

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 27**

**SWCA, INCORPORATED D/B/A SWCA
ENVIRONMENTAL CONSULTANTS**

Employer/Petitioner

and

Case 27-RM-359491

**INTERNATIONAL BROTHERHOOD OF
TEAMSTERS LOCAL 455**

Union

SUPPLEMENTAL DECISION AND DIRECTION OF ELECTION

I. Background

On June 12, 2025, a Decision and Direction of Election issued that defined an appropriate unit for purposes of collective bargaining within the meaning of Section 9(b) of the Act as:

Professional Unit: Voting Group A

Included: All full-time and regular part-time Assistant Project Archaeologists, Staff Archaeologists, and Assistant Staff Archaeologists employed by the Employer at or out of its Broomfield, Colorado office.

Excluded: Associate Project Managers, Staff Compliance Monitors, Assistant Staff Compliance Monitors, all non-professional employees, confidential employees, managerial employees, guards, and supervisors as defined in the Act.

Others Permitted to Vote: At this time, no decision has been made regarding whether the individuals in the stand-alone classification of “Archaeologist” employed by the Employer at or out of its Broomfield, Colorado office are included in, or excluded from, the Professional Unit, and individuals in that classification may vote in Voting Group A, but their ballots will be challenged since their eligibility has not been resolved. The eligibility or inclusion of these individuals will be resolved, if necessary, following the election.

Non-Professional Unit: Voting Group B

Included: All full-time and regular part-time, non-temporary, nonsupervisory Cultural Resources Technicians employed by the Employer at or out of its Broomfield, Colorado office.

Excluded: Associate Project Managers, Staff Compliance Monitors, Assistant Staff Compliance Monitors, all professional employees, confidential employees, managerial employees, guards, and supervisors as defined in the Act.

OR

In the event the majority of voters in the professional unit (Voting Group A) vote to be included in a unit with non-professional employees (Voting Group B), the following combined unit is appropriate:

Combined Unit

Included: All full-time and regular part-time Assistant Project Archaeologists, Staff Archaeologists, Assistant Staff Archaeologists, and non-temporary, nonsupervisory Cultural Resources Technicians employed by the Employer at or out of its Broomfield, Colorado office.

Excluded: Associate Project Managers, Staff Compliance Monitors, Assistant Staff Compliance Monitors, confidential employees, managerial employees, guards, and supervisors as defined in the Act.

Others Permitted to Vote: At this time, no decision has been made regarding whether the individuals in the stand-alone classification of “Archaeologist” employed by the Employer at or out of its Broomfield, Colorado office are included in, or excluded from, the Combined Unit, and individuals in that classification may vote in Voting Group A, but their ballots will be challenged since their eligibility has not been resolved. The eligibility or inclusion of these individuals will be resolved, if necessary, following the election.

Voting Procedure

Since the Combined Unit includes professionals and non-professional employees who cannot be joined in a single unit without the desires of the professional employees being determined in a separate vote, elections will be conducted in the Voting Groups identified above with Professional employees voting in Voting Group A and Non-Professional employees voting in Voting Group B (the Decision then listed the questions that would be on each of the ballots).

As indicated, professional employees will vote separately as to whether or not they wish to be included in the same bargaining unit with non-professional employees. If a majority of the professional employees in Voting Group A vote “Yes” to the first question indicating their wish to be included in a unit with non-professional employees, they will be so included in the overall Combined Unit, as described above. Their votes on the second question will then be counted together with the votes of the non-professional employees in Voting Group B to decide whether the Petitioner has been selected to represent the Combined Unit. If a majority of the professional employees in Voting Group A do not vote for inclusion in the same bargaining unit with non-professional employees, they will not be included with the nonprofessional employees. Their votes on the second question will be counted to decide whether they wish to be represented by the Petitioner in a separate professional unit and the votes in Voting Group B will be counted separately. In the event that the professionals vote for separate representation, the separate appropriate units will be described as set forth in voting Group A and voting Group B above.

II. Appropriate Unit is Amended

The voter list(s) submitted by the Employer/Petitioner after the Decision and Direction of election issued revealed there were no employees in the non-professional voting group and no employees employed in a stand-alone classification of “Archaeologist”. The Union does not dispute that there are no employees in the non-professional voting group and that no employees are employed in a stand-alone classification of “Archaeologist”. It is well settled that the Board requires that each voting group have a substantial and representative complement of employees at the time of election. *St. John Hosp., Inc.*, 260 NLRB 905 (1982). In light of the fact there is not a substantial and representative complement of non-professional employees employed by the Employer/Petitioner, conducting an election where professional and non-professional employees constitute separate voting groups is no longer appropriate. Moreover, where there are no employees employed in a stand-alone classification of “Archeologists”, there is no basis on which to include them as “Others Permitted to Vote”. Thus, the appropriate unit is hereby amended as follows:

Included: All full-time and regular part-time Assistant Project Archaeologists, Staff Archaeologists, and Assistant Staff Archaeologists employed by the Employer at or out of its Broomfield, Colorado office.

Excluded: Associate Project Managers, Staff Compliance Monitors, Assistant Staff Compliance Monitors, all non-professional employees, confidential employees, managerial employees, guards, and supervisors as defined in the Act.

A. Election Details

The election will still be held on **Wednesday, July 2, 2025** from 12:00 p.m. (noon) to 2:00 p.m. in the small conference room in the Employer’s facility located at 295 Interlocken Boulevard, #300, Broomfield, Colorado 80021.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **May 31, 2025**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. In a mail ballot election, employees are eligible to vote if they are in the unit on both the payroll period ending date and on the date they mail in their ballots to the Board's designated office.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period, and, in a mail ballot election, before they mail in their ballots to the Board's designated office; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(1) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **Thursday, June 26, 2025**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region 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.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.¹

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Amended Notice of Election accompanying this Supplemental Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Amended Notice must be posted so all pages of the Amended Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Amended Notice of Election electronically to those employees. The Employer must post copies of the Amended Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. In this case, the Amended Notice must be posted and distributed no later than **12:01 a.m. on June 27, 2025**. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Supplemental Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review must be E-Filed through the Agency's website and may not be filed by facsimile. To E-File the request for review, go to 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, and must be accompanied by a statement explaining the

¹ The Union waived the appropriate number of days with the voter list to ensure the election could remain on July 2, 2025.

circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden. 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. Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated: June 24, 2025



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