

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

STATION CASINOS LLC d/b/a
NP RED ROCK LLC

Employer

and

Case 28-RD-292426

JEREME BARRIOS, an Individual Petitioner

and

INTERNATIONAL UNION OF
OPERATING ENGINEERS, LOCAL 501
Union

ORDER

The Employer’s Request for Expedited Review and the Petitioner’s Request for Review of the Regional Director’s Order Vacating Notice of Hearing and Dismissing Petition are denied as they raise no substantial issues warranting review.¹

¹ In denying review, we observe that the Regional Director engaged in what we have termed a “merit-determination dismissal” by dismissing the petition, subject to reinstatement, because of a merit determination with respect to certain types of unfair labor practice charges. In *Rieth-Riley Construction Co., Inc.*, 371 NLRB No. 109 (2022), we held that merit-determination dismissals remain available under Board law, and we further find that a merit-determination dismissal was appropriate here, for the reasons stated in the Regional Director’s decision. We do not, however, rely on the Regional Director’s finding that the conduct alleged in the unfair labor practice charges in Cases 28-CA-276613 et al. required the dismissal of the petition because the alleged conduct “directly affected” the petition and the showing of interest.

In addition to his merit-determination rationale, the Regional Director also concluded that dismissal was warranted based on his finding that the Employer failed to bargain for a reasonable period of time following the approval by the United States Court of Appeals for the District of Columbia Circuit of a consent order settling the contempt proceedings against the Employer brought by the NLRB’s General Counsel. *NLRB v. NP Red Rock, LLC d/b/a Red Rock Casino, Resort & Spa*, Case Nos. 19-1172 et al., Consent Order (D.C. Cir. Nov. 19, 2021). In denying review, we do not rely on this additional rationale.

Member Kaplan would grant review and reverse the Regional Director’s dismissal of the petition. In his view, the specific unfair labor practice allegations against the Employer that are applicable to the bargaining unit at issue would not themselves warrant an affirmative bargaining order and should not, as the Regional Director found, preclude a question concerning representation. Additionally, the Regional Director should not have concluded that there was a causal connection between the alleged unfair labor practices and the decertification petition without first holding a hearing as required by *Saint Gobain Abrasives, Inc.*, 342 NLRB 434

LAUREN McFERRAN,	CHAIRMAN
MARVIN E. KAPLAN,	MEMBER
GWYNNE A. WILCOX,	MEMBER

Dated, Washington, D.C., November 7, 2022.

(2004). See *Rieth-Riley Construction Co.*, 371 NLRB No. 109, slip op. at 10 (2022) (Members Kaplan and Ring, dissenting) (“[A]n important safeguard in our precedent requires that before dismissing a petition based on an alleged causal nexus, there must be a ‘causal nexus’ hearing as prescribed by *Saint Gobain*.”)