

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

**TRAFFIC MANAGEMENT, LLC**

**Employer**

**and**

**Case 27-RC-381622**

**LABORERS INTERNATIONAL UNION OF  
NORTH AMERICA, LOCAL 720**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

Traffic Management, LLC (the Employer) operates multiple traffic control facilities, including two located in the State of Colorado, one at 7499 East 41st Avenue, Denver, Colorado 80216 (the Denver Branch) and another located at 1863 Second Avenue, Greeley, Colorado 80631 (the Greeley Branch). Laborers International Union of North America, Local 720 (the Petitioner) seeks to represent all of Employer's full-time and regular parttime employees working in the State of Colorado. The Employer currently employs 107 employees in Colorado.

The Employer contests the appropriateness of the petitioned-for unit, contending that the scope of the unit, as described by the Petitioner, is too broad because it encompasses employees in the whole state rather than employees dispatched from the two existing branches. The Petitioner argues that the petitioned-for unit's inclusion of all Colorado employees is in line with the unit described in the parties' 8(f) agreements and that it is consistent with the unit's historical operation.

A Hearing Officer of the National Labor Relations Board (the Board) conducted an in-person hearing on March 5, 13 and 18, 2026. Both parties examined witnesses, submitted exhibits, and presented oral arguments on the record. I have fully considered the parties' evidence and arguments.

As set forth below, based on the record and relevant Board law, I find that it is appropriate to limit the bargaining unit description to employees connected to the two existing branches.

**I. FACTS**

**A. Employer's Operations**

The Employer provides traffic control services. This consists of establishing, maintaining, and dismantling traffic control zones during construction operations on or near roadways.

Employer's President and Chief Operating Officer is Luis Porrello. Rick Etzler is Employer's Regional Manager for the Rocky Mountain Region, which includes the State of

Colorado. Etzler oversees both the Denver and Greeley branches. Etzler supervises Branch Manager Michael Morales. Morales also oversees both the Denver and Greeley branches, and he supervises a three-person management team including Operations Manager Joanna Palafox Chavez, Supervisor Oscar Ramirez, and Supervisor Amelia Velasquez.

Employee recruitment is initiated by the Employer's Long Beach, California, office. The recruiting team posts ads on various web sites and gathers applications. After selecting candidates, the team schedules interviews with Colorado management at a Colorado branch location. Colorado management then performs interviews and makes hiring selections. The human resources team in California then gives final approval.

## **B. Employee Classifications**

All of Employer's Colorado employees perform traffic control work and fall into one of five classifications, from TC1 to TC5. The 'TC' stands for 'traffic controller.' TC1 is an entry-level designation. New employees carry the TC1 classification for six months, after which they receive a performance review. If their performance meets the Employer's standard, the employees are advanced to TC2, where the same process is repeated before the employees may advance, sequentially, to TC3 and TC4. An employee at any level TC1 through TC4 may be designated a 'driver,' meaning the employee is authorized to operate an Employer vehicle.<sup>1</sup> An employee must remain at TC4 for one year before advancing to TC5. In addition, some TC5s may be designated as supervisor if the employee receives proper certification. Certification requires the TC5 employee to pass a test administered by the Colorado Department of Transportation as well as a test administered by the American Traffic Safety Services Association, which has nationwide application.

## **C. Employee Job Functions**

As mentioned, the Employer establishes and maintains traffic control perimeters<sup>2</sup> around construction zones. The purpose of these perimeters is to prevent motorists from entering construction zones in a manner that could cause injury to themselves or to construction workers. Employees establish the perimeter using various pieces of equipment, such as various types of reflective barricades. Type 1 and 2 barricades are made of plastic and measure two feet wide by three and a half feet tall. Type 3 barricades are the same height but are made of wood and metal and measure five to seven feet wide. They also place 48-inch-tall cones and double-legged metal stands (called "busters"), to which vinyl and metal signs may be attached. Employees also use hand-held signs. For their own safety, they wear full-body reflective outfits.

The perimeters the Employer establishes take one of two forms. It may be a one-lane/two-way perimeter. There, employees perform "flagging operations" to stop traffic at one end of the lane and allow traffic to flow down the lane from the other end in an alternating manner. Or employees may establish a two-way/one-lane perimeter. There, Employer's employees simply

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<sup>1</sup> This is important because job assignments require the use of equipment, such as signs, cones, and barricades, which need to be transported from an Employer facility to a jobsite.

<sup>2</sup> This may include establishing no-park zones to prevent motorists from stationing their vehicles in unsafe areas.

maintain signage and other equipment to ensure the safe flow of traffic. Employee duties may also require them to accompany people on foot or in vehicles through work zones, for example, to facilitate motorists' safe access to their homes when utility work is performed in a residential area.

The majority of Employer's work is in support of underground gas and electricity line construction. Employer's gas utility clients replace old gas meters, repair gas leaks and service lines, or install new mains and service lines. This kind of construction employs various pieces of equipment: skid steers, mini excavators, boring machines, steam rollers, asphalt saws, and flow fill trucks. Electricity utility clients replace old electric poles, which are between 40 and 60 feet long and, although rare, they may also install new lines. This kind of construction also employs various pieces of equipment: bucket trucks, auger trucks, cranes and, on occasion, helicopters.

Employer's employees do not provide, operate, or touch any of the clients' equipment. They provide no direct assistance to their clients' construction work, and there is no crossover between the Employer's employees and the employees of its clients. Employer's role is limited to ensuring the clients' safety by maintaining traffic control perimeters. In doing so, Employer's jobsite leads regularly communicate with clients' foremen in order to tailor<sup>3</sup> Employer's operations to the clients' needs.

#### **D. Employer's Work Locations**

The Employer maintains work locations, or branches, throughout the country. The two branches at issue here are the only two in the State of Colorado. One is located in the city of Denver, in the central county of Denver, and the other is located in the city of Greeley, in the northern county of Weld.<sup>4</sup> The names 'Denver' and 'Greeley' are used to refer both to the corresponding branch locations and the geographical areas surrounding each branch. Both branches consist of property including offices, a warehouse, and a yard where Employer's vehicles and equipment are stored. The Employer is not currently considering relocating either branch or opening a new one in Colorado.<sup>5</sup> Of the petitioned-for unit's 107 employees, approximately 75 are assigned to the Denver branch, and the remaining 32 are assigned to the Greeley branch. The overwhelming majority of the Employer's work occurs within a 30-mile radius of either the Denver or Greeley branch.

#### **E. Employer's Clients and the Geographical Scope of Work**

Eighty percent of Employer's clients are underground gas and electricity construction companies. The bulk of the Employer's business in Colorado comes from a single client, Xcel, which performs work on gas utility pipelines. Employer's contract with Xcel defines the geographic scope of Employer's work: "The geographic areas include Denver Metro, Front Range,

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<sup>3</sup> For example, a traffic control perimeter may be anywhere from a quarter mile to 25 feet away from construction work.

<sup>4</sup> The Denver branch is sometimes referred to as North Lipan, and the Greeley branch is sometimes referred to as the Northern Colorado branch.

<sup>5</sup> Employer is currently planning to open a new branch in the State of Utah.

Northern, Southern and Western in Colorado state.”<sup>6</sup> Although the Employer is authorized to perform work for Xcel in any of its other Colorado areas, thus far, Xcel has only opted to utilize Employer’s services within its Arvada and South Lipan areas, both of which fall within a 30-mile radius of the Denver metropolitan area. The record does not reveal whether Xcel conducts operations in any of the other Colorado locations.

Other clients include Miller Pipeline, Sturgeon Electric, D&D Electric, Hooper Electric, and Fisher Enterprises. In the past two years, the Employer performed over 18,600 jobs. Approximately 7% of those jobs were performed outside the 30-mile radii around Denver and Greeley.<sup>7</sup> On those occasions, the employees were still dispatched from the Denver or Greeley branch.

#### **F. Employer’s Dispatch System**

Employer’s work orders are generated when one of Employer’s clients sends a service request. Those service requests are received by Employer’s central dispatch team in Long Beach, California. The central dispatch team then sends the service requests to the Colorado management team. The Colorado management team determines what equipment and how many employees will be required for each job. The management team also decides which employees to dispatch based on management’s evaluation of the employees’ skills.

The Denver or Greeley branch will then notify the selected employees that they are eligible for an assignment through a proprietary mobile phone application called Orange.<sup>8</sup> Employees usually receive dispatches on a daily basis, and many jobs last only one day. Employees receiving the notice may either accept or decline the assignment. If an employee accepts, Orange informs the employee of: the client being served, the location of the jobsite, the name and phone number of the foreman for the job, the other employees assigned to the job, and which employee will be acting as lead.

The Employer also provides, via Orange, a traffic control plan, which is an overhead picture of the jobsite with engineer-approved instructions on where equipment should be placed. The traffic control plan requires approval by the municipality in which the work is being performed. Setup according to the traffic control plan must be performed by someone with a traffic control license, such as a traffic control supervisor. For jobs without a traffic control plan, the jobsite lead, in coordination with management, is responsible for determining what equipment is needed and where it should be placed. If a traffic control supervisor is dispatched to the jobsite,

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<sup>6</sup> There are separate descriptions for Employer’s work in Minnesota, Michigan, and Wisconsin.

<sup>7</sup> Petitioner’s Exhibit 9 is a 264-page document listing approximately 12,000 jobs performed by the Employer. However, the list is not limited to jobs performed outside of the Denver/Greeley 30-mile radii. For example, although the document lists about 400 jobs performed in Nederland, which is outside the radius of either location, it also lists approximately 1,500 jobs in Boulder and 2,700 jobs in Golden, which are inside the 30-mile Denver radius.

<sup>8</sup> All employees permanently assigned to work in the State of Colorado receive their dispatches from either the Denver or the Greeley branch for all work performed in the state. For bigger jobs, Employer may dispatch employees from both branches.

he or she is generally designated as lead. If no traffic control supervisor is present, lead status is assigned based on an employee's level of experience.

In addition to working out the traffic control details, the lead is required to fill out a daily work receipt. The work receipt records what equipment was used, where the work was performed, what type of service was provided, what work the contractor was performing, and other information. Leads are also responsible for ensuring that the reported work hours for all employees at the jobsite are accurately recorded, which includes making any corrections needed. The client foreman must sign off on the reported hours, and the lead is responsible for obtaining the foreman's signature.

### **G. Employee Contact with the Branch**

Employees typically begin their shift at one of the two branches. There, they ensure that they have the equipment necessary to perform their jobs, such as the aforementioned barricades and signs. Some equipment is transported from the branch to the jobsite on a daily basis.<sup>9</sup> Employees who are designated drivers retrieve their vehicles from the branch. Employees also report to a branch location for pre-shift safety meetings or other work meetings. The Employer provides notice of such meetings via text.

Employees are expected to make time entries, using Orange, when they arrive at the branch and again when they arrive at the jobsite. Employees begin receiving compensation the moment they leave the branch. Employees regularly end their shift at a branch location as well, where they return equipment,<sup>10</sup> handle paperwork such as equipment rental receipts, and drop off vehicles. They make two additional time entries, one for when they leave the jobsite and another when they leave the branch.

Approximately three employees are permitted to regularly take a company vehicle home.<sup>11</sup> They keep standard traffic control equipment in the vehicle. About one day in five, the Employer dispatches these employees, via Orange, directly to the jobsite from their homes. Otherwise, they report to the branch in order to obtain paperwork or additional equipment or to transport other employees to and from the jobsite. On occasion, other employees may receive permission from management to report directly to the jobsite if, for example, they are running late and the jobsite is closer to their house than the branch.<sup>12</sup> There are no employees who never report to a branch.

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<sup>9</sup> The exception is for jobs lasting more than seven days, which are designated "permanent jobs." Permanent jobs require signage to be affixed and remain in place throughout the project.

<sup>10</sup> For permanent jobs, employees may leave the equipment at the jobsite.

<sup>11</sup> Such employees must be a TC3 with a clean driving record and live in a low-crime area.

<sup>12</sup> For employees reporting directly to the jobsite, their first two and last two time entries will be the same.

## **H. The Parties' Bargaining Relationship**

The Petitioner and the Employer have an agreement formed under Section 8(f) of the Act covering traffic control work. The document contains no reference to geographic constraints or any mention of the State of Colorado or any of its political subdivisions.

The 8(f) agreement incorporates three other agreements, referred to as the Master Labor Agreements: Statewide Laborers' Heavy-Highway Construction Agreement, Colorado Statewide Laborers' AGC/C Building Agreement, and Colorado Statewide Laborers' Independent Building Agreement. All three of the Master Labor Agreements contain references to traffic control work. They contain additional provisions and separate effective dates, but the term of each current agreement ends in 2028. The Master Labor Agreements are limited by their terms to the State of Colorado, which is also the limit of the Petitioner's jurisdiction. Various employers have entered into these Master Labor Agreements with the Petitioner.

The Employer first approached the Petitioner in 2016 about forming a relationship. The parties' first agreement was executed in 2018,<sup>13</sup> with subsequent agreements in 2020 and 2023. The current agreement is effective by its terms from 2025 to 2028.

The parties arrived at their current agreement after multiple bargaining sessions involving multiple representatives, including each party's legal counsel. The parties discussed, among other matters, the question of which employees the Petitioner would represent. There were no notable disputes. The Employer did not propose limiting the bargaining unit to employees dispatched from its two Colorado branches or otherwise seek to limit the scope of the unit to anything other than the State of Colorado.

## **I. Out of State Dispatch**

At times, the Employer experiences labor shortages at branches outside the State of Colorado. To address the issue, the Employer may allow Colorado employees to perform the work on a voluntary basis. These employees are lodged in hotels at the Employer's expense. At the time of the hearing in this matter, there were two such employees working in Texas.<sup>14</sup> They perform their work under the direction of a Texas-based management team but earn their regular Colorado wage. When they finish, the Employer anticipates they will return to Colorado.

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<sup>13</sup> The Denver branch was established around the time of the parties' bargaining, and Employer began hiring employees to work in Colorado on May 1, 2018. The Greeley branch was not established until later.

<sup>14</sup> Currently, Employer has only a "startup" location in Texas. Generally, the equipment is supplied by the Employer's Long Beach, California, office. However, the two Colorado employees also transported equipment from the Colorado branches.

In addition, employees from outside the state have performed work inside the State of Colorado.<sup>15</sup> In the past four years, the need to employ out-of-state workers has arisen three times.<sup>16</sup> When out-of-state employees perform work in Colorado, they are required to check in with the Union. Members of one local who seek to relocate permanently may transfer their membership simply by sending a request to their current local. At times, the Employer also utilizes temporary workers, who are not represented by the Union.

## II. LEGAL STANDARD

When examining the appropriateness of a unit, the determination is not whether the unit sought is the only appropriate unit or the most appropriate unit, but rather whether it is “an appropriate unit.” *Wheeling Island Gaming*, 355 NLRB 637, 637 fn. 1 (2010) (emphasis in original) citing *Overnite Transp. Co.*, 322 NLRB 723 (1996). In determining whether a bargaining unit is appropriate, the Board is guided by the objectives of ensuring employee self-organization, promoting freedom of choice in collective bargaining, and advancing industrial peace and stability. *P.J. Dick Contracting, Inc.*, 290 NLRB 150, 151 (1988).

In order to advance the policy of stability, it is essential that the scope of a unit be based on the factual circumstances of each case. *Kalamazoo Paper Box Corp.*, 136 NLRB 134, 137 (1962). Indeed, determination of appropriateness must be based on record evidence. *Allen Health Care Services*, 332 NLRB 1308, 1309 (2000).

The Board first considers whether the petitioner’s proposed unit is appropriate. *P.J. Dick*, 290 NLRB at 151. If it is not considered appropriate, proposed alternative units may be considered. *Overnite Transportation Co.*, 331 NLRB 662, 663 (2000). The Board also has discretion to select as an appropriate unit one other than those proposed by the parties. *Boeing Co.*, 337 NLRB 152 (2001). “[T]he Board generally attempts to select a unit that is the smallest appropriate unit encompassing the petitioned-for employees.” *Bartlett Collins Co.*, 334 NLRB 484, 484 (2001).

The Board has long held that it does not give effect to a union’s territorial jurisdiction or limitations in determining what constitutes an appropriate unit. *Building Constructors Employer Association*, 147 NLRB 222, 224 (1964); *Laboratory Corp. of America Holdings*, 341 NLRB 1079, 1083 fn. 12 (2004). Thus, a union’s geographic jurisdiction may properly be found irrelevant to the question of unit determination. *CCI Construction Co.*, 326 NLRB 1319, 1319 (1998). Similarly, the bargaining pattern in a particular industry is not controlling. See *Miller & Miller Motor Freight Lines*, 101 NLRB 581 (1953).

In *P.J. Dick*, the petitioner had an 8(f) agreement with the employer and sought to secure status as a representative under Section 9(a). The petitioner’s 8(f) agreement covered 11 counties,

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<sup>15</sup> The record does not reveal the origin of these workers’ dispatches – i.e. whether they are dispatched from a Colorado branch or their home branch, but, based on the experience of the Colorado workers in Texas and based on Employer’s Colorado operation, it is fair to assume that these workers received their dispatches from one of the Colorado branches.

<sup>16</sup> One such worker in Colorado at the time of the hearing had been in the state for a year.

but it sought to represent employees working in 33 counties, which matched the petitioner's jurisdiction. In contrast, the employer argued that an appropriate unit should be limited to the single county in which it performed the majority of its work because the work performed in other counties was minimal and sporadic. Relying on the parties' bargaining history, the Board determined that an appropriate unit encompassed only the 11 counties covered by the 8(f) agreement. *Id.* (finding that "Units with extensive bargaining history remain intact unless repugnant to Board policy or interfere with rights guaranteed by the Act.").

However, the Board has made clear that, while 8(f) bargaining history is a factor to be weighed in determining an appropriate unit, it is not conclusive. *Barron Heating & Air Conditioning*, 343 NLRB 450, 453 fn. 15 (2004). There, the Board observed that the Board in *P.J. Dick* considered that the broader unit sought by the petitioner might be appropriate but that the petitioner had failed to present any evidence to so demonstrate. *Id.*

In *Oklahoma Installation Co.*, 305 NLRB 812 (1991), the Board modified a region's decision to include certain counties within a unit's scope. The Board explained that it was improper to include counties wherein the employer had performed no work in the past and had no current plans to do so. *Id.* at 813. The Board found that because claims of work in those counties were speculative, those counties should not be included in an appropriate unit. *Id.*

When a petitioner seeks to represent a multifacility unit, the Board examines the following factors to determine whether the unit is appropriate: employees' skills, duties, and working conditions; functional integration of business operations, including employee interchange; geographic proximity; centralized control of management and supervision; bargaining history; and extent of union organizing and employee choice. *Exemplar, Inc.*, 363 NLRB 1500, 1501 (2016).

### **III. THE PARTIES' POSITIONS**

The Petitioner seeks a unit defined as all full-time and regular part-time employees in the State of Colorado. The Petitioner argues that the parties' bargaining history weighs in favor of using the unit descriptions established in the parties' 8(f) agreement. According to the Petitioner, this unit description matches the historical unit or the parties' historical practice. The Petitioner has clarified that it is amenable to a unit description that includes a description of the unit's work as traffic control work in the state of Colorado as well as the designations of: Traffic Controller (TC) Nos. 1 through 5, both drivers and non-drivers, as well as Traffic Control Supervisor (TCS).

There is no dispute that an appropriate unit includes all 107 of Employer's Colorado-based employees. Rather, the Employer argues the petitioned-for unit is inappropriate because it extends to all of Colorado. The Employer contends that, because the overwhelming majority of employees' work occurs within a 30-mile radius of either the Denver or Greeley branch, the portion of the unit description encompassing the entire state is too broad. Instead, the Employer proposes a unit description connecting the employees to the Denver and Greeley branches, namely, those employees dispatched from the two branches.

The Employer argues that an appropriate unit should conform to the existing workforce. The Employer states that its proposed unit description would include all 107 employees in the

petitioned-for unit. The Employer has clarified that it does not seek to limit the unit description in terms of where the employees work within Colorado; because all employees are dispatched from the Denver or Greeley branches, the unit would include employees irrespective of the location to which they are dispatched. While stating that the Employer has no current plans to establish future branches, the Employer argues that describing the unit as including the entire state would negatively affect employees dispatched out of branches that might exist in the future. Under the petitioned-for unit description, the Employer asserts, employees of future branches would already be included in the unit, depriving them of the opportunity to choose whether to be represented by the Petitioner or whether to be represented by a different union, an option permitted under the 8(f) agreement.

The Petitioner argues that describing the unit as the employees dispatched from the Denver or Greeley branches would create a significant conflict: if an employee were dispatched from the Denver or Greeley office to work outside the State of Colorado to an area where employees are covered by another collective-bargaining agreement, it would be unclear which collective-bargaining agreement applied to that Colorado-dispatched employee.

#### **IV. ANALYSIS**

Although the parties stipulated that the Employer is engaged in the construction industry, a determination from me on that issue is unnecessary because the question of whether or not the Employer is engaged in the construction industry is not dispositive of the issue before me of whether the petitioned-for unit is appropriate under Section 9(a).

The 8(f) agreement alone contains no geographic parameters. Instead, it defines the unit by the nature of the work the employees perform – traffic control work. The three Master Labor Agreements, which are incorporated into the 8(f) agreement, are all limited to the State of Colorado. This matches the Petitioner’s jurisdiction, which is not relevant to analysis of an appropriate unit. It is unknown what factors were considered or what bargaining, if any, took place in placing the geographical limitations in the Master Labor Agreements. There is no evidence that the Employer had any involvement in those negotiations.

At most, the record shows that the Employer has not sought to limit the parties’ 8(f) agreement in the manner it now seeks to in response to the Petitioner’s petition under Section 9(a). Likewise, there is no evidence that the Petitioner proposed any such limitation in the course of bargaining. This absence of action by the Employer does not prove or even imply, however, that the Employer has agreed to the petitioned-for unit in the past. The parties’ bargaining history establishes one thing definitively: the Employer agreed that the Petitioner would represent its employees in performing traffic control work, a matter that is not in dispute.

The record shows that an overwhelming majority of employees’ work takes place within a 30-mile radius of both the Denver and Greeley branches. However, the Petitioner placed evidence in the record to show that employees have worked at jobsites outside of those radii as well. The Petitioner’s Exhibit (PX) 9 is a compilation of Employer’s records, showing jobs performed by Employer’s employees. Unfortunately, the significance of some of the information contained in

PX 9 is not entirely clear.<sup>17</sup> On its face, the document does not demonstrate where the job took place with relation to the Denver or Greeley branch.

The Petitioner might have, as it did with PX 5, present evidence of the counties in which some jobs in PX 9 were performed, but even that would not necessarily demonstrate that the work took place outside the 30-mile radii. For example, at least six counties surrounding Denver County fall within the branch's 30-mile radius. PX 5 contains a similar shortcoming. The borders of some of the counties listed in that document – Adams, Arapahoe, Boulder, Broomfield, Douglas, and Jefferson – are within 30 miles from the Denver branch. Only an extensive search, taking the jobsites listed in PX 9 and the cities listed in PX 5 and measuring the distance between each one and each of Employer's branches would reveal whether the jobsites fall outside the radii.

In any case, the record fails to establish that the Employer performs work throughout Colorado. Taking PX 5 and PX 9, together with a brief search of Colorado county seats, of the 64 counties in Colorado, there is no evidence that the Employer performed work in the following 31 counties: Baca, Bent, Cheyenne, Conejos, Costilla, Crowley, Custer, Delta, Dolores, Eagle, Grand, Hinsdale, Huerfano, Kiowa, Kit Carson, Las Animas, Lincoln, Mineral, Montezuma, Otero, Ouray, Phillips, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, Sedgwick, Washington, and Yuma.

A statewide unit description does not have sufficient support in the employees' work locations, the parties' bargaining history, or the parties' current 8(f) unit. I therefore find that the petitioned-for unit is not appropriate. The petitioned-for unit description carries the risk of granting unwarranted representative status to the Petitioner for employees not currently employed by the Employer and thus deprive them of right to choose a collective-bargaining representative. This is contrary to the Board's policies of ensuring employee self-organization and promoting freedom of choice in collective bargaining.

Having found that the petitioned-for unit is not appropriate, I turn now to Employer's proposed alternative.<sup>18</sup> While the record showed that employees performed some work outside of the 30-mile radii, those employees were still attached to either the Denver or Greeley branch. Wherever in Colorado the work is performed, with the extremely limited exceptions of employees with per-instance permission or the handful of employees with fulltime custody of an employee vehicle making once-weekly trips directly from home to their jobsite, all employees report to a branch before and after their shift. In addition, whether employees report to a branch or directly to the jobsite, the dispatches employees receive from Orange are generated by one of the two

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<sup>17</sup> The column headings appear for the first time on page 70 of the exhibit, and although the document lists the address of each job, the information in the 'city' column contains a combination of Colorado cities, counties, unincorporated areas, and Employer-created designations.

<sup>18</sup> On more than one occasion during the hearing, the hearing officer solicited Petitioner's position on whether it would proceed to an election if it was determined that a bargaining unit other than the one petitioned for was appropriate. Petitioner initially indicated it was not inclined to proceed but ultimately declined to take a position on the issue. Absent a definitive refusal from the Petitioner, I will order an election in an appropriate unit.

existing branches.<sup>19</sup> Employer's proposed definition of the bargaining unit as those employees employed from or out of the Denver and Greeley branches is appropriate.<sup>20</sup>

My determination does not bar or hamper the Petitioner from representing future employees. Should Employer's workforce or operations expand beyond its current scope, the Petitioner has avenues by which it may lawfully become their collective-bargaining representative.

Having reached a determination regarding the question of the description of the bargaining unit, I now consider whether it is appropriate to order an election in a multifacility unit. The record demonstrates that the employees of the same level (e.g. TC1) at one branch have identical skills, duties and working conditions as the employees at the other branch. There is virtually no functional integration between the branches. Except for exceptionally large jobs, each branch operates independently, and there is no evidence of employee interchange. The branches are located approximately 60 miles apart. Management and supervision are completely centralized. Even though Michael Morales carries the title of Branch Manager, he oversees both branches. The record contains no evidence that Morales's three-person management team is divided between the branches. The parties' bargaining history has included employees at both branches, and this is the extent to which the Petitioner has organized. There is no evidence that employees desire per-branch representation. On balance, the factors weigh heavily in favor of a multifacility unit. In light of these facts, I find a multifacility unit to be appropriate.

#### **IV. CONCLUSION AND FINDINGS**

Based on the foregoing and the record as a whole, 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 parties stipulated, and I find, that the Petitioner is a labor organization within the meaning of Section 2(5) of the National Labor Relations Act.
3. I find that the Employer is an employer as defined in Section 2(2) of the Act. The parties stipulated, and I find, that the Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.
4. The parties stipulated, and I find, that there is a collective-bargaining agreement covering all of the employees in the unit sought in the petition herein, and there is no contract bar or any other bar to an election in this matter.

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<sup>19</sup> The record is not clear whether employees volunteering to be dispatched out of state receive their initial dispatch from a Colorado branch. But once out of state, the employees are under the direction of out-of-state management. Similarly, the record contains no evidence of where employees working inside Colorado from outside the state receive their dispatches.

<sup>20</sup> Neither party asserts that the employees in the petitioned-for unit do not share a community of interest. In addition, because the Petitioner is not seeking to represent a single facility, there is no single-facility presumption. *Capital Coors Co.*, 309 NLRB 322, 322 fn. 1 (1992).

5. 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.
6. 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 Traffic Control Work in the State of Colorado including TC (Traffic Controller) Nos. 1 through 5, Driver; TC (Traffic Controller) Nos. 1 through 5, Non-Driver; and TCS (Traffic Control Supervisor) who are employed by the Employer from, or out of, its branches located at 7499 East 41<sup>st</sup> Avenue, Denver, Colorado 80216 and 1863 2<sup>nd</sup> Avenue, Building 1, Greeley, Colorado 80631.

**EXCLUDED:** Office clerical employees, confidential employees, temporary employees, professional employees, managerial employees, guards, and supervisors, as defined in the Act.

## **V. 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 **Laborers International Union of North America, Local 720**.

### **A. Election Details**

The election will be held on Thursday, May 14, 2026, from 5:00 a.m. to 7:00 a.m. and from 4:00 p.m. to 7:00 p.m. in the training room at Employer's facility located at 1863 2<sup>nd</sup> Avenue, Building 1, Greeley, Colorado, 80631 and on Friday, May 15, 2026, from 5:00 a.m. to 6:30 a.m. and from 4:00 p.m. to 7:00 p.m., in the conference room at Employer's facility located at 7499 East 41<sup>st</sup> Avenue, Denver, Colorado, 80216.

### **B. Voting Eligibility**

Eligible to vote are those in the unit who were employed during the payroll period ending **May 3, 2026**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. 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 **May 7, 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](http://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](http://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.

### **D. 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 of the election 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 May 11, 2026**. However, a party shall be estopped from objecting to the non-posting of notices if it is responsible for the non-posting, and likewise shall be estopped from objecting to the non-distribution of notices if it is responsible for the non-distribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

## **VI. 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](http://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: May 5, 2026



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