



United States Government
NATIONAL LABOR RELATIONS BOARD
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October 12, 2012

Via E-Filing

Lester Heltzer, Executive Secretary
Office of the Executive Secretary
National Labor Relations Board
1099 14th Street N.W. Room 11602
Washington, DC 20570-0001

Re: Hanson Aggregates B.M.C., Inc.
Cases 4-CA-33330, 4-CA-33508,
4-CA-33547, 4-CA-34290,
4-CA-34362, 4-CA-34363,
and 4-CA-34378

Dear Mr. Heltzer:

Counsel for Region Four of the National Labor Relations Board (Region Four) submits this response to the Charging Party's October 3, 2012 letter to the Board. This letter identifies new information not previously supplied in the Charging Party's July 6, 2012 Request for Review of the Acting General Counsel's Decision on Appeal from Compliance Determination (RFR) in the subject cases. As the Charging Party's letter raises an issue not fully discussed in the documents currently before the Board in this matter, including the undersigned's August 27, 2012 response to the RFR, this response is permitted by Section 10602.4 of the NLRB Casehandling Manual (Part Three) Compliance Proceedings.

On December 20, 2011, the Regional Director of Region Four (Regional Director) issued a Compliance Determination in which she found that Respondent had fully complied with the applicable Board Order concerning the subject cases. On January 26, 2012, the Charging Party appealed this determination to the Acting General Counsel, who upheld the Region's Determination on June 26, 2012. The Charging Party's RFR and the undersigned's August 27, 2012 response are currently before the Board.

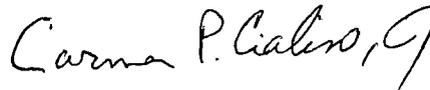
On September 27, 2012, the Regional Director also issued a Complaint in Case 4-CA-69822 alleging that Respondent, Hanson Aggregates BMC, Inc. violated Section 8(a)(5) of the Act by implementing, without adequate bargaining, a compensation plan for unit employees impacted by a one-day weather emergency. By its letter to the Board

dated October 3, 2012 the Charging Party now argues that issuance of this Complaint is inconsistent with the Region's determination that the Respondent fully complied with the Board Order issued in these cases.

There is no inconsistency between the issuance of the Complaint and the issuance of the Compliance Determination. Respondent's conduct of September 9, 2011, which forms the basis of the Complaint, was limited in scope and duration. In essence, Respondent unilaterally decided on a compensation plan, including one-hour show-up pay, for unit employees impacted by a one-day weather emergency. This plan involved one day's compensation. There has been no ongoing failure to bargain, and Respondent is prepared to fully settle this matter as part of a Formal Settlement which will contain a provision, requiring Respondent to make employees whole for losses caused by Respondent's unilateral action. Accordingly, the Region and the Contempt Litigation and Compliance Branch (CLCB) have determined that contempt proceedings are not warranted to remedy Respondent's limited unfair labor practice. In light of these developments, the Board should reject the Charging Party's request that the matter be referred to CLCB, or remanded to the Region before the Board upholds the Region's decision to close the cases on compliance.

In summary, the Charging Party has not presented additional evidence or argument that would warrant overturning the Regional Director's Compliance Determination. Accordingly, the Board should deny the Charging Party's Request For Review. A copy of this letter has been served on this date to the below parties by electronic mail.

Respectfully submitted,



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National Labor Relations Board

cc:

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