

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

MOUNTAIN WEST HOLDING COMPANY

Employer

and

Case 27-RD-378868

JOHN FISHER, AN INDIVIDUAL

Petitioner

and

**MONTANA LABORERS LOCAL NO. 1686,
AFFILIATED WITH LABORERS
INTERNATIONAL UNION OF NORTH
AMERICA, AFL-CIO**

Union

DECISION AND DIRECTION OF ELECTION

Mountain West Holding Company (“Employer”), is a Montana corporation, engaged in traffic safety services and equipment for the road repair and maintenance industry. On January 13, 2026¹, John Fisher, an Individual (“Petitioner”) filed a petition for an election seeking to decertify the existing collective-bargaining representative, Montana Laborers Local 1686 (“Union”).

A videoconference hearing was held on January 22, before a hearing officer of the National Labor Relations Board (“Board”). At the hearing, the parties submitted a joint exhibit and entered into joint stipulations. Accordingly, the only unresolved issue is whether the election should be conducted as a manual, mail, or mixed manual-mail ballot method. Although election arrangements, including the voting method, are not litigable matters at a pre-election hearing, the positions of the parties were solicited for consideration.

The Board has delegated its authority in this proceeding to me under Section 3(b) of the Act. Having considered the entire record in this proceeding, relevant Board law, and the positions of the parties, I find that because the eligible voters are scattered across the state of Montana and because it would be the most efficient use of Board resources, a full mail-ballot election is warranted.

BACKGROUND

The Employer is engaged in the construction industry performing traffic safety services and equipment for the road repair and maintenance industry. The Employer’s employees work on

¹ All dates are 2026.

projects throughout the state of Montana. The Employer has a principal office and facility located at 1107 Howard Street, Butte, Montana 59701; however, the Employer also has facilities located at 290 Pronghorn Trail, Suite 6, Bozeman, Montana 59718; 9077 Oliver Road, Missoula, Montana 59808; and 445 Sugar Avenue, Billings, Montana 59101. Although the Employer's projects are not limited to the Employer's facilities, employees tend to visit offices. Most of the Employer's projects are completed during the warmer months. As a result, the majority of the Employer's employees do not work during the winter months.

The parties stipulated that given that the Employer employs employees in the construction industry, the formula set forth in *Daniel Construction Co.*, 133 NLRB 264 (1961), and *Steiny & Co.*, 308 NLRB 1323 (1992) is the appropriate eligibility formula to utilize in this matter. There are approximately 155 eligible voters in the bargaining unit. However, as of the date the hearing was conducted, only 28 employees are actively working for the Employer from the above-listed facilities. Ten employees currently work out of the Missoula facility, while six employees work from each of the remaining facilities in Billings, Bozeman, and Butte.²

I take administrative notice of the distance between the Employer's facilities. *See Bud Antle, Inc.*, 361 NLRB 873 (2014), (incorporating by reference *Bud Antle, Inc.*, 359 NLRB 1257 (2013), and specifically footnote 3 of 359 NLRB at 1257, where the Board takes administrative notice of approximate distances based on Google Maps). The approximate distance from the Employer's facility in Bozeman, Montana, to the Employer's facility in Billings, Montana, is 154 miles. The approximate distance from the Employer's facility in Bozeman, Montana, to the Employer's facility in Butte, Montana, is 80 miles. Lastly, the approximate distance from the Employer's facility in Billings, Montana, to the Employer's facility in Missoula, Montana, is 131 miles. The distance has been determined using Google Maps (<https://www.google.com/maps>).

As shown by the list of voters submitted by the Employer with its Statement of Position, eligible voters live throughout the state of Montana, with at least three voters whose current home address is in states other than Montana. There is no information regarding the eligible voters' current employment status with other employers not involved in this proceeding or other obligations they must attend to when not actively working.

POSITION OF THE PARTIES

The Employer and Petitioner posit that a manual election in this case would be appropriate, based on the Board's longstanding policy favoring manual balloting. Both the Employer and Petitioner assert that the eligible voters are accustomed to traveling throughout the state of Montana, as required by their job duties. As such, requiring employees to travel for a manual election would not be out of the norm for employees. The Employer and Petitioner further posit that the Employer's proposed manual election times and locations would provide employees with sufficient flexibility to cast a manual ballot in this matter.

The Employer proposed that a manual election take place over four days with multiple polling sessions each day where the Board agent would travel to each of its four facilities in Montana. The Union argues that a mail ballot election is appropriate considering that the majority of the voting employees are laid off and not engaged in a regular commuting schedule as required

² After the closing of the hearing, the Employer submitted information regarding the number of currently employed employees and their division location.

for their job duties. Moreover, the Union asserts that employees have addresses located throughout the state of Montana and would be required to travel in winter conditions up to 300 miles in order to vote in a manual-only election. The Union argues that these circumstances warrant a mail ballot election in order to allow the greatest number of employees to vote.

ANALYSIS

Congress has entrusted the Board with a wide degree of discretion in establishing the procedure and safeguards necessary to ensure the fair and free choice of bargaining representatives, and the Board in turn has delegated the discretion to determine the arrangements for an election to Regional Directors. *San Diego Gas and Elec.*, 325 NLRB 1143, 1144 (1998) (citing *Halliburton Services*, 265 NLRB 1154 (1982)). These arrangements include the mechanics of an election, such as the date and method of voting. *San Diego Gas & Electric*, supra at 1144; *Nouveau Elevator Industries*, 326 NLRB 470, 471 (1998).

The Board has a long-standing preference for in-person (manual) elections. “Manual elections permit in-person supervision of the election, promote employee participation, and serve as a tangible expression of the statutory right of employees to select representatives of their own choosing for the purpose of collective bargaining, or to refrain from doing so.” *Aspirus Keweenaw*, 370 NLRB No. 45, slip op. at 1 (Nov. 9, 2020). The Board has also recognized, however, that there are instances where circumstances tend to make it difficult for eligible employees to vote in a manual election. *Id.*, slip op. at 2 (internal citations omitted). The Board has addressed a few of these situations, including where voters are “scattered” over a wide geographic area, “scattered” in time due to employee schedules, where there is a strike, or where there are other extraordinary circumstances. *San Diego Gas*, supra at 1145. In these situations, a Regional Director may reasonably conclude that a mail ballot election will enfranchise the most employees.

In *San Diego Gas & Electric*, the Board stated that mail-ballot elections may be appropriate in cases where, *inter alia*, eligible voters are “scattered” in the sense that their work schedules vary significantly, so that they are not present at a common location at common times. *Id.* Additionally, a Regional Director might reasonably conclude that the opportunity to participate in the election would be maximized by utilizing mail or mixed manual-mail ballots where “a significant number of eligible voters are not scheduled to be at the election site at the times proposed for manual balloting-for such reasons as that they work part-time or on an on-call basis.” *Id.* In such cases, the Regional Director should also consider the positions of the parties, the ability of the unit employees to read and understand a mail ballot, the availability of addresses for employees, and finally, the most efficient use of Board resources. *San Diego Gas*, supra at 1145.

Under *San Diego Gas & Electric*, supra at 1145, a determinative factor in deciding whether a mail ballot election is more appropriate than a manual election is whether the eligible employees will be at a common location at the same time. The available information shows that the majority of unit employees are not currently working for the Employer, with only a total of 28 employees actively employed. Although traveling throughout Montana may be normal for employees when working for the Employer, here, the vast majority of eligible voters are not reporting to work. There is no evidence to suggest that employees would be accustomed to traveling long distances during a time when they are not working for this Employer.

The Employer presented four different locations throughout Montana with varying polling times to account for the travel time required for the employees who are out of work. However, it would be inappropriate to assume that employees who are not scheduled for work and not expecting to travel to the Employer's facilities would be able to do so to vote in a manual only election. The vast majority of eligible voters are scattered over a wide geographic area and there is no evidence that these voters would be at any of the Employer's four facilities at the same time.

The parties discussed whether a mixed manual-mail ballot election may be appropriate. I have concluded that such an election would not be the most efficient use of the Agency's resources. The Employer's proposed manual election schedule would require a Board agent to travel at least 519 miles in a four-day period in addition to the travel required to and from the Region 27 office in Denver, Colorado. Such travel would only serve to allow 18% of the eligible voters to manually cast their ballot. A mail ballot election may be proper when considering agency resources. *Masiongale Electrical-Mechanical, Inc.*, 326 NLRB 493, 493 (1998); *see also GPS Terminal Services*, 326 NLRB 839, 839 (1998) (where the Board found that the Regional Director properly considered whether a manual ballot would be an efficient use of Board resources).

In *Masiongale*, the Board denied a request for review of a Regional Director's direction of a mail ballot election, finding that the Regional Director's decision "fit[] squarely within the parameters of the Casehandling Manual and the guidelines set forth in *San Diego [Gas and Elec.]*." *Id.* at 493. The Employer in *Masiongale* was also a construction industry employer with scattered jobsites. *Id.* Notably, the Board upheld the Regional Director's decision to issue a mail ballot election when the manual election would require a Board agent to travel approximately 70 miles in one day. *Id.*

In sum, considering the scattered nature of the employees and what would be the most efficient use of Board resources, I am directing a mail ballot election. Not only are the Employer offices geographically scattered requiring over 500 miles of travel for a manual or mixed manual-mail election, but the employees who would cast a manual ballot in a mixed manual-mail ballot election encompass only 18% of the eligible voters. This matter presents the circumstances in which a full mail ballot election is the most appropriate. *San Diego Gas & Electric*, 325 NLRB 1143, 1145 (1998).

CONCLUSION

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.³

³ The Employer, Mountain West Holding Company, a Montana corporation with its principal offices and a facility located at 1107 Howard Street, Butte, MT 59701, and facilities located at 290 Pronghorn Trail, Suite 6, Bozeman, MT 59718; 9077 Oliver Road, Missoula, MT 59808; and 445 Sugar Avenue, Billings, MT 59101, the sole facilities involved, is engaged in traffic safety services and equipment for the road repair and maintenance industry. In the past 12 months, a representative period of time, the Employer purchased and received goods valued in excess of \$50,000, which goods were shipped directly to the Employer's Butte, Montana, facility from points located outside the State of Montana.

3. The Union is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

Included: All full-time and regular part-time employees performing work within the jurisdiction of Montana Laborers Local 1686, including only employees employed in the classifications listed in the Wage & Benefit Addendum of the 2012-2015 collective-bargaining agreement between the Employer and Montana Laborers Local 1686, who are employed by the Employer in or out of its facilities located in Billings, Butte, Bozeman, and Missoula, Montana.

Excluded: Office clerical employees, engineers, managers, guards, professional employees and supervisors as defined in the Act, and all other employees.

Others permitted to Vote: At this time, no decision has been made regarding whether individuals employed in Traffic Control Supervisors classification are included in, or excluded from, the bargaining unit, and individuals in this classification may vote in the election but their ballots shall be challenged since their eligibility has not been resolved. The eligibility or inclusion of these individuals will be resolved, if necessary, following the election.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by **Montana Laborers Local No. 1686, Affiliated with Laborers International Union of North America, AFL-CIO.**

A. Election Details

The election will be conducted by U.S. Mail.

The ballots will be mailed to employees employed in the appropriate collective-bargaining unit. At **3:00 p.m. on Monday, March 2, 2026**, ballots will be mailed to voters from the National Labor Relations Board, Region 27, at 1961 Stout Street, Suite 13-103 Denver, CO 80294. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by **Monday, March 16, 2026**, should communicate immediately with the National Labor

Relations Board by either calling the Region 27 Office at (303) 844-3551 or our national toll-free line at 1-844-762-6572.

All ballots will be commingled and counted at **2:00 p.m. on Monday, March 30, 2026.** via videoconference. In order to be valid and counted, the returned ballots must be received by Region 27 prior to the counting of ballots. The parties will be permitted to participate in the ballot count. A meeting invitation for the videoconference will be sent to the parties' representatives before the count. No party may make a video or audio recording or save any image of the ballot count.

B. The Ballot

The question on the ballot for the individuals in classifications identified as included in the bargaining unit will be "Do you wish to be represented for purposes of collective bargaining by Montana Laborers Local No. 1686, Affiliated with Laborers International Union of North America, AFL-CIO?" The choices on the ballot will be "Yes" or "No".

C. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **Sunday, February 8, 2026**, 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.

Also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.

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.

D. Voter List

As required by Section 102.67(l) 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 (that employees use at work), 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. Others permitted to vote by challenge should be listed separately on the voter list.

To be timely filed and served, the list must be *received* by the regional director and the parties by **Tuesday, February 17, 2026**. 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.

E. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the 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 Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day the ballots are mailed to employees and copies must remain posted until the

end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. In this case, the Notice must be posted and distributed no later than **12:01 a.m. on February 25, 2026**. 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 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 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: February 12, 2026



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