

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
Region 21**

THE PEPSI BOTTLING GROUP, INC.<sup>1</sup>

Employer

and

Case 21-RC-20660

CHAUFFEURS, SALES DRIVERS AND  
HELPERS, LOCAL 572, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS, AFL-CIO,<sup>2</sup>

Petitioner

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was conducted before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned Regional Director.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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<sup>1</sup> The name of the Employer appears as corrected at the hearing.

<sup>2</sup> The name of the Petitioner appears as corrected at the hearing.

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. Petitioner is a labor organization within the meaning of Section 2(5) of the Act, and seeks 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 purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time production employees (including break relief/team coordinators), quality control employees, maintenance employees, and warehouse employees (including checkers and break relief/team coordinators) employed by the Employer at its facility located at 6659 Sycamore Canyon Boulevard, Riverside, California; excluding all other employees, sales operations employees, transportation employees, MEM employees, dispatchers, cashiers, presell representatives, relief presell representatives, temporary employees employed directly by the Employer and/or through an employment agency, office clerical employees, professional employees, guards and supervisors as defined in the Act.

#### **ISSUES AND CONCLUSIONS**

The primary issue here is whether the unit sought by the Petitioner, as amended at hearing, is appropriate for collective bargaining. The Employer contends that the petitioned-for unit is inappropriate because it includes isolated groups of employees who do not possess a distinct community of interest and that the unit should include other employees who work with the petitioned-for unit of employees as part of a highly integrated operation. In this regard, the Employer asserts that the sales operations employees, transportation employees, and marketing equipment management (MEM) employees share a sufficient community of interest with the petitioned-for employees to warrant their inclusion in the bargaining unit. The Petitioner maintains that the sales operations employees, transportation employees, and MEM employees do not share a sufficient community of interest with the petitioned-for employees and that they should be excluded from the unit.

For the reasons noted below, I find that the petitioned-for unit is an appropriate unit and that the sales operations employees, transportation employees, and MEM employees do not share a sufficient community of interest with the unit employees to require their inclusion in the unit.

#### **FACTS AND ANALYSIS**

**A. The Employer's Operation**

The Employer is a Delaware corporation engaged in the manufacture, sale, and distribution of soft drink products. The Employer produces and warehouses soft drink products at, and distributes those products from, the facility at issue, located at 6659 Sycamore Canyon Boulevard, Riverside, California.

The Employer's Riverside facility is a large, rectangular building. Soft drink products are made in the production area and then moved to the warehouse area. From there, the products are staged for delivery and moved onto trucks to be delivered to customers and to other Employer facilities.

**B. The Agreed-Upon Included Classifications**

At hearing, the parties stipulated that any unit found appropriate shall include all full-time and regular part-time production employees (including break relief/team coordinators), quality control employees, maintenance employees and warehouse employees (including checkers and break relief/team coordinators)<sup>3</sup> employed by the Employer at

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<sup>3</sup> The parties further stipulated that production and warehouse break relief/team coordinators are not supervisors within the meaning of the Act

its Riverside, California facility inasmuch as they share a community of interest with each other with regard to wages, hours, and terms and conditions of employment, and common supervision.<sup>4</sup>

### 1. Production Employees

Production employees fill a number of roles.

Production technicians bring in full pallets of bottles and cans and then unload them and send them to the filling area. Filler operators make sure the product gets into the cans and bottles. Packer operators pack product into 12-packs and cases, as well as loose-wrapping and shrink-wrapping the product. Labelers are responsible for labeling bottles and making sure they are upright. Shell system operators bring containers to packers so bottles can be put into them. Utility operators handle raw materials coming into the facility and distribute them to different areas of the production line. Palletizer operators take cases coming off the end of the line and palletize them to be sent to the

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inasmuch as they have no supervisory authority under Section 2(11) of the Act.

<sup>4</sup> The parties also stipulated that any appropriate unit shall exclude all other employees, dispatchers, cashiers, presell representatives, relief presell representatives, temporary employees employed directly by the Employer and/or through an employment agency, office clerical employees, professional employees, guards and supervisors as defined in the Act.

warehouse. Sanitizers work as vacation relief for other production employees.

Other than forklifts, production employees do not drive company vehicles in the performance of their duties. Production employees attend daily pre-shift meetings conducted by the production manager. Depending on circumstances, quality control and maintenance employees may also attend these meetings. Production employees also attend monthly safety meetings with the quality control and maintenance employees.

Production employees spend all of their work time at the facility. Production employees are in regular contact with quality control employees concerning changes in product flavors and bottles. Maintenance employees are regularly called in to the production area to perform maintenance on the equipment.

Production employees have no contact with the Employer's customers in the performance of their duties. There is no evidence that production employees have contact with sales operations employees, transportation employees, or MEM employees in the performance of their duties.

Two production supervisors, who, in turn, report to the production manager, supervise the production employees. Other than evaluations performed during their initial 90-day

probationary period, production employees are not subject to any formal performance evaluations. Production employees, however, may earn wage increases by passing Skill Block Tests.<sup>5</sup> Production employees may take up to two Skill Block Tests per year. Production employees who demonstrate that they have acquired new skills by passing such tests receive wage increases.

Production employees are paid hourly and generally work one of three 8-hour shifts.<sup>6</sup>

## 2. Quality Control Employees

The quality control employees are comprised of lab technicians and batchers. Lab technicians are primarily responsible for the quality of the product coming off the line. In this regard, lab technicians do periodic product checks for proper carbon dioxide, sugar, and acidity levels. They also check certain products for turbidity and perform a package test to ensure that the cans have proper seams.

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<sup>5</sup> Skill Block Tests test employees' knowledge of certain equipment, operations, or processes.

<sup>6</sup> The Employer's facility currently operates 24-hours per day, seven days per week.

Batchers are responsible for making the syrup that is converted to soda. In this regard, batchers pull the necessary product ingredients and follow the recipe to complete the mixing process. Bachers make a control drink before releasing the batch to the production area for processing.

Quality control employees work throughout the entire facility and not at any specific location. They do not drive company vehicles in the performance of their duties.

Quality control employees spend all of their work time at the Employer's facility. They have no contact with the Employer's customers in the performance of their duties. There is no evidence that quality control employees have contact with sales operations employees, transportation employees, or MEM employees in the performance of their duties.

Quality control employees report to the quality manager. Like production employees, they are not subject to any formal performance evaluations beyond their 90-day probationary period and may take Skill Block Tests to get raises.

Quality control employees are paid hourly and generally work under the same three-shift schedule as

production employees, though some start times may be modified to accommodate special circumstances.

### 3. Maintenance employees

Maintenance employees are responsible for maintaining the production lines, and performing emergency and scheduled repairs.

Maintenance employees spend all of their work time at the Riverside facility and have no contact with the Employer's customers. Maintenance employees do not drive company vehicles. There is no evidence that they are required to have any special licenses or certifications.

Maintenance employees report directly to the maintenance manager. Maintenance employees may also meet with the maintenance manager at the beginning or end of the shift to review any mechanical or electrical issues. Maintenance employees are not subject to any formal performance evaluations beyond their 90-day probationary period and may take Skill Block Tests to get raises.

Maintenance employees are paid hourly and have work schedules similar to those of employees in quality control.

### 4. Warehouse employees

Warehouse employees include employees working as order pickers, route loaders, bulk loaders, forklift operators, general laborers, mechanics, and checkers.

Order pickers use walkie-riders<sup>7</sup> to get product from the warehouse and place that product on dock and staging areas to be placed onto trucks for delivery. In addition, order pickers occasionally stage product for MEM employees.

Route loaders service bay drivers. In this regard, route loaders get dispatches every evening that identify which trucks they will work with. Route loaders get trucks from the yard and maneuver them into the loading area. They then pick the product for the particular truck and then move the truck back, leaving it prepared for the driver to leave the following morning.

Bulk loaders put together the product for two to three stores and stage that load on the dock to be placed into the truck with a forklift, while another loader moves the truck on and off the dock.<sup>8</sup> Bulk loaders know the order in which to load product from the order picking sheets they get at pre-shift meetings. The order picking sheets describe the load by the scheduled stops. Bulk loaders build the load from

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<sup>7</sup> Walkie riders are high-powered pallet jacks.

<sup>8</sup> Though loaders maneuver company trucks in the performance of their duties, they only drive these vehicles within the Employer's facility. Since they do not drive the vehicles off the Employer's property, these warehouse employees are not required to have Class A or B drivers' licenses.

the front of the truck to the back so that the product for the first stop is at the end of the truck. During busier times of year, such as summer and holidays, and when there are special promotions, it is not uncommon for trucks to return to the facility to be reloaded.<sup>9</sup> Bulk loaders may interact with bulk drivers on these occasions to discuss what needs to be loaded first.<sup>10</sup> In addition, though not required, drivers occasionally help bulk loaders with the reloading process when they are running behind schedule.

Forklift operators pull product that comes off the line and stage it in an appropriate place to be used at a later time.

The sole employee working as a general laborer is responsible for inventory. In this regard, the general laborer works in the warehouse and counts product on a daily basis, as well as inputting loaders' productivity data and copying and distributing information pertaining to productivity.

There are two mechanics under the warehouse classification. One is responsible for general housekeeping at the facility, including cleaning the floors, sweeping the

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<sup>9</sup> On these occasions, the record reveals that 12-16 out of up to 26 trucks per day may return to reload.

<sup>10</sup> When trucks are first loaded, however, they are loaded strictly by warehouse employees.

yard, and maintaining the recycling area. This building maintenance

support includes the MEM area. The other mechanic handles general maintenance at the facility, such as changing light bulbs and handling minor mechanical work.

The Employer uses four to six checkers who are responsible for checking trucks in and out. In this regard, checkers validate that the trucks' inventory is correct on exit. If product is missing, the checker records that information in the driver's handheld computer so that the driver is not charged with a loss of product. When trucks return to the facility, checkers validate what product went out, what was sold, and what product has been brought back. Checkers use the drivers' handheld computers<sup>11</sup> to input data during the check-in process. Checkers make sure the paperwork matches up with the product on the trucks, and handle any adjustments that need to be made. If product returns that is damaged, the checker palletizes the product and moves it to a repack area.

Warehouse employees use forklifts and walkie-riders, which require certifications or licenses to operate. Warehouse

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<sup>11</sup> In the warehouse department, only checkers and their substitutes use handheld computers. Production employees, quality control employees, and maintenance employees do not use handheld computers.

employees spend all of their work time at the facility and have no contact with the Employer's customers.

Depending on circumstances, some warehouse employees report directly to the warehouse manager<sup>12</sup> while others report to two warehouse supervisors.<sup>13</sup> Warehouse employees attend daily pre-shift meetings conducted by the warehouse manager or a break relief/team coordinator. Warehouse employees are not subject to any formal performance evaluations beyond their 90-day probationary period and may take Skill Block Tests to get raises.

Warehouse employees are paid hourly. There are five different shift start times for warehouse employees. In addition to the standard first, second, and third shifts worked by production, quality control, and maintenance employees, a bulk loading shift starts at 6:00 p.m.<sup>14</sup> and a route loading shift starts at 7:30 p.m.

### **C. The Classifications in Dispute**

The Employer asserts that the employees in the amended petitioned-for unit do not possess a separate and distinct community of interest and that any unit that includes

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<sup>12</sup> The warehouse manager is also called the product availability manager.

<sup>13</sup> The warehouse supervisors report to the warehouse manager.

<sup>14</sup> Bulk loaders are generally scheduled for four 10-hour shifts per week.

those employees must also include the sales operations employees, transportation employees, and MEM employees.

### 1. Sales Operations Employees

Sales operations employees include delivery drivers (bay drivers, bulk drivers, and full service drivers), reset laborers, and merchandisers. Sales operations employees have contact with the Employer's customers and spend the majority of their work time away from the Employer's facility.

Bay drivers use 16-bay vehicles to deliver product primarily to convenience and gas stores. Bulk drivers typically drive 45-foot trailers to deliver product to grocery stores. The product is loaded onto these trucks in pallets in order of the scheduled stops. Bulk drivers usually have more than one destination.

Full service drivers use equipment similar to that of bay drivers, but deliver to vending machines to stock the vending machines with product.

Delivery drivers must have Class A California drivers' licenses and hazardous materials endorsements, and are subject to Department of Transportation rules and regulations, including state-mandated drug testing. Delivery drivers, with the exception of those on a couple of overnight

routes, report to the facility each workday, where they spend about two hours, and sometimes as little as one hour, per day.

Delivery drivers report to driver and delivery supervisors who, in turn, report to the sales and delivery manager.

Reset laborers go to convenience and gas stores to change around or set-up the store based upon what is needed for a particular promotion.

Merchandisers use their own vehicles to visit stores where they inventory and then restock shelves as needed to ensure that they are fully stocked with the Employer's product.<sup>15</sup> Merchandisers also build displays and restock check lane coolers at store cash registers. Merchandisers drive their own vehicles in the performance of these duties. Merchandisers come to the facility once or twice per week to pick up and turn in weekly logs and other paperwork, and to pick up paychecks. Merchandisers do not report to the facility every workday. Merchandisers report to merchandising managers who, in turn, report to the sales and delivery manager.

The record does not disclose how sales operations employees are evaluated, but there is no evidence that they may take Skill Block Tests.

## 2. Transportation Employees

Transportation employees consist of the transport drivers who are primarily responsible for moving product from one Employer location to another. Transport drivers do not have contact with the Employer's customers.

Transportation employees are subject to Department of Transportation rules and regulations, including state-mandated drug testing. They also must have Class A California drivers' licenses and hazardous materials endorsements. Transport drivers spend up to an hour of their daily work time at the Employer's facility.

Transportation employees report to the transport manager. The transport manager works at the Buena Park facility and reports to the director of manufacturing and logistics. The director of manufacturing and logistics works in Laguna.

The record does not disclose how transportation employees are evaluated, but there is no evidence that they may take Skill Block Tests.

### 3. MEM Employees

Marketing equipment<sup>16</sup> management (MEM) employees include service technicians, installers, and shop technicians.

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<sup>15</sup> Merchandisers stock these shelves with product delivered by sales operations employees.

<sup>16</sup> Marketing equipment includes equipment such as coolers with see-through doors at convenience and gas stores, fountain equipment at stores and restaurants, and vending machines.

Service technicians are field persons that go out to repair equipment. Field service employees generally work outside the facility.

Installers survey sites to ensure adequate supplies of electricity, water, and anything else needed for the proper installation of fountain and vending equipment. Installers also set up this equipment at the site and make sure it is running properly.

Shop technicians prepare and perform minor maintenance on marketing equipment in the MEM department.

Installers and service technicians drive company vehicles outside the facility in the performance of their duties. Installers spend the majority of the workday away from the facility, and some are not required to report to the facility every workday.

Some MEM employees are subject to Department of Transportation rules and regulations, including state-mandated drug testing. MEM employees, with the exception of shop technicians, have contact with the Employer's customers.

Though the record does not specifically identify who supervises MEM employees, it discloses that MEM employees get their assignments from MEM management.

The record does not disclose how MEM employees are evaluated, but there is no evidence that they may take Skill Block Tests.

**D. The Community of Interest Analysis**

In making unit determinations, the Board's task is not to determine the most appropriate unit, but simply to determine an appropriate unit. P.J. Dick Contracting, 290 NLRB 150 (1988). In so doing, the Board looks "first to the unit sought by the petitioner. If it is appropriate, [the] inquiry ends. If, however, it is inappropriate, the Board will scrutinize the Employer's proposals." A petitioner must demonstrate that the employees in the petitioned-for unit share a sufficient "community of interest" so as to constitute an appropriate bargaining unit. Allied Chemical & Alkali Workers v. Pittsburgh Plate Glass Co., 404 U.S. 157 (1971). To assess whether employees share such a community of interest, the Board weighs a variety of factors, including: methods of wages or compensation; hours of work; employment benefits; supervision; qualifications, training and skills; job functions and the location where job duties are performed; the amount of interaction and contact with other employees; integration of work functions and interchange with other employees; and the history of bargaining. Home Depot USA, 331

NLRB 1289 (2000), citing Kalamazoo Paper Box Corp., 136 NLRB 134 (1962).

The record in the instant case discloses that sales operations employees, transportation employees, and MEM employees share some common terms and conditions of employment with employees in the agreed-upon included classifications.

In this regard, all employees use the same parking lot and may access the Employer's facility through the same two entrances. Employees in each of these classifications are paid hourly, punch in and out on the same time clock, and, with the exception of part-time merchandisers, are offered the same benefits. All of the policies and procedures set forth in the employee handbook apply to all employees, except for certain merchandisers. As set forth in that handbook, in certain situations, employees may use the Conflict Resolution Board if they have been suspended or terminated. In such an event, the Conflict Resolution Board will consist of two employees from the aggrieved employee's peer group department, two non-department employees, and one non-department manager. Use of the Conflict Resolution Board is voluntary, and has been used by one or two employees in the last six months.

Employees select vacation weeks at the beginning of each year and other vacation requests should be made a week or two in advance throughout the year. The manager or supervisor

for the respective department makes decisions concerning the vacation requests. Employees do not compete against employees from other departments for vacation time.

All of these employees, except for merchandisers, are subject to the same layoff and recall procedures in the employee handbook. Department tenure, classification, and qualifications are considered in determining layoff status and employees are recalled in reverse order, by classification, in which they were laid off. In the event of a layoff, an affected employee with service time in two or more department may return to his/her previous department, provided the employee has the necessary seniority and ability for that department.

All employees in these classifications wear uniforms. The record reveals some slight distinctions, but no significant differences, between the uniforms worn by employees in the various departments. In the past, production and warehouse employees have worn light-blue uniform shirts, while quality control employees have worn white shirts, and maintenance employees have worn dark blue shirts. Drivers, merchandisers, and MEM employees all wear dark-blue checked line shirts.

When there is a job opening, with the exception of a merchandiser position, the hiring manager for the department

in need determines if someone in his/her department can fill the position. If not, the manager contacts the Human Resources manager to place an internal job posting. The job openings then posted on a bulletin board outside Human Resources and the Human Resources coordinator sends a voicemail message to all employees informing them of the open position. Preference in hiring for such a position is given to the department in which the position is open.

Some supplies and tools, such as pallets, forklifts, and stretch wrap, are occasionally shared among employees in these classifications.

Notwithstanding the above similarities in certain terms and conditions of employment, however, I find that the amended petitioned-for unit is an appropriate unit for collective bargaining from which sales operations employees, transportation employees, and MEM employees should be excluded. In this regard, I note the significant differences in qualifications, skills, functions, work location, and supervision, as well as insufficient interchange, interaction, or bargaining history to warrant including sales operations, transportation, and MEM employees in the unit.

1. Qualifications, skills and functions

The record discloses that sales operations employees, transportation employees, and MEM employees require different qualifications and skills, and that they perform different functions than those in the employees in the petitioned-for unit. In this regard, employees in the petitioned-for unit generally produce and prepare product for delivery. Sales operations and MEM employees, however, deliver, display, and stock this product at customers' facilities, while transportation employees deliver it to other Employer facilities. No production, quality control, maintenance, or warehouse employees drive company trucks to deliver product or go to customer's facilities to stock product, or set up equipment and displays. Conversely, sales operations, transportation, and MEM employees are not responsible for producing, picking, or staging product.

Drivers are required to have special drivers' licenses and hazardous materials endorsements, while only warehouse employees are required to have licenses or certifications to operate walkie-riders and forklifts. Though some warehouse employees move company trucks for loading, they do not leave the Employer's premises and are not required to have special drivers' licenses.

In its brief, the Employer contends that the petitioned-for unit arbitrarily includes only those

individuals who work inside the facility and ignores the highly integrated nature of the Employer's operation. In this regard, the Employer cites Boeing Co., 337 NLRB No. 24 (2001), in which the Board found that distinctions between employees in the petitioned-for unit and those not sought to be included in the unit were offset by the highly integrated workforce, the similarity in training and job functions, and comparable terms and conditions of employment. In that case, the Board also found that the group of petitioned-for employees shared the same skills, qualifications, and certifications as a group that the union did not seek to include in the unit. In the instant case, however, as set forth above, there is no such similarity in job functions, skills, qualifications, or certifications between the petitioned-for employees and the employees the Employer seeks to include. Accordingly, the Employer's argument in this regard is rejected.

## 2. Work location

Production, quality, maintenance, and warehouse employees spend all of their work time at the Employer's facility. Sales operations, transportation, and MEM employees spend the overwhelming majority of their work time away from the facility.

## 3. Supervision

Although supervisors or managers directly supervise employees in each of their respective departments, the record discloses that employees in the petitioned-for classifications fall under a separate management hierarchy than the sales operations, transportation, and MEM employees. In this regard, the production, quality, maintenance, and warehouse managers all report directly to Plant Manager Sal Tortora.

Sales operations and MEM employees fall under the supervision of managers who report to Marketing and General Manager Dick Brace.<sup>17</sup> Those who report to Brace include the sales operations manager, marketing equipment manager, and the sales and delivery manager. Transportation employees are not supervised by someone at the Riverside facility. Transportation employees report to the transport manager, who reports to the director of manufacturing and logistics. The transport manager works at the Buena Park facility, and the director of manufacturing and logistics works in Laguna.

#### 4. Interchange

The evidence of interchange also does not weigh in favor of including the disputed classifications. The record discloses that employees have permanently transferred into positions in the agreed-upon included classifications. For

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<sup>17</sup> Brace manages the marketing unit at the Riverside facility.

example, in the last three years, 44 of the 106 employees in the agreed-upon included classifications are former sales operations employees. These employees interviewed for their new positions in production, quality, maintenance, and warehouse, however, and their transfers are considered permanent. Moreover, these were voluntary transfers that the Employer considers promotions, irrespective of whether the change results in higher or lower pay. Such voluntary, permanent interchange is given less weight in unit determinations, and permanent transfers are generally a less significant indication of actual interchange than temporary transfers. Overnite Transportation Co., 331 NLRB 662, 663 (2000); Red Lobster, 300 NLRB 908, 911 (1990).

##### 5. Interaction

Contrary to the Employer's contention, the limited interaction between some employees in the petitioned-for unit and some employees in the disputed classifications does not constitute a strong degree of functional integration that militates towards including the disputed classifications in the bargaining unit. In this regard, there is no evidence that sales operations, transportation, and MEM employees have any regular contact with production, quality, or maintenance

employees in the performance of their duties.<sup>18</sup> There is no actual overlap of job functions and the record discloses only limited interaction and contact between some employees in the petitioned-for unit and those in the classifications the Employer seeks to include. In this regard, though drivers may have some contact with warehouse checkers when leaving and returning to the facility and with other warehouse employees on occasions when they help unload or reload their trucks, it appears that such interaction is minimal. This is particularly true in light of the fact that these drivers spend most of their work time away from the facility. Accordingly, I do not find this interaction sufficient to require their inclusion in the unit.

#### 6. Bargaining history

Finally, contrary to the Employer's assertion, the bargaining history in a unit of employees at the Employer's former San Bernardino facility, which closed in 1990, is of little consequence in this matter. Moreover, there is no evidence of any collective-bargaining history at the Riverside facility involving any of the agreed-upon included classifications or those classifications in dispute.

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<sup>18</sup> There is also no evidence that sales operations employees, transportation employees, or MEM employees attend the production or warehouse pre-shift meetings, or that they have pre-shift meetings of their own.

Accordingly, based on the above-noted considerations and the record as a whole, I find that the petitioned-for unit of all full-time and regular part-time production employees (including break relief/team coordinators), quality control employees, maintenance employees, and warehouse employees (including checkers and break relief/team coordinators) is an appropriate unit for collective bargaining.

There are approximately 106 employees in the appropriate bargaining unit.

#### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who are employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Employees engaged in any 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 which 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. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective-bargaining purposes by **Chauffeurs, Sales Drivers and Helpers, Local 572, International Brotherhood of Teamsters, AFL-CIO.**

#### LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company,

394 U.S. 759 (1969). Accordingly, it is hereby directed that within 7 days of the date of this Decision, two copies of an alphabetized election eligibility list, containing the full names and addresses of all the eligible voters shall be filed by the Employer with the undersigned, who shall make the list available to all parties to the election. North Macon Health Care Facility, 315 NLRB 359 (1994). In order to be timely filed, such list must be received in Region 21, 888 South Figueroa Street, 9th Floor, Los Angeles, California 90017, on or before September 22, 2003. No extension of time to file the list shall be granted, excepted in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

#### NOTICE OF POSTING OBLIGATIONS

According to Board Rules and Regulations, Section 103.20, Notices of Election must be posted in areas conspicuous to potential voters for a minimum of three (3) working days prior to the day of the election. Failure to follow the posting requirement may result in additional litigation should proper objections to the election be filed. Section 103.20(c) of the Board's Rules and Regulations requires an employer to notify the Board at least five (5) full working days prior to 12:01 a.m. of the day of the

election if it has not received copies of the election notice. Club Demonstration Services, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

RIGHT TO REQUEST REVIEW

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to

the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by 5 p.m., EST, on September 29, 2003.

DATED at Los Angeles, California, this 15th day of September, 2003.

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James F. Small  
Acting Regional Director, Region

National Labor Relations Board

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