *St. Gobain* hearing is only required as a matter of law in instances when the Regional Director dismisses a petition based upon an alleged casual connection, as opposed to holding it in abeyance. *CPL (Linwood) LLC d/b/a Linwood Care Center*, 365 NLRB No. 24 (2017). However, given the Regional Director’s failure to comply with Rule 103.20, discussed above, such a hearing could be an alternative remedy.

Petition, be considered economic strikers who would lose any eligibility to vote in the RM election if such election were held after October 13, 2020.

In *American Metal Products Co.*, *supra*, the union which was in a bargaining relationship with the employer began a strike against the employer on November 14, 1961. The strike continued until January 26, 1962. During the pendency of their labor dispute, the union filed several unfair labor practice charges against the employer, alleging violations of Sections 8(a)(1), (3) and (5) of the Act. On February 28, 1962, the employer filed an RM petition. The union then resumed picketing, and 14 bargaining unit members who had returned to work earlier resumed striking against the employer. The union alleged that the resumed picketing was in protest to employer conduct which the union charged to be a continuation of the employer's unfair labor practices. In directing that the RM petition proceed, the Board stated as follows:

We shall direct an immediate election herein despite the fact that there is pending in the Region a charge filed by the Union alleging violations of Section 8(a)(1), (3), and (5) of the Act. We are cognizant of our usual practice of declining to direct an election in the face of unresolved unfair labor practice charges affecting the unit involved in the representation proceeding, especially where violations of Section 8(a)(5) are alleged. Nevertheless, it is well-settled that this practice is a matter which lies within the discretion of the Board as part of its function of determining whether an election will effectuate the policies of the Act. In view of the pendency of the strike which began on November 14, 1961, we deem it desirable to hold the election within the 12-month period of the strike. We find, therefore, that the direction of an immediate election will effectuate the policies of the Act.

Id. at 604-605 (Emphasis added).

The Board's "Outline of Law and Procedure in Representation Cases", June 2017, (page 126) refers to this principle as an "exception" to the "blocking rules:"

(7) A final exception – not specifically discussed in the CHM – involves strikers. The Board will waive the blocking charge rule in order to hold an election within 12 months of the beginning of an economic strike so as to not exclude strikers. *American Metal Products, Co.*, 139 NLRB 601, 604-605 (1962).

Even if found to warrant issuance of a complaint, it is unlikely that the unfair labor practice charge filed by the Union would be fully adjudicated before the Board and potentially by court review by October 13, 2020 (the 12-month anniversary of the strike). Therefore, the Board should order the Regional Director to process the RM Petition so as to maintain the voting rights of the striking employees.³

IV. The RM Petition Should Be Processed Because There Are Compelling Reasons for Reconsideration of an Important Board Rule or Policy.

NLRA Section 7 grants employees a statutory right to refrain from forming, joining, or assisting a labor organization. 29 U.S.C. § 157. In order to vindicate and support those rights, NLRA Section 9(c)(1)(B) grants employers a statutory right to petition for a decertification election, subject only to the express statutory limitation preventing such an election from being held within twelve months of a previous election. 29 U.S.C. §§ 159(c)(1)(A) & (c)(3). Employees' Section 7 free choice right is the NLRA's paramount concern, and such right should not be delayed based on a Regional Director's unlitigated and unknown conclusions regarding the purported impact of unfair labor practice allegations on employee free choice.

Congress did not establish the Board's "blocking charge" practice. Rather, its creation and application lie within the Board's discretion to effectuate the Act's policies. *Am. Metal Prods. Co.*, 139 NLRB 601, 604-05 (1962). Rather than carry out the Act's purpose, the "blocking charge" policy denies Asarco's and employees' statutory rights.

The Board's "blocking charge" policy operates under a system of "presumptions" that prevent employees from exercising their Sections 7 and 9(c)(1)(A)(ii) statutory rights. As a

³ If the Regional Director dismisses the Union's pending unfair labor practice charge, the RM Petition should be immediately approved for processing.

result, a union can stop any decertification election simply by filing an unfair labor practice charge against an employer, regardless of that charge's veracity. The Board's "blocking charge" policy often denies decertification elections even when, as here, the employees may be unaware of and unaffected by the alleged employer misconduct, or the employees' longstanding disaffection with the Union springs from an independent source.

The Board should reevaluate its discretionary Board policies, such as the Board's "blocking charge" policy, when industrial conditions warrant. *See, e.g., IBM Corp.*, 341 NLRB 1288, 1291 (2004) (holding the Board has a duty to adapt the Act to "changing patterns of industrial life" and the special function of applying the Act's general provisions to the "complexities of industrial life" (citation omitted)). The Board Chairman and several Board members have shown a desire to revisit the blocking charge rules.⁴ Asarco therefore urges the Board to overrule or overhaul its "blocking charge" policies to protect the NLRA's paramount Section 7 free choice rights.

The Board should order Region 28 to proceed to a secret-ballot election without further delay to allow the bargaining unit employees in question to make their own free choice about

⁴ *See Heavy Materials, LLC-St. Croix Div.*, 12-RM-231582, 2109 WL 2353690 (May 30, 2019), (Members Kaplan and Emanuel noting they "would consider revisiting the Board's blocking charge policy in a future appropriate proceeding"); *UFCW Local 951*, 07-RD-228723, 2019 WL 1879483 (April 25, 2019), (Chairman Ring and Member Emanuel noting the same); *Klockner Metals Corp.*, 15-RD-217981, 2019 WL 2287088 (May 17, 2018), (Member Kaplan noting the same and also stating that "he believes an employee's petition for an election should generally not be dismissed or held in abeyance based on contested and unproven allegations of unfair labor practices" *Metro Ambulance Servs.*, 10-RC-208221, 2018 WL 3456223 (July 17, 2018) (Chairman Ring and Member Emanuel stating there are "significant issues with the Board's Election Rule and the law pertaining to blocking charges that potentially frustrate the rights of employees, and they believe the policy should be reconsidered").

whether to continue to be represented by the Union.

WHEREFORE, ASARCO LLC and SILVER BELL MINING LLC request that the Board reverse the Regional Director's decision to hold the processing of the RM Petition in abeyance and direct the Regional Director to process the RM Petition.

Respectfully submitted,

ASARCO LLC and SILVER BELL
MINING LLC

By: 
One of Its Attorneys

February 14, 2020

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CERTIFICATE OF SERVICE

I hereby state that I served a copy of the foregoing Request for Review via electronic mail to (usw937terrazas@gmail.com, gprescott@usw.org, bfickman@usw.org, rspillers@gslaw.org, gbarrett@wardkeenanbarrett.com, and cornele.overstreet@nlrb.gov) and by depositing same in an envelope addressed as follows:

Alexander Terrazas, President
United Steelworkers Local 937
877 South Alvernon Way
Tucson, AZ 85711

Gerald Barrett
Ward, Keenan & Barrett, P.C.
3838 North Central Avenue, Suite 1720
Phoenix, AZ 85012

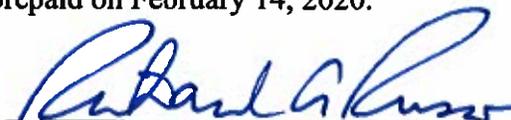
Ryan Spillers
Gilbert & Sackman
3699 Wilshire Boulevard, Suite 1200
Los Angeles, CA 90010

Cornele Overstreet, Regional Director
NLRB, Region 28
2600 North Central Avenue, Suite 1400
Phoenix, AZ 85004

United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied
Industrial and Service Workers International Union, AFL-CIO, CLC
c/o Gaylan Prescott
5 Gateway Center
Pittsburgh, PA 15222

United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied
Industrial and Service Workers International Union, AFL-CIO, CLC
c/o Bruce Fickman, Associate General Counsel
60 Boulevard of the Allies, Room 807
Pittsburgh, PA 15222-1214

and by delivering same by first class mail, postage prepaid on February 14, 2020.


One of Its Attorneys

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EXHIBIT 1

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
RM PETITION

DO NOT WRITE IN THIS SPACE	
Case No.	Date Filed

INSTRUCTIONS: Unless e-Filed using the Agency's website, www.nlrb.gov, submit an original of this Petition to an NLRB Office in the Region in which the employer concerned is located. The petition must be accompanied by a certificate of service showing service on all parties named in the petition of the following: (1) the petition; (2) Statement of Position form; and (3) Description of Procedures in Certification and Decertification Cases (Form NLRB 4812). The petition must also be accompanied by evidence supporting the statement that a labor organization has made a demand for recognition on the employer or that the employer has good faith uncertainty about majority support for an existing representative. However, if the evidence reveals the names and/or number of employees who no longer wish to be represented, the evidence shall not be served on any party.

1. PURPOSE OF THIS PETITION: RM-CERTIFICATION OF REPRESENTATIVE - One or more individuals or labor organizations have presented a claim to the Employer/Petitioner to be recognized as the representative of employees of the Employer/Petitioner or the Employer/Petitioner has a good faith uncertainty about majority support for an existing representative. If a charge under Section 8(b)(7) of the Act has been filed involving the Employer/Petitioner named in this petition, this statement shall not be deemed made. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

2a. Name of Employer/Petitioner: ASARCO LLC and Silver Bell Mining LLC		2b. Address(es) of Establishment(s) Involved (Street and number, City, State, ZIP code): 25000 W. Avra Valley Road, Marana, AZ 85653	
2c. Employer/Petitioner Representative - Name and Title: Stacy Sinele, Director of Human Resources		2d. Address (if same as 2b - state same): 5285 E Williams Circle Suite 2000, Tucson, AZ 85711	

3a. Tel. No. 520-879-7818	3d. Cell No.	3e. Fax No.	3f. E-Mail Address ssinele@asarco.com
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4a. Type of Establishment (Factory, mine, wholesaler, etc.) Mining	4b. Principal Product or Service Copper
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5a. Description of Unit Involved: Included: All production and maintenance employees of the Employer at the Silver Bell Mine Excluded: All office clerical, technical, & professional employees, watchmen and supervisors	5b. City and State where unit is located: Marana, AZ
	5c. Number of Employees in Unit: 144

Unless a charge alleging a violation of Section 8(b)(7) is pending, check EITHER item 7a or 7b, whichever is applicable.
 7a. A labor organization made a demand for recognition on the Employer/Petitioner on (Date) _____
 7b. The Employer/Petitioner has a good faith uncertainty about majority support for an existing representative.

8a. Name of Recognized or Certified Bargaining Agent - Name USW, Local 937 (see 12 below for full name of International Union)		8b. Affiliation, if any. AFL-CIO, CLC	
8c. Address: 877 S Alvernon Way, Tucson, AZ 85711		8d. Tel. No. 602-361-1822	8e. Cell No.
		8f. Fax No.	8g. E-Mail Address usw937terrazas@gmail.com

9. Date of Recognition or Certification Unknown -- sometime prior to May 21, 1999 (28-RD-792)	10. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year) 10/13/2019
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11. Is there now a strike or picketing at the Employer's establishment(s) involved? Yes (Name of Labor Organization) USW, Local 937	If so, approximately how many employees are participating? 11 has picketed the Employer since (Month, Day, Year) 10/13/19
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12. Organizations or individuals other than those named in item 8, which have a contract with the Employer/Petitioner or represent employees of the Employer/Petitioner or demanded recognition as representatives and other organization and individuals known to have a representative interest in any employees in the unit described in item 5 above. (If none, so state)
United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union

12a. Name and affiliation if any AFL-CIO, CLC	12b. Address Five Gateway Center Pittsburgh, PA 15222	12c. Tel. No.	12d. Cell No.
		12e. Fax No.	12f. E-Mail Address gprescott@usw.org

13. Election Details: if the NLRB conducts an election in this matter, state your position with respect to any such election:	13a. Election Type: <input checked="" type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail
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13b. Election Date(s): proposed: 2/18 and 2/19/2020	13c. Election Time(s): proposed: 4:30 - 7:30 am & 5:30 - 7:00 pm	13d. Election Location(s): 25000 W. Avra Valley Road, Marana, AZ 85653
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14. Representative of the Employer/Petitioner who will accept service of all papers for purposes of the representation proceeding.

14a. Name and Title: Stacy Sinele, Director of Human Resources	14b. Address (street and number, city, State and ZIP code): ASARCO LLC 5285 E. Williams Circle, Suite 2000, Tucson, AZ 85711
14c. Tel. No. 520-879-7818	14d. Cell No.
14e. Fax No.	14f. E-Mail Address ssinele@asarco.com

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print) Stacy Sinele	Signature <i>Stacy Sinele</i>	Title Director of Human Resources	Date 1/17/2020
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WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

EXHIBIT 2

AFFIDAVIT OF STACY SINELE

Stacy Sinele, having first been duly sworn, states upon oath as follows:

1. I am employed by ASARCO LLC ("ASARCO") as the Director of Human Resources at ASARCO's office in Tucson, Arizona.
2. ASARCO is a Delaware limited liability company and is a fully integrated miner, smelter, and refiner of copper and other metals. ASARCO currently operates three mines and one processing facility in Arizona and one processing facility in Texas.
3. One of the three mines, located in Marana, Arizona ("Silver Bell Mine"), is owned and operated by Silver Bell Mining LLC ("Silver Bell Mining"). Silver Bell Mining is fully-owned by AR Silver Bell Inc. AR Silver Bell Inc. is a wholly owned subsidiary of ASARCO.
4. Silver Bell Mining has an arrangement with ASARCO for the procurement of administrative services provided by ASARCO, including assisting with the Human Resources and labor relations function at the Silver Bell Mine.
5. The employees at the Silver Bell Mine are represented by the United Steel, Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial & Service Workers International Union, Local 937 ("Union").
6. As Director of Human Resources at ASARCO, I administer and oversee the entire labor relations function at ASARCO, including providing Human Resources and labor and employee relations services to Silver Bell Mining.
7. In providing Human Resources and labor and employee relations services to Silver Bell Mining, I have access to all of the personnel files and employment records at the Silver Bell Mine, including documents provided by employees authorizing deductions for Union dues and regarding Union membership.
8. On October 13, 2019, the Union commenced a strike at the Silver Bell Mine.
9. I am aware of the job status of Silver Bell Mine employees, including which employees are on strike and which employees are working, as well as which employees have notified management at the Silver Bell Mine regarding Union membership.
10. Based on the personnel files and employment records at Silver Bell Mine, I prepared the attached spreadsheet containing the names, job classifications, department, strike status and union membership status of current employees at Silver Bell Mine. *See attached Exhibit 1.*

11. At the time of the strike on October 13, 2019, there were 147 employees in the bargaining unit at the Silver Bell Mine. There are currently 144 bargaining unit employees at the Silver Bell Mine.
12. Of the current employees, 131 employees crossed the picket line and continued to work at the Silver Bell Mine. Of those employees 128 of them never went on strike in the first place, and 3 abandoned the strike and returned to work. At present, there are only 11 employees striking at the Silver Bell Mine. Also, two employees were on a leave of absence at the time of the strike, and to date, remain inactive employees on leave.
13. Of the 144 bargaining unit employees currently employed at the Silver Bell Mine, on information and belief, only 14 of those employees are members of the Union.
14. Also on information and belief, of the 144 current bargaining unit employees, 66 of those employees never joined the Union in the first place, and at least 62 resigned their membership with the Union. This includes 29 employees who resigned since the strike began on October 13, 2019. Two other employees revoked their dues deduction authorizations but it is unknown if they resigned their Union membership.

I have read the foregoing fourteen (14) typewritten paragraphs and the statements contained therein are true and correct to the best of my knowledge and belief.

Stacy Sinele

Stacy Sinele

Subscribed and sworn to before me this 27th day of January, 2020.

Jacqueline Haas

Notary Public

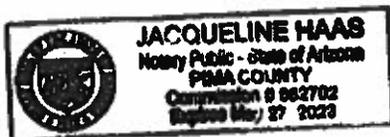


EXHIBIT 1

Emp# ID	Last Name	First Name	Job Code Description	Department	Strike Status	Union Membership Status	Date Resigned from Union
303431	Alocer	Paul	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
303004	Andrade	Nave	Repairman 2nd Class	Plant Maintenance	Did Not Strike	Never Joined	Never Joined
301488	Andrade	Fernando	Repairman 2nd Class	Plant Maintenance	Did Not Strike	Resigned	4/24/2015
245047	Ayers	Gordon	Shovel Operator	Mine Operations	Did Not Strike	Never Joined	Never Joined
302209	Baldass	John	Mechanic 1st Class	Mine Maintenance	Did Not Strike	Resigned	10/16/2019
302857	Baldass	Case	Mechanic 2nd Class	Mine Maintenance	Did Not Strike	Never Joined	Never Joined
246450	Beam	Keger	Repairman 1st Class	Plant Maintenance	Did Not Strike	Resigned	10/14/2019
247573	Belling	Anthony	Mechanic 1st Class	Mine Maintenance	On Strike	Member	Not Applicable
244689	Bentley	Servando	Leadman - Mechanic	Mine Maintenance	Leave of Absence	Member	Not Applicable
301121	Betancourt	Joseph	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
302495	Brody	David	Electrician 1st Class	Electrical Maintenance	Did Not Strike	Never Joined	Never Joined
302800	Brody	Michael	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
302925	Compas	John	Maintenance Laborer	Mine Maintenance	Did Not Strike	Never Joined	Never Joined
302211	Compas	Juan	Leach Operator	SHEW Operations	Did Not Strike	Resigned	4/20/2019
245787	Condo	David	Leach Operator	SHEW Operations	Did Not Strike	Resigned	6/23/2015
300862	Carstoft	Scott	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
247945	Case	Charles	EW Operator	SHEW Operations	On Strike	Member	Not Applicable
300728	Castillo	Mike	Heavy Truck Driver	Mine Operations	Did Not Strike	Resigned	2/2/2015
302888	Castillo	Ramon	Mechanic 1st Class	Mine Maintenance	Did Not Strike	Never Joined	Never Joined
302833	Castro	Jesus	Mechanic 1st Class	Mine Maintenance	Did Not Strike	Resigned	10/16/2019
301858	Christman	James	Mechanic 1st Class	Mine Maintenance	Did Not Strike	Resigned	10/15/2019
302197	Cline	Arthur	Heavy Truck Driver	Mine Operations	Did Not Strike	Resigned	6/9/2017
302610	Colts	Coren	Maintenance Helper	Mine Maintenance	On Strike	Member	Not Applicable
247571	Connelly	Ryan	Mechanic 1st Class	Mine Maintenance	On Strike	Member	Not Applicable
240874	Coto	Robert	SHEW Helper	SHEW Operations	Did Not Strike	Resigned	10/14/2019
302573	Crodonelli	Marcus	Electrician 1st Class	Electrical Maintenance	Did Not Strike	Resigned	11/28/2018
301723	Crowell	John	Heavy Truck Driver	Mine Operations	Did Not Strike	Resigned	10/14/2019
246270	Cuevas	Alfred	Operator	Mine Operations	Did Not Strike	Never Joined	Never Joined
302369	Cullen	Andrew	EW Operator	SHEW Operations	Did Not Strike	Never Joined	Never Joined
302326	Cunningham	Joseph	Mechanic 1st Class	Mine Maintenance	Did Not Strike	Never Joined	Never Joined
302829	Daly	Shane	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
246863	Davis	Michael	Operator	Mine Operations	Did Not Strike	Never Joined	Never Joined
246845	Das	David	Operator	Mine Operations	Did Not Strike	Never Joined	Never Joined
243808	Donahue	Heath	Shovel Operator	Mine Operations	Did Not Strike	Never Joined	Never Joined
302232	Duarte	Bryan	Mechanic 1st Class	Mine Maintenance	Did Not Strike	Resigned	10/15/2019
247634	Fickett	Brandon	Operator	Mine Operations	Did Not Strike	Resigned	10/15/2019
302306	Fisher	William	Heavy Truck Driver	Mine Operations	Did Not Strike	Resigned	12/7/2018
245971	Fisher	Jesus	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
241826	Florence	Widge	Welder 1st Class	Mine Maintenance	Did Not Strike	Resigned	10/14/2019
246329	Foster	Steven	Operator	Mine Operations	Did Not Strike	Resigned	1/16/2015
228785	Garcia	Santiago	Field Laborer	Mine Maintenance	Did Not Strike	Resigned	6/20/2015
302060	Garcia	Luis	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
302828	Gibbons	Michael	SHEW Helper	SHEW Operations	Did Not Strike	Resigned	10/17/2019
301350	Gonzales	Ruben	Heavy Truck Driver	Mine Operations	On Strike	Member	Not Applicable
303087	Gonzalez	Claudio	SHEW Helper	SHEW Operations	Did Not Strike	Never Joined	Never Joined
302736	Guerra	Junior	Welder 1st Class	Mine Maintenance	Did Not Strike	Resigned	10/16/2019
301405	Gullen	Henry	Rotary Drill Operator	Mine Operations	Did Not Strike	Resigned	6/5/2018
245394	Gunshawing	Scotson	SX Operator	SHEW Operations	Did Not Strike	Never Joined	Never Joined
302500	Hall	Richard	Mechanic 1st Class	Mine Maintenance	Did Not Strike	Unknown	10/15/2019
302879	Hanneman	Taylor	Mechanic 2nd Class	Mine Maintenance	Did Not Strike	Never Joined	Never Joined
303840	Hernandez	Ortizlen	Electrician 2nd Class	Electrical Maintenance	Did Not Strike	Never Joined	Never Joined
302869	Hernandez	Josetiah	Mechanic 1st Class	Mine Maintenance	Did Not Strike	Never Joined	Never Joined
302733	Hinkle	Thomas	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
302142	Howard	Chaz	SHEW Laborer	SHEW Operations	Did Not Strike	Never Joined	Never Joined
309110	Iniguez	Gilberto	SHEW Helper	SHEW Operations	Did Not Strike	Never Joined	Never Joined
300796	James	Kerry	EW Operator	SHEW Operations	On Strike	Member	Not Applicable
302856	Jeet	Anthony	Mechanic 2nd Class	Mine Maintenance	Return to Work	Member	Not Applicable
243215	Keston	David	SX Operator	SHEW Operations	Did Not Strike	Resigned	8/2/2015
302885	Kelly	Gaoffroy	Repairman 2nd Class	Plant Maintenance	Did Not Strike	Never Joined	Never Joined
244949	Kent	Russel	Shovel Operator	Mine Operations	Did Not Strike	Never Joined	Never Joined
243385	Kohler	Christopher	Heavy Truck Driver	Mine Operations	Did Not Strike	Resigned	5/2/2019
301449	Kratzschvil	Richard	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
245842	Lang	Boyd	Shovel Operator	Mine Operations	Did Not Strike	Never Joined	Never Joined
302442	Lewis	Ricky	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
303214	Leyman	Nikolaus	Mechanic 2nd Class	Mine Maintenance	Did Not Strike	Never Joined	Never Joined
302734	Lewis	Robert	Electrician 3rd Class	Electrical Maintenance	Did Not Strike	Resigned	10/24/2019
246507	Leonard	James	Leadman - Mechanic	Mine Maintenance	Did Not Strike	Resigned	5/7/2019
302672	Looney	Itle	EW Operator	SHEW Operations	Did Not Strike	Resigned	6/24/2019
301302	Lopez	Jesus	Mechanic 1st Class	Mine Maintenance	Did Not Strike	Resigned	4/18/2018
300834	Lopez	Jesus	Rotary Drill Operator	Mine Operations	Did Not Strike	Resigned	7/10/2013
302801	Lovisco	Wayne	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined

301500	Loftig	Joseph	Mechanic 1st Class	Mine Maintenance	Did Not Strike	Resigned	7/7/2015
247370	Maggard	Matthew	Mechanic 1st Class	Mine Maintenance	Did Not Strike	Resigned	10/14/2019
243040	Majica	Rene	Shovel Operator	Mine Operations	Did Not Strike	Resigned	1/15/2019
301377	Marquez	Jason	Leadman - Leach	SHEW Operations	Did Not Strike	Resigned	6/23/2015
300806	McCaleb	Jonathan	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
301385	McCarly	Tara	Heavy Truck Driver	Mine Operations	Did Not Strike	Resigned	10/14/2019
301513	McCarly	Luke	Rotary Drill Operator	Mine Operations	Did Not Strike	Never Joined	Never Joined
241939	McDonald	William	Leach Operator	SHEW Operations	Did Not Strike	Resigned	12/7/2017
301884	McKay	William	Welder 1st Class	Mine Maintenance	Did Not Strike	Never Joined	Never Joined
240908	Mendosa	Marnel	EW Operator	SHEW Operations	Did Not Strike	Resigned	10/14/2019
301443	Melner	Phillip	Leach Operator	SHEW Operations	Did Not Strike	Resigned	10/15/2019
301160	Muscat	Ronald	Welder 1st Class	Mine Maintenance	Did Not Strike	Resigned	10/15/2019
301470	Murphy	Katherine	Heavy Truck Driver	Mine Operations	Did Not Strike	Resigned	8/1/2019
302005	Murphy	Michael	Rotary Drill Operator	Mine Operations	Did Not Strike	Never Joined	Never Joined
302156	Quandine	Dary	Heavy Truck Driver	Mine Operations	Did Not Strike	Resigned	8/1/2017
301630	Perez	Robert	EW Operator	SHEW Operations	Did Not Strike	Resigned	10/14/2019
303140	Petty, Jr.	Aaron	Mechanic 2nd Class	Mine Maintenance	Did Not Strike	Never Joined	Never Joined
247970	Pinedo	Raul	Welder 1st Class	Mine Maintenance	Did Not Strike	Unknown	10/14/2018
301885	Pitts	Joseph	Electrician 1st Class	Electrical Maintenance	Did Not Strike	Never Joined	Never Joined
302379	Platt	John	EW Operator	SHEW Operations	Did Not Strike	Resigned	1/15/2019
301636	Polacco	Alberto	Heavy Truck Driver	Mine Operations	On Strike	Member	Not Applicable
301855	Prica	Ryan	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
301057	Prince	Kathy	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
245383	Quirk	Carlin	SX Operator	SHEW Operations	Did Not Strike	Never Joined	Never Joined
249834	Quilke	Adam	EW Operator	SHEW Operations	Did Not Strike	Resigned	9/5/2019
300768	Ramos	Daniel	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
301724	Ramos Lopez	Humberto	Welder 1st Class	Mine Maintenance	Did Not Strike	Never Joined	Never Joined
301930	Raney	Nolan	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
246364	Rangel	Gilberto	SX Operator	SHEW Operations	Did Not Strike	Resigned	10/14/2019
247131	Reynolds	Mason	Repairman 1st Class	Plant Maintenance	Did Not Strike	Resigned	7/15/2013
246285	Romero	Guillermo	Mechanic 1st Class	Mine Maintenance	Did Not Strike	Resigned	10/14/2019
301832	Rosette	Thomas	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
247429	Royal	Margaret	Mechanic 1st Class	Mine Maintenance	Did Not Strike	Resigned	10/14/2019
242730	Royal	Sabino	Welder 1st Class	Mine Maintenance	Did Not Strike	Resigned	8/15/2014
301213	Saldar	Christian	SHEW Laborer	SHEW Operations	Did Not Strike	Never Joined	Never Joined
241294	Sanger	Douglas	Leadman - Repair	Plant Maintenance	Did Not Strike	Resigned	12/5/2016
240041	Santacruz	Ronald	Dozer Operator	Mine Operations	Did Not Strike	Resigned	7/1/2015
245213	Schmitt	Gregory	Sampler	SHEW Operations	On Strike	Member	Not Applicable
300911	Schumacher	Mark	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
302956	Schnitzow	Michael	Welder 1st Class	Mine Maintenance	Did Not Strike	Resigned	10/14/2019
244807	Schwartz	Robert	Shovel Operator	Mine Operations	Did Not Strike	Resigned	8/1/2002
240419	Shurtell	Jody	Dozer Operator	Mine Operations	Did Not Strike	Never Joined	Never Joined
245973	Sims	Henry	Shovel Operator	Mine Operations	Did Not Strike	Never Joined	Never Joined
240510	Smith	Daniel	Leadman - Leach	SHEW Operations	Did Not Strike	Resigned	10/15/2019
301723	Spencer	Jason	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
301212	Spencer	Ryan	SHEW Laborer	SHEW Operations	Did Not Strike	Never Joined	Never Joined
302876	Stahlkopf	Germen	Heavy Truck Driver	Mine Operations	Did Not Strike	Resigned	10/14/2019
302296	Stahlkopf	Germen	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
302837	Steen	Mark	Mechanic 1st Class	Mine Maintenance	Did Not Strike	Never Joined	Never Joined
240546	Stewart	Randy	Dozer Operator	Mine Operations	Did Not Strike	Resigned	10/17/2019
300931	Swisher	Willy	Pseudoman	Mine Operations	Did Not Strike	Never Joined	Never Joined
300560	Telles	Michelle	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
300115	Telles	Daniel	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
301388	Teran	Victor	Electrician 1st Class	Electrical Maintenance	Did Not Strike	Never Joined	Never Joined
302279	Thompson	Kenneth	Mechanic 1st Class	Mine Maintenance	Did Not Strike	Never Joined	Never Joined
240409	Tindaroth	Brian	Shovel Operator	Mine Operations	Did Not Strike	Never Joined	Never Joined
302309	Trujillo	Steffen	Electrician 1st Class	Electrical Maintenance	On Strike	Member	Not Applicable
300732	Tucker	Clint	Repairman 1st Class	Plant Maintenance	Did Not Strike	Resigned	10/14/2019
302624	Valencia	Isidro	Maintenance Helper	Mine Maintenance	Return to Work	Resigned	10/20/2019
242440	Valencia	Isidro	Repairman 2nd Class	Plant Maintenance	Return to Work	Member	Not Applicable
301039	Valenzuela	Daniel	Electrician 2nd Class	Electrical Maintenance	Did Not Strike	Never Joined	Never Joined
302380	Valenzuela	Frank	Leach Operator	SHEW Operations	Did Not Strike	Resigned	10/14/2019
302908	Vazquez	Julian	Leach Operator	SHEW Operations	Did Not Strike	Resigned	10/10/2018
302952	Vella-Schoch	Chance	EW Operator	SHEW Operations	On Strike	Member	Not Applicable
230806	Wagster	David	Dozer Operator	Mine Operations	Did Not Strike	Never Joined	Never Joined
302882	Wesley	Clyde	SHEW Helper	SHEW Operations	Leave of Absence	Member	Not Applicable
242987	White	Kevin	Electrician 1st Class	Electrical Maintenance	Did Not Strike	Resigned	7/13/2015
302480	Witt	Samuel	Powderman	Mine Operations	Did Not Strike	Never Joined	Never Joined
243805	Wockhuck	Karl	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
302906	Wyntz	Christopher	Welder 1st Class	Mine Maintenance	On Strike	Resigned	10/14/2019
300688	Yount	Matthew	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
301729	Zikhe	Lyle	Heavy Truck Driver	Mine Operations	Did Not Strike	Never Joined	Never Joined
302151	Zikhe	Lyle	Leadman - Electrician	Electrical Maintenance	Did Not Strike	Resigned	11/20/2018
302632	Zona	Robert	Heavy Truck Driver	Mine Operations	Did Not Strike	Resigned	10/15/2019

EXHIBIT 3



UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28



ASARCO LLC AND SILVER BELL MINING LLC

Employer/Petitioner

and

**UNITED STEEL, PAPER AND FORESTRY, RUBBER,
MANUFACTURING, ENERGY, ALLIED INDUSTRIAL
AND SERVICE WORKERS INTERNATIONAL UNION,
LOCAL 937, AFL-CIO, CLC**

Union

Case 28-RM-255301

NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 AM on **Wednesday, February 5, 2020** and on consecutive days thereafter until concluded, at the National Labor Relations Board Hearing Room, 2600 North Central Avenue, Suite 1400, Phoenix, AZ 85004, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, ASARCO LLC and Silver Bell Mining LLC must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **Noon Mountain Standard time on Tuesday, February 4, 2020**. The Statement of Position may be E-Filed but, unlike other E-Filed documents, must be filed by noon Mountain Standard on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position is not required to be filed.

Dated: January 28, 2020

Cornele A. Overstreet, Regional Director
National Labor Relations Board - Region 28

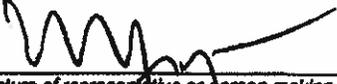
EXHIBIT 4

UNITED STATES OF AMERICA
 NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case	Date Filed

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT			
a. Name of Employer ASARCO LLC		b. Tel. No. 520-879-7818	
		c. Cell No. 520-879-7818	
d. Address (street, city, state, and ZIP code) 5285 E. Williams Circle, Suite 2000 Tucson, AZ 85711		e. Employer Representative Stacy Sinele	
		Fax No. Unknown	
		g. E-Mail SSinele@asarco.com	
		h. Number of workers employed 1,750	
i. Type of Establishment (factory, mine, wholesaler, etc.) Mine and smelter		j. Identify principal product or service Copper	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a), subsections (1) and (1st subsections) (3) and (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) <p style="text-align: center;">SEE ATTACHMENT A</p>			
3. Full name of party filing charge (if labor organization, give full name, including local name and number) United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied-Industrial and Service Workers International Union, AFL-CIO/CLC			
4a. Address (street and number, city, state and ZIP code) Bruce Fickman United Steelworkers 60 Boulevard of the Allies Pittsburgh, PA 15222		4b. Tel. No. 412-562-2540	
		4c. Cell No.	
		4d. Fax No. 412-562-2429	
		4e. E-Mail: bfickman@usw.org	
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization). United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO/CLC			
6. DECLARATION			
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.			
By  (signature of representative or person making charge)		Tel. No. 412-562-2540	
Address: 60 Boulevard of the Allies Room 807 Pittsburgh, PA 15222		Office, if any, Cell No.	
Date: January 27, 2020		Fax No. 412-562-2429	
		e-Mail bfickman@usw.org	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. §151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

ATTACHMENT A

Within the 10(b) period, the Employer, acting through its managers, supervisors, agents and representatives, has violated the Act in the following manner:

1. The Employer failed to bargain in good faith over mandatory subject of bargaining;
2. The Employer engaged in dilatory bargaining tactics;
3. The Employer's bargaining table agents and representatives lack sufficient authority to bargain over mandatory subjects of bargaining;
4. The Employer failed to timely provide relevant and necessary bargaining information;
5. The Employer unilaterally implemented its "last, best and final offer" when there was no bargaining impasse;
6. The Employer's unilaterally implemented "Copper Price Bonus" proposal discriminates against employees to discourage membership in and support for the Unions;
7. The Employer threatened to hire permanent replacement workers;
8. The Employer hired permanent replacements to replace bargaining unit employees engaged in an unfair labor practice strike;
9. The Employer solicited employees to resign their full membership from the Unions;
10. The Employer removed union literature from employee break areas; and,
11. The Employer engaged in surveillance and/or has given the appearance of surveillance of employees engaged in peaceful Section 7 activities.

EXHIBIT 5

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28**

ASARCO LLC and SILVER BELL MINING LLC

Employer/Petitioner

and

Case 28-RM-255301

**UNITED STEEL, PAPER AND FORESTRY, RUBBER,
MANUFACTURING, ENERGY, ALLIED
INDUSTRIAL AND SERVICE WORKERS
INTERNATIONAL UNION, LOCAL 937**

Union

ORDER POSTPONING HEARING INDEFINITELY

Pending the investigation and disposition of the related unfair labor practice charges filed against the Employer/Petitioner in Cases 28-CA-255235, 28-CA-255412, 28-CA-255460, 28-CA-255482, 28-CA-255487, and 28-CA-255492,

IT IS ORDERED that the pre-election hearing scheduled for February 5, 2020, be, and it is, postponed indefinitely.

Dated at Phoenix, Arizona, this 3rd day of February, 2020.

/s/ Cornele A. Overstreet

Cornele A. Overstreet, Regional Director

EXHIBIT 6



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 28
2600 North Central Avenue
Suite 1400
Phoenix, AZ 85004

Agency Website: www.nlrb.gov
Telephone: (602)640-2160
Fax: (602)640-2178

February 4, 2020

Ryan Spillers, Attorney at Law
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3699 Wilshire Boulevard, Suite 1200
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Richard A. Russo, Attorney at Law
Davis and Campbell, L.L.C.
401 Main Street, Suite 1600
Peoria, IL 61602-1241
E-mail: rarusso@dcamplaw.com

Bruce Fickman, Attorney at Law
United Steel, Paper & Forestry, Rubber,
Manufacturing, Allied Industrial & Service Workers
International Union, AFL-CIO/CLC
60 Boulevard of the Allies, Room 807
Pittsburgh, PA 15222
E-mail: bfickman@usw.org

Re: ASARCO LLC and Silver Bell Mining LLC
Case 28-RM-255301

Dear Counsel:

This is to notify you that the petition in the above-captioned case will be held in abeyance pending the investigation and disposition of the related unfair labor practice charges filed against ASARCO LLC in Cases 28-CA-255235, 28-CA-255412, 28-CA-255460, 28-CA-255482, 28-CA-255487 and 28-CA-255492.

Right to Request Review: Pursuant to Section 102.71 of the National Labor Relations Board's Rules and Regulations, you may obtain a review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. The request for review shall be submitted in eight copies, unless filed electronically, with a copy filed with the regional director, and all copies must be served on

February 4, 2020

all the other parties. The request must contain a complete statement setting forth facts and reasons upon which the request is based.

Procedures for Filing Request for Review: A request for review must be received by the Executive Secretary of the Board in Washington, DC, by close of business (5 p.m. Eastern Time) on February 18, 2020, unless filed electronically. If 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 February 18, 2020.

Pursuant to Section 102.5 of the Board's Rules and Regulations, a request for review must be filed by electronically submitting (E-Filing) it through the Agency's web site (www.nlr.gov), unless the party filing the request for review does not have access to the means for filing electronically or filing electronically would impose an undue burden. A request for review filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Section 102.5(e) of the Board's Rules do not permit a request for review to be filed by facsimile transmission. A copy of the request for review must be 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.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. 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.

The Board may grant special permission an extension of time within which to file a request for review. 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.

Very truly yours,

/s/ Cornele A. Overstreet

Cornele A. Overstreet
Regional Director

cc: see attached

February 4, 2020

cc: Office of the Executive Secretary

Stacy Sinele, Director of Human Resources
ASARCO LLC and Silver Bell Mining LLC
5285 East Williams Circle, Suite 2000
Tucson, AZ 85711-7711
E-mail: ssinele@asarco.com

Alexander Terrazas
United Steel, Paper and Forestry, Rubber,
Manufacturing, Energy, Allied Industrial and Service
Workers International Union, Local 937
877 South Alvernon Way
Tucson, AZ 85711
E-mail: usw937terrazas@gmail.com

Gaylan Z. Prescott, District Director
United Steel, Paper and Forestry, Rubber,
Manufacturing, Energy, Allied Industrial and Service
Workers International Union, AFL-CIO, CLC
5 Gateway Center
Pittsburgh, PA 15222
Email: gprescott@usw.org

CAO:KAS:mhz

EXHIBIT 7

DAVIS & CAMPBELL L.L.C.

FILE NUMBER: 32248-021

February 4, 2020

VIA ELECTRONIC MAIL & FEDERAL EXPRESS

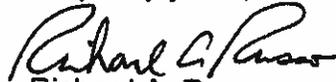
Cornele A. Overstreet
Regional Director
National Labor Relations Board
Region 28
2600 N. Central Ave, Suite 1400
Phoenix, AZ 85004

Re: ASARCO LLC and Silver Bell Mining LLC
Case 28-RM-255301

Dear Mr. Overstreet:

Pursuant to Section 11730.7 of the NLRB's Case Handling Manual Part II Representation Proceedings, Petitioner ASARCO LLC and Silver Bell Mining LLC hereby requests that you promptly provide, to the Petitioner, the specific reasons for your decision to hold the above-referenced matter in abeyance pending the investigation and disposition of certain unfair labor practice charges cited in your February 4, 2020 letter.

Very truly yours,


Richard A. Russo