

**Brannan Sand & Gravel and Local 13, International Brotherhood of Teamsters, AFL-CIO, Petitioner.** Case 27-RM-619

September 22, 1992

ORDER DENYING REVIEW

BY MEMBERS DEVANEY, OVIATT, AND  
RAUDABAUGH

The Board has delegated its authority in this proceeding to a three-member panel. The Employer's request for review of the Regional Director's administrative dismissal of the instant petition is denied as it raises no substantial issues warranting reversal of the Regional Director's action. The dismissal of the petition is affirmed, but on the following grounds.

The Union was certified as the exclusive bargaining representative of a unit of drivers, oilers, and tiremen on November 15, 1990. The parties apparently engaged in numerous collective-bargaining sessions from that time until sometime in the spring of 1992. On July 9, 1992, a complaint issued in Cases 27-CA-12223 and 27-CA-12223-2, alleging, inter alia, that the Employer violated Section 8(a)(1) and (5) of the Act by refusing to recognize and bargain with the Union by refusing to meet, by unilaterally making changes in the unit employees' health insurance plan, and by direct

dealing with the employees regarding their wages and working conditions.

The Employer filed the instant petition on the same day. On July 21, 1992, after an administrative investigation, the Regional Director dismissed the petition on the ground that the Employer's objective considerations were insufficient to establish a good-faith doubt of the Union's majority status.

In denying review, however, we do not find it necessary or appropriate to consider the grounds relied on by the Regional Director for his dismissal, or the exceptions taken by the Employer, as we find that the issues presented by this RM petition as to the Employer's objective considerations are inextricably intertwined with those presented in the pending unfair labor practice cases. Thus, if the General Counsel prevails on the 8(a)(5) aspect of that complaint, the Union will be found to have been the majority representative at the time of the filing of the instant petition, and an affirmative bargaining order will result which will preclude the existence of a question concerning representation. *Big Three Industries*, 201 NLRB 197 (1973).

Accordingly, the Board affirms the Regional Director's dismissal solely on the foregoing grounds, without passing on the merits of any other contentions, but subject to the reinstatement of the petition after disposition of the pending unfair labor practice cases.