



United States Government

NATIONAL LABOR RELATIONS BOARD

Office of the Executive Secretary

1015 Half Street, SE

Washington, DC 20570

November 5, 2020

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Ogletree, Deakins, Nash,
Smoak & Stewart, P.C.
Preston Commons West
8117 Preston Road, Suite 500
Dallas, TX 75225
Counsels for the Employer

Re: Lazarus Energy Holdings, LLC
Case 16-RC-266439

Dear Counsels:

This letter acknowledges receipt of the Employer's Motion to Reopen the Record, for Reconsideration of the Decision and Direction of Election, and Motion to Dismiss Petition ("the Motion") in the above-referenced case. The Employer requests that the Board direct the Regional Director to reopen the record, reconsider his decision, and dismiss the petition.

Section 102.65(e)(2) of the Board's Rules and Regulations provides, in relevant part, that a motion for reconsideration must be filed following service of the decision, and that a motion to reopen the record must be filed promptly on discovery of the evidence sought to be adduced.

Here, the Motion should have been filed with the Region, not the Board. Rule 102.65(e)(2) requires that a motion for reconsideration be filed after the decision has issued but here the Regional Director, not the Board, has issued a decision. Similarly, the Regional Director has not yet considered the additional evidence that the Employer seeks to adduce. To the extent the Employer is requesting that the Board order the Regional Director to dismiss the petition without the possibility that his reconsideration may result in him affirming his decision, this amounts to a motion to dismiss filed directly with the Board, which the rules do not contemplate. See Rule 102.65(a) (requiring that motions made prior to the transfer of the record to the Board be filed with the Regional Director); see also Rule 102.71 (permitting review of a Regional Director's decision to dismiss but omitting mention of a motion to dismiss filed directly with the Board).

Accordingly, the Motion is hereby transferred to the Regional Director for his consideration, and will not be ruled on by the Board.¹

Very truly yours,

/s/ Mark G. Eskenazi
Associate Executive Secretary

cc: Parties
Region 16

¹ The Employer's Emergency Motion to Stay Mail Ballot Election and Request for Review of the Regional Director's Decision and Direction of Election remains before the Board for its consideration.