



August 8, 2025

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Catherine Gilbert, Registrar
Ontario Labour Relations Board
505 University Avenue, 2nd Floor
Toronto, ON M5G 2P1

Dear Registrar Gilbert:

**Re: Crane Rental Association of Ontario (Applicant) v
International Union of Operating Engineers, Local 793 (Responding Party)
Application for Accreditation (Construction Industry)
OLRB File No. 2973-24-R; Our File No. 5324-25**

As you are aware, I am counsel to the International Union of Operating Engineers, Local 793 (“Local 793” or the “Union”) with respect to the above-noted matter.

In accordance with the Board’s Decision of July 22, 2025, I write to provide the Union’s submissions in response to the Interventions filed by the following parties:

Ontario Formwork Association;
Utility Contractors Association;
Ontario Concrete & Drain Contractors Association;
Labourers’ International Union of North America,
Locals 183, 493, 506, 527, 607, 625, 837, 1036,
1059 and 1089 (collectively, the “Labourers”);
Frankfurt Investments (1985) Limited;
Pumpcrete Corporation;
Aurora Concrete Pumping Ltd.;
JCL Pumping Ltd.

Agreed Amendments to the Bargaining Unit Description

1. Several of the proposed Intervenors, along with the CRAO and Local 793, have reached an agreement on an amended bargaining unit description which resolves the objections raised in those Interventions.
2. As set out in correspondence to the Board from counsel to the CRAO of today’s date, the CRAO has amended its proposed bargaining unit and Ontario Formwork Association, Utility Contractors Association, Ontario Concrete & Drain Contractors Association, Frankfurt Investments (1985) Limited, Local 793 and CRAO agree that the following bargaining unit description is appropriate for collective bargaining:

The Crane Rental Association of Ontario as the bargaining agent for all employers of employees engaged in the supply and rental of hoisting equipment, concrete pumps, placing booms, and/or similar equipment together with an operator(s) to be used in on-site construction (including the on-site maintenance, repair, servicing, assembly and/or disassembly related thereto) for whom the International Union of Operating Engineers, Local 793 (“Local 793”) has bargaining rights in all sectors of the construction industry, excluding the ICI sector, in the Province of Ontario. For the purpose of clarity, it is noted that employers bound by and who perform work under any of the following Collective Agreements in accordance with past or existing practices as at the date hereof are not included in the said unit of employers, namely:

- 1) Schedules B, C and D of the Provincial Collective Agreement between the Operating Engineers Employer and Employee Bargaining Agencies;
- 2) The Mainline Pipeline Agreement, The Distribution Pipeline Agreement and the Pipeline Maintenance and Service Agreement for Canada, all between the Pipe Line Contractors Association of Canada and the International Brotherhood of Teamsters, International Union of Operating Engineers, Labourers International Union of North America and United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada;
- 3) The Collective Agreement between the Utility Contractors Association of Ontario and the International Union of Operating Engineers, Local 793 (“the Utilities Agreement”);
- 4) The Provincial Formwork Collective Agreement between the Ontario Formwork Association and the Formwork Council of Ontario (“the Formwork Agreement”);
- 5) The Collective Agreement between the Toronto and Area Road Builders Association and the International Union of Operating Engineers, Local 793 (“the TARBA Agreement”);
- 6) The Collective Agreement between the Greater Toronto Sewer and Watermain Contractors Association and the International Union of Operating Engineers, Local 793 (“the GTSWCA Agreement”);
- 7) The Collective Agreement between the National Capital Roadbuilders Association and the International Union of Operating Engineers, Local 793 (“the NCRBA Agreement”);
- 8) The Collective Agreement between the Heavy Construction Association of Windsor and the International Union of Operating Engineers, Local 793 (“the Windsor Heavy Agreement”);
- 9) The Collective Agreement between the London Sewer and Watermain, Curb, Gutter and Sidewalk Contractors Association and the International Union of Operating Engineers, Local 793 (“the London Sewers and Watermains Agreement”);
- 10) The Collective Agreement between the Central Southwest Ontario heavy Civil Construction Association and International Union of Operating Engineers Local 793 (“the Central Southwest Agreement”);

11) The Collective Agreement between the Electrical Power Systems Construction Association and the International Union of Operating Engineers, Local 793 (“the EPSCA Agreement”);

12) The Collective Agreement between The Greater Hamilton & Niagara Construction Association and International Union of Operating Engineers, Local 793 (“the GHNCA Agreement”);

13) The Collective Agreement between the Ontario Concrete & Drain Contractors Association and the International Union of Operating Engineers Local 793; and

14) The Collective Agreement between the Personnel & Material Hoist Employers' Association and the International Union of Operating Engineers Local 793

For clarity, “employers” is defined as only those employers who operate in the manned crane and equipment rental business.

3. As a result of the above agreement and the Intervenors’ agreements that there will be a withdrawal of the interventions filed by Ontario Formwork Association, Utility Contractors Association, Ontario Concrete & Drain Contractors Association, and Frankfurt Investments (1985) Limited, the remaining interventions are those filed by the Labourers, Pumpcrete Corporation, Aurora Concrete Pumping Ltd, and JCL Pumping Ltd. Local 793 makes the following submissions in response to those interventions.

Intervention of the Labourers

Standing

4. The Labourers do not have standing to intervene in this Application. Local 793 requests that the Board strike the Labourers’ intervention and deny the Labourers standing to intervene in this proceeding.
5. The Labourers submit that they have standing to intervene in this Application as a constituent member of the Formwork Council, and that the Formwork Council’s legal rights are directly affected by this Application.
6. It should be noted that while the Labourers are a constituent member of the Formwork Council, this intervention is filed by the Labourers, not the Formwork Council. The Labourers represent the construction labourer employees working under the Formwork Agreement. The Labourers do not represent the operating engineer employees working under that Agreement including the employees performing the work captured by this accreditation application.
7. Even if the Labourers may sometimes represent equipment operators, that does not give them standing to intervene in this Application. The Board addressed the test for a proposed intervention in an accreditation application in the application of the Ontario Formwork Association, when the Carpenters’ employer and employee bargaining agencies sought to intervene in that application. The Board summarized that request for intervention as follows:

“The intervenors seek standing because both the employees and employers they represent engage in concrete forming construction as do the employees represented by the responding party and the employers that are members of the applicant and would be encompassed by the accreditation order the applicant seeks.” (*Ontario Formwork Association v. Formwork Council of Ontario*, 2007 CanLII 52341 (ON LRB)).

8. The Board in *Ontario Formwork Association* framed the issue of standing to intervene as follows:

In order to determine whether either or both of the intervenors have standing, it is necessary to assess whether this accreditation proceeding could affect their rights under the Act or any collective agreements by which they are bound. At the outset, it must be emphasized that an accreditation application, unlike an application for certification, involves only employers of employees for whom a trade union or a council of trade unions holds bargaining rights. A certificate of accreditation neither creates bargaining rights for that trade union or council nor diminishes the bargaining rights of any other trade union.

9. The Board went on to engage in a thorough discussion of the potential for overlap between the rights of the Formwork Council and the Carpenters’ Employee Bargaining Agency. The Board acknowledged that overlap does at times exist, and that such overlap can lead to jurisdictional disputes. However, importantly, the Board found that this situation existed before accreditation was applied for and that accreditation would not alter that landscape in any way, concluding that “the intervenors would therefore not be legally affected, nor would their bargaining rights be impacted by the accreditation order the applicant seeks encompassing an employer bound by both the intervenor’s collective agreement and the collective agreement between the applicant and responding party.”
10. The Labourers’ request to intervene in the instant case is also analogous to the facts in *Wood Mill Work & Trim Owners Assn of Ontario (cob Trim Assn of Ontario)*, [2003] OLRD No 178, in which the Board dismissed the attempt by the Labourers to intervene in an accreditation application made in respect of employers for whom the Carpenters held bargaining rights. The Board wrote in that case:

Since LIUNA cannot, by definition, as it conceded, represent employers of carpenters for whom the responding party holds bargaining rights, no employer for whom it has bargaining rights comes within the bargaining unit claimed by the applicant to be appropriate. [...] The claim for status made by LIUNA in this case is analogous to a third party union seeking to intervene in a certification application in order to protect its work jurisdiction when the work performed by the employees in the bargaining unit is work normally done by both the applicant union and the union seeking to intervene. If the union seeking to intervene does not represent an employee in the bargaining unit, then it does not have status to intervene.

11. The Labourers are not legally affected by the instant Application because the accreditation application is limited to the employers with whom Local 793 has a collective bargaining relationship. If an employer is bound by both the Formwork Council Agreement with the Formwork Council and to Schedule A of the Provincial Collective Agreement

negotiated between the CRAO and Local 793, that situation, and any overlap in those bargaining rights, already exists. An accreditation order will not detract from the bargaining rights held by the Formwork Council, nor will it add to the bargaining rights held by Local 793. As the Board has repeatedly found, an accreditation order cannot expand the bargaining rights of the responding party.

12. Any overlap or conflict in bargaining rights complained of by the Labourers is pre-existing and will not be altered or expanded by an accreditation order. To the extent that there is any concern about increased overlap, the bargaining unit description for the accreditation order exempts from the applied-for unit all employers bound by and performing work under the Formwork Agreement, even further reducing the chances of conflict or jurisdictional disputes.
13. For all of these reasons, Local 793 submits that the Labourers' intervention should be dismissed for lack of standing.

Response to Intervention

14. In the alternative, should the Board find that the Labourers do have standing to intervene in this matter, the complaints made in the Labourers' intervention are without merit, and should be dismissed by the Board without the need for a hearing.
15. The Labourers submit that this application purports to cover work already covered by the Formwork Agreement. This is inaccurate. As the Labourers acknowledge, the proposed bargaining unit description explicitly excludes employers bound by and performing work under the Formwork Agreement.
16. This accreditation Application does not, and cannot, expand Local 793's existing bargaining rights. The Application is clear in that it applies to work currently, and historically, falling under Schedule A of the Provincial Collective Agreement negotiated between the CRAO and Local 793. This relates to a distinct category of work and group of employers who do not fall within the scope of the accredited Formwork Agreement. The interplay of these two agreements is not new, and this accreditation would not change the practice of applying either of these agreements.
17. To the extent that there is any legitimate concern about overlap between the CRAO's bargaining rights and the Formwork Association's bargaining rights, this is addressed through the exclusions included in the bargaining unit description. As set out above, the Formwork Association has withdrawn its intervention in response to the amended description above. While the Union disagrees that the bargaining unit proposed in the Application was improper, in any event, all of the concerns raised by the Labourers are addressed by the modified bargaining unit description. This description is consistent with previous accreditation orders which carve out bargaining rights held under existing accredited agreements.
18. The submission, repeated throughout this intervention, that this accreditation application would have the effect of binding employers to two competing agreements for concrete forming work is simply untrue. Employers bound by and who perform work under the Formwork Agreement (and various other collective agreements) in accordance with past or existing

practices are explicitly excluded from the unit the CRAO seeks to be accredited for. This is a full answer to the Labourers' objections.

19. The Labourers also argue the applied-for accreditation would affect the Labourers' ability to collectively bargain the use of machinery by its members under its own accredited agreements. First, the Labourers and the accredited employer associations with which it negotiates agreements are entitled to negotiate the terms of their agreements as they see fit. However, those associations are only accredited for the bargaining unit the Board has awarded. Should the Labourers and their employer association counterparts negotiate to expand the scope of their agreement beyond the scope of an accreditation order, that does not expand the accreditation under which those associations operate. Second, if there was conflict between a Labourers' collective agreement and a Local 793 collective agreement, with respect to work performed by an employer bound to both the Labourers and Local 793, a jurisdictional dispute may arise. The same would be true with or without the CRAO's accreditation.
20. Finally, the Labourers argue that the applied-for bargaining unit is inappropriate because it applies to non-construction work. It does not. The proposed bargaining unit relates to manned crane and equipment rental, not the rental of equipment only. The revised bargaining unit description above rephrases the work as the rental of "equipment together with an operator(s) to be used in on-site construction". Renting equipment with an operator is part of an industry-wide practice that is integral to and has always been recognized by the parties who perform this work as construction work.
21. The bargaining unit initially proposed by the CRAO and the amended description above both state that this application is for employers performing work "in all sectors of the construction industry, excluding the ICI sector, in the Province of Ontario." This application relates to the construction industry. That there may also be similar work that is performed outside of the construction industry – if true – is irrelevant, as that work is not captured by the applied-for bargaining unit.
22. For all of these reasons, the Labourers' Intervention should be dismissed by the Board without the need for a hearing, in accordance with Rule 41.3 of the Board's Rules of Procedure.

Interventions of Pumpcrete Corporation and Aurora Concrete Pumping

23. As the submissions made in these two interventions are substantially the same, we will respond to these interventions together.

Objection to the Authority of the CRAO to Represent its Members

24. The Intervenors argue that the CRAO does not have appropriate authority vested in it to represent the employers it claims it represents. The Intervenors argue that the CRAO has never represented any of its members in collective bargaining outside of the ICI sector, and as a result, any mandate to apply for accreditation is limited to the ICI sector, and to only rental of cranes and not concrete pumps or placing booms. This is not accurate. The practice of the CRAO has been, for nearly 50 years, to negotiate Schedule A of the Union's Provincial

Collective Agreement, pertaining to the crane and equipment rental business in Ontario, across all sectors, and inclusive of concrete pumps and placing booms.

25. The CRAO is a constituent member of the Operating Engineers Employer Bargaining Agency and has been since the inception of province-wide Ministerial-designated bargaining in 1978. During the triennial provincial collective agreement negotiations that occur between the Operating Engineers Employer Bargaining Agency and Operating Engineers Employee Bargaining Agency, the CRAO bargains Schedule A of the Union's Provincial Collective Agreement, pertaining to the crane and equipment rental business in Ontario.
26. Schedule A of the Union's Provincial Agreement has, since the inception of province-wide bargaining, been an all-sector collective agreement. There is not one example of Local 793 bargaining and/or signing any collective agreement other than the Union's Provincial Collective Agreement applicable to the non-ICI sectors for employers engaged in the crane and equipment rental business in Ontario, inclusive of concrete pumps and placing booms.
27. Schedule A of the Provincial Collective Agreement is a pattern collective agreement applicable to employers engaged in the crane and equipment rental business in Ontario. The CRAO and its members, including the Intervenors, have always recognized and acted in accordance with this fact.
28. It was only in conjunction with the filing of this Application that the Intervenors, for the first time in the nearly 50-year existence of Province-wide bargaining, wrote to Local 793 requesting to negotiate an agreement outside of Schedule A of the PCA for work outside of the ICI sector. The Union, of course, denied this request, as it has no practice of ever negotiating outside of the pattern agreement, and the Intervenors have always accepted and acted in accordance with the fact that Schedule A of the Provincial Collective Agreement is a pattern collective agreement applicable to all sectors of the construction industry. The sudden request to negotiate a collective agreement outside of the pattern agreement appears to be as a result of the Intervenors' opposition to this Application. It has no basis in the practice of the Union, the CRAO, any of its members, or any contractor performing work in the crane and equipment rental business in Ontario.
29. It is simply disingenuous for the Intervenors to advance arguments that they are not bound to apply the PCA outside of the ICI sector, that they have not vested authority in the CRAO outside the ICI sector, or that they have not vested authority in the CRAO for any concrete pumping or boom placing work, when they have allowed the CRAO to negotiate a province-wide pattern agreement on their behalf, which they have applied to all of their work, without question until the filing of this Application.

Allegations of Union Support

30. Pumpcrete and Aurora also argue that there has been improper Union support and initiation of this Application, and interference in the administration of the CRAO, by Local 793. The basis of this allegation appears to be: first, that Local 793 consistently maintained its legal position in the *DeGrandis* litigation that the Provincial Collective Agreement is a pattern agreement applicable to all sectors of the construction industry; second, that the idea of accreditation was raised by Local 793 to the CRAO, and not the other way around; third, that Local 793 gave

“more favourable treatment” to certain contractor members of the CRAO who were perceived as being supportive of the accreditation, and that Pumpcrete received grievances from Local 793 which it perceived as “bullying”; and finally, that representatives of Local 793 were in contact with employers about the accreditation and witnessed a number of the employer authorizations.

31. The Intervenors have failed to establish a *prima facie* case of any violation of the *Act* by the Union or the CRAO in relation to this Application. Section 136(5) of the *Act* states:

The Board shall not accredit any employers’ organization if any trade union or council of trade unions has participated in its formation or administration or has contributed financial or other support to it or if it discriminates against any person because of any ground of discrimination prohibited by the *Human Rights Code*, or the *Canadian Charter of Rights and Freedoms*. 1995, c. 1, Sched. A, s. 136.

32. The intervenors do not allege that Local 793 participated in the formation of the CRAO. The Intervenors make a blanket allegation that Local 793 has interfered in the administration of the CRAO, however, the Intervenors make no allegations which, if proven, could demonstrate any such interference. The crux of the Intervenor’s argument is that “it was Local 793, not the CRAO, that cared more about the ICI PCA being the only agreement outside of the ICI sector”. Even if true, that is not a violation of the *Act*.

33. Local 793 and the CRAO have had a collective bargaining and labour relations relationship for nearly 50 years. It should not come as a surprise to the Intervenors that the CRAO and Local 793 engaged in discussions about this Application, and that the Union, as the organization with day-to-day contact with the CRAO’s members, spoke to and fielded questions from employers who would be affected by this Application. None of these collaborative actions taken by the Applicant and Responding Party with the goal of positive labour relations and establishing a uniform bargaining structure are in any way improper or contrary to the accreditation provisions of the *Act*.

34. The Board has addressed similar allegations of improper support, finding, for example in *2805-05-R Wood Mill & Trim Owners Association of Ontario (c.o.b. as Trim Association of Ontario) v. Carpenters and Allied Workers Local 27*, 2007 CanLII 87048 (ON LRB) that:

It is no surprise that some unions find the prospect of an accreditation order made in favour of a particular employer association, and the consequences that flow from that accreditation order, to be to their advantage. The simple act of speaking to a contractor to indicate that the union is in favour of the application and seeks their approval does not constitute, in the context of an application for accreditation, improper interference in the activities of the Association contrary to section 136(5).

The allegations made by the Intervenors amount to nothing more than the kind of general support for accreditation by the Union which the Board has held is not improper. We will address each of the theories advanced by the Intervenors in turn.

35. The Intervenors cite as the first example of Local 793’s improper actions its position in the litigation surrounding DeGrandis Concrete Pumping. The Intervenors state that “throughout the

legal battle between DCP and Local 793, it was obviously the position of Local 793 that the only agreement that Local 793 was prepared to enter into for the non-ICI sectors was the ICI PCA”. This is correct. At all times, Local 793 has maintained its position that Schedule A of the Union’s Provincial Agreement has, since the inception of province-wide bargaining, been an all-sector collective agreement. There is not one example of Local 793 bargaining and/or signing any collective agreement other than the Union’s Provincial Collective Agreement applicable to the non-ICI sectors for employers engaged in the crane and equipment rental business in Ontario, inclusive of concrete pumps.

36. The Union’s position in *De Grandis* was supported by the Divisional Court, when it held that the Board’s finding that the Provincial Collective Agreement was not a pattern agreement was unreasonable. The Court in *De Grandis* found there to be “uncontradicted evidence that the Provincial Collective Agreement applied across the non-ICI sector” and “prior Board decisions that found this to be the case.” The Divisional Court quashed the Board’s decision and remitted the matter back to the Board. (*International Union of Operating Engineers, Local 793 v 1476247 Ontario Ltd.*, 2023 ONSC 3481 (CanLII)). Ultimately, the various *De Grandis* matters before the Board were agreed by the parties to be adjourned pending a determination of the present Application.
37. The Intervenor suggests that the Union was motivated by the *De Grandis* litigation to advocate for the CRAO to file this Application, “in an effort to defeat DCP”. This is a mischaracterization of the Union’s view of the matter. First, the Union believed that it would be successful in the *De Grandis* litigation and did not believe that it required the CRAO to become accredited in order to maintain the decades-long practice of Schedule A of the PCA applying across all sectors.
38. Employers in the crane and equipment rental business have broadly accepted and adopted Schedule A of the Provincial Collective Agreement as a pattern agreement across all sectors. In fact, *De Grandis*, following the litigation discussed above, was one of the employer members of the CRAO who signed an authorization in support of this Application for accreditation, acknowledging the CRAO’s authority to bargain in the non-ICI sector for all its members. Whether or not the CRAO is accredited, Local 793 will maintain its position that the PCA is a pattern agreement across all sectors.
39. It is true that an accredited CRAO agreement may clarify for any employers looking to advance a position similar to *De Grandis* that there is only one Local 793 collective agreement applicable to crane and equipment rental work in the Province of Ontario. However, the Union being supportive of, or even advocating for, an accreditation for that purpose is not in any way improper. This allegation falls far short of establishing a *prima facie* case that Local 793 participated in the formation or administration of the CRAO or contributed financial or other support to it.
40. The second objection to Local 793’s actions raised by the Intervenors is their allegation that the idea of accreditation was raised by Local 793 to the CRAO, and not the other way around. Again, the Union disagrees with this characterization of events, and submits that while discussions were had between the Applicant and the Union, it was entirely the decision of the CRAO to file the instant application.

41. Even if the Board finds the Intervenor's depiction of events to be true, this again simply does not rise to the level of interference. A Union suggesting to an association that it would be in favour of accreditation does not amount to improper interference in the activities of the Association contrary to section 136(5). In fact, the Intervenor pleads that the CRAO was initially not in favour of accreditation and voted against the idea. If this is true, it is clear that the CRAO made its own independent decision with respect to the filing of this Application and that Union had no power or influence over the decision that the CRAO ultimately made to file this Application.
42. The complaint that Local 793 Business Manager Mike Gallagher contacted CRAO members to express the Union's support of accreditation is answered directly by the Board's finding in the *Trim Association* decision cited above. The simple act of speaking to a contractor to indicate that the union is in favour of the application and seeks their approval does not constitute improper interference.
43. The Intervenor also alleges that the Union improperly interfered in the administration of the CRAO by giving preferential treatment to one particular contractor who was perceived to be supportive of this Application, and that it singled out and bullied Pumpcrete because it was perceived to be unsupportive of the Application. The Union adamantly denies these allegations, but in any event, it is unclear how the Intervenor suggests the Union's feelings about a particular contractor's support would have any influence on the CRAO or rise to the level of interference in the administration of the CRAO.
44. The Intervenor complains that at a political event hosted by the Ontario Government and at which Local 793 Business Manager Mike Gallagher spoke, Amherst crane was in attendance and that Gallagher made favourable references to Amherst and its VP Mark Welstead. The Intervenor states, "the CRAO was either not officially invited or did not attend". It is difficult to understand how the Intervenor relies on this event to suggest that the Union was interfering in the administration of the CRAO. The Intervenor's personal or political discontent with the Union are unrelated to this Application and do not form any legitimate objection to this Application. A complaint about an invitation that may or may not have been extended to the CRAO is irrelevant to this matter and does not establish interference in the administration of the CRAO.
45. The allegation that Local 793 filed grievances against Pumpcrete in an attempt to bully it into supporting this Application, or to bully it simply as a result of its lack of support for this Application, is absolutely untrue. The Intervenor does not suggest that any other of the unsupportive parties received unwarranted grievances from the Union. The Intervenor also has no knowledge of the Union's administration of its collective agreement with respect to other "supportive" parties. This allegation is denied, and it also fails to establish a *prima facie* case that the Union interfered in the administration of the CRAO.
46. The allegation that Local 793 ignored safety violations by contractors supportive of this Application is completely baseless. It also defies logic to suggest that the Union allowing unsafe work practices by contractors would assist the CRAO in filing this Application. This allegation is denied, and it also fails to establish a *prima facie* case that the Union interfered in the administration of the CRAO.

47. The Intervenors complain that the CRAO Board of Directors voted to remove Kris Wuis following a vote where he opposed accreditation. The Union has no knowledge of this, was not present at the meeting, and had no influence over this vote; the Intervenors do not even suggest that it did. This allegation clearly fails to establish a *prima facie* case that the Union interfered in the administration of the CRAO.
48. We note that we are in receipt of an additional letter filed by these Intervenors on August 7, 2025, which seeks to add an additional allegation to this set of complaints. That letter alleges that the Union's Director of Organizing refused to contact Pumpcrete to try to obtain employment for one of the Union's members, and instead attempted to refer that member to Amherst Concrete Pumping. Again, the Intervenors' pleadings are a complete mischaracterization of the facts, and in any event, do not establish a *prima facie* case that the Union interfered in the administration of the CRAO. This letter also alleges, for the first time, that the Union, through these alleged actions, contributed financial and other support to the CRAO.
49. The Union denies that it or its representatives "shoved Amherst down [Ms. Castle's] throat". What occurred was that Ms. Castle, who is not a concrete pump operator and has no experience operating a concrete pump, indicated to the Union that she wished to try to get into that industry. Ms. Castle was looking for work after being terminated from her job as a ready-mix concrete driver. Kyle Schutte, Local 793's Director of Organizing, has a contact at Amherst Concrete Pumping, through a former organizer for the Union, Doug Hunt. Mr. Schutte asked Mr. Hunt if he could speak to Amherst about whether they would bring on a new operator to allow her to learn the business. Ultimately, Amherst declined as they did not have a need for Ms. Castle. Mr. Schutte also explored other work options for Ms. Castle, including ready-mix positions with companies like Dufferin. All actions taken by Mr. Schutte were an attempt to assist Ms. Castle and at no time did he suggest she should not or could not work for Pumpcrete. Mr. Schutte encouraged Ms. Castle to take any job she could find.
50. Pumpcrete has submitted two requests to the Union for operators in 2025. In the first request, made on April 10, 2025, Pumpcrete requested two operators. Local 793 dispatched the first operator, and the second request was cancelled because the first dispatched operator did not hear back from Pumpcrete and did not start work. Pumpcrete made a second request for one operator on June 18, 2025, and the Union dispatched an operator in response to that request. The records of these dispatches are attached hereto at Tab 1. The allegation that the Union is withholding operators from Pumpcrete is clearly false.
51. While the Union denies the allegations raised in the August 7 letter, even if the Board were to accept them as true, they fail to establish a *prima facie* case that the Union interfered in the administration of the CRAO, or contributed financial and other support to the CRAO. Both Amherst and Pumpcrete are members of the CRAO. Whether the Union referred an employee to work at Amherst or Pumpcrete, the CRAO receives the same financial benefit. The submission that the Union choosing to provide employees to one CRAO member over another (which is denied) would interfere in any way with the administration or financial workings of the CRAO is illogical and must be dismissed.
52. Finally, the Intervenors complain that representatives of Local 793 were in contact with employers about the accreditation to "solicit and collect" employer authorizations, and that they

witnessed a number of the employer authorizations that were filed in support of this Application.

53. All the Intervenor describe is that representatives of the Union contacted employers to indicate that the union is in favour of the application and seeks their approval. This is not denied by the Union. The Union has relationships with these employers and is often in more regular contact with the CRAO's members than the CRAO itself. There is nothing unusual or inappropriate about the Union contacting employers to discuss the accreditation and to witness authorizations. As discussed above, the Board has determined that this is not improper and does not amount to improper interference in the activities of the Association contrary to section 136(5). As a result, this allegation fails to establish a *prima facie* case that the Union interfered in the administration of the CRAO or otherwise violated the *Act*.

Objection to the Bargaining Unit

54. In the alternative to the above arguments, the Intervenor take the position that the Application ought to be dismissed, or that the bargaining unit ought to be altered to account for various existing accreditations.
55. The proposed bargaining unit in the Application provides for the exclusion of employers bound by and performing work under a number of existing accredited agreements. As discussed above, the Union is in agreement with the addition of certain other collective agreements to the list of excluded agreements, and the Union is in agreement with a modification to the clarity note to confirm that these exclusions are in accordance with the past and existing practice of the parties to those agreements. While the Union disagrees that the bargaining unit proposed in the Application was improper, in any event, all of the concerns raised by the Intervenor are addressed by the modified bargaining unit description set out above. This description is consistent with previous accreditation orders which carve out bargaining rights held under existing accredited agreements.
56. The Intervenor also argue that the Application ought to be dismissed because ““employers of employees engaged in the operation of hoisting equipment, concrete pumps, placing booms, and similar equipment...engaged in the manned crane and equipment rental business’ outside of the ICI sector is not a tangibly defined group of employers with a community of interest that group together for the purpose of labour relations.” As outlined above, this is simply untrue. The proposed bargaining unit describes a group of employers that has, for almost 50 years, operated as a distinct group applying Schedule A of the PCA. The CRAO has been the employer association representing this group of employers through this entire period. The CRAO negotiates a separate and distinct schedule of the PCA applicable to these employers and the work they perform.
57. These Intervenor apply Schedule A of the PCA to all of their work. They do not apply the Formwork Agreement. There has never in the past been any confusion on the part of these Intervenor about which agreement applies to their work. As the revised clarity note confirms, there would be no change to the practice of any of the parties to Schedule A of the PCA or any pre-existing agreements.

58. The Intervenors suggest that there is not a sufficient community of interest between crane rental companies and concrete pumping or boom placing companies to warrant their inclusion in the same accreditation. Local 793 was not involved in the creation of the CRAO, however, it is evident that as members of the CRAO, the Intervenors felt there was a sufficient community of interest to participate in this employer association. The Intervenors did not form a distinct concrete pumping association. Had they believed their interests were not aligned with the CRAO, they could have done so.
59. The Union cannot comment on the reasons the Intervenors decided to become members of the CRAO and remain as such over many years. Local 793 can only state that since 1978, the CRAO has bargained Schedule A of the Union's Provincial Collective Agreement, pertaining to the crane and equipment rental business in Ontario, inclusive of concrete pumps and placing booms. The Union has never entered into any collective agreement other than the PCA for employers engaged in the rental of manned concrete pumps and placing booms.

Submissions on Double Majority

60. The Intervenors take the further alternative position that if the Board engages in the "double majority" analysis in processing this Application that it should "discount from the equation" 33 employers that it lists in the Intervention.
61. The Intervenors provide no submissions in support of this request. It is not clear to the Union on what basis the Intervenor makes this request, and the Union therefore cannot respond to this request, other than to submit that it is unparticularized, unsupported by any legal submission, and ought to be dismissed by the Board on that basis.

Conclusion

62. In summary, the Interventions filed by Pumpcrete and Aurora fail to establish any legitimate legal challenge to the Application and are a clear attempt to delay and interfere with this Application without any legitimate legal basis. It is clear that these Intervenors oppose the accreditation. However, their approval of the CRAO's actions is an internal political issue for the CRAO to address, and is not the issue before the Board in this Application.
63. For all of these reasons, the Interventions of Pumpcrete and Aurora should be dismissed by the Board without the need for a hearing, in accordance with Rule 41.3 of the Board's Rules of Procedure.

Intervention of JCL

64. JCL did not file a timely intervention in this matter and the late-filed A-94 intervention should be dismissed on that basis.
65. In the alternative, should the Board accept JCL's late-filed intervention, Local 793 submits that the arguments made in JCL's intervention are without merit, and should be dismissed by the Board without the need for a hearing.

JCL's Membership with the CRAO

66. JCL asserts that it is not a member of the Operating Engineers Employers Bargaining Agency, or any of its constituent associations including the CRAO. To support this position, JCL filed an email dated April 29, 2019, as an exhibit to its intervention. The email, from Laura Sciacca to Jason Hanna, the President of the CRAO, advises that JCL is not a member in the CRAO and that the Operating Engineers Employers Bargaining Agency is unauthorized to bargain a collective agreement on behalf of JCL.

67. Article 17(H) of the CRAO's By-Law No. 1, which was attached to the Application, outlines the requirements for terminating membership:

A member may resign by resignation in writing which shall be effective upon acceptance thereof by the Board of Directors, but the member shall remain liable for payment of any assessment or other sum levied, and for other sums which became payable by that member to the Corporation prior to the acceptance by the Board of Directors of that member's resignation.

68. While JCL provides an email in which it indicates its desire to resign its membership from the CRAO, it provides no evidence that the written resignation was provided to the Board of Directors. As such, the notice to resign was incomplete and not in compliance with the CRAO's By-Laws.

69. JCL further asserts that at no time since the email on April 29, 2019, has JCL become a member of the CRAO or authorized the CRAO to bargain on its behalf. Local 793 does not have any independent knowledge of whether or not JCL has "become a member" of the CRAO since 2019. However, given that JCL's initial resignation on April 29, 2019, was deficient, this argument is irrelevant.

70. JCL also submits that it expressly advised the Union on or about April 29, 2019, that it was not a member of the Operating Engineers Employer Bargaining Agency, and that the Operating Engineers Employer Bargaining Agency had no authority to represent the Company outside of the ICI sector, or to conclude a collective agreement on its behalf. JCL provides no evidence of this communication, and the Union has thus far been unable to confirm this statement. However, this does not reflect the understanding of the Union, as the practice of JCL has never changed with respect to the application of Schedule A of the PCA. JCL, like all other concrete pumping companies for which the Union has bargaining rights, has consistently applied Schedule A of the PCA to its work in all sectors of the construction industry.

71. Since the date JCL alleges it ceased to be a member of the CRAO, in the 2019, 2022, and 2025 negotiations of the Provincial Collective Agreement, the CRAO negotiated Schedule A of the Provincial Collective Agreement on behalf of all employers engaged in the crane and equipment rental business in Ontario for which the Union holds bargaining rights. In this time, the Union did not ever negotiate directly with JCL, or enter into any collective agreement with JCL outside of the PCA.

72. As discussed above, there is not one example of Local 793 bargaining and/or signing any collective agreement other than the Union's Provincial Collective Agreement applicable to the

non-ICI sectors for employers engaged in the crane and equipment rental business in Ontario, inclusive of concrete pumps and placing booms. This includes JCL. The only agreement Local 793 has ever entered into with respect to its bargaining rights with JCL is Schedule A of the PCA, which has always been negotiated by the CRAO.

73. It is disingenuous and inconsistent with its own practice for JCL to advance arguments that it is not bound to apply the PCA outside of the ICI sector and it has not vested authority in the CRAO, when it has allowed the CRAO to negotiate a province-wide pattern agreement on its behalf, which it has applied to all of its work without question until the filing of this Application.

Bargaining Unit

74. JCL further submits that the Application ought to be dismissed as the proposed bargaining unit is overly broad and includes “manned crane and equipment rental” which it alleges is outside of the construction industry. This claim is without merit. Renting equipment with an operator is part of an industry-wide practice that is integral to and has always been recognized as construction work.
75. The bargaining unit proposed by the CRAO and the amended description above both state that this application is for employers performing work “in all sectors of the construction industry, excluding the ICI sector, in the Province of Ontario.” This application relates to the construction industry. That there may also be similar work that is performed outside of the construction industry – if true – is irrelevant, as that work is not captured by the applied-for bargaining unit.

Employer Authorizations

76. JCL submits that the CRAO’s Employer Authorizations are defective because they do not explicitly include hoisting equipment, placing booms, or “similar equipment” as described in the proposed bargaining unit description.
77. The Board has considered the question of employer authorizations that do not include the exact same bargaining unit description as the application. The Board has found that the key issue is whether the authorization grants the employers’ organization the authority to act as the employer’s representative, and has accepted authorizations that do not match the precise language of the bargaining unit description.
78. In *Electrical Power Systems Construction Association v. United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada*, 2007 CanLII 49764 (ON LRB), the Board reviewed two separate types of employer authorizations, neither of which aligned with the bargaining unit description later approved by the Board. Despite this, both authorizations were upheld because they both granted EPSCA full authority to serve as the employers’ agent and representative for accreditation and collective bargaining purposes.
79. The authorizations submitted by the CRAO in support of its Application, which authorize the CRAO to act as the employer’s agent and representative in collective bargaining, meet this standard.

Conclusion

80. For all of these reasons, the Board should dismiss JCL's intervention in its entirety. Local 793 submits that this intervention can be dismissed by the Board without the need for a hearing, in accordance with Rule 41.3 of the Board's Rules of Procedure.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Yours truly,



Kathryn Bell
Legal Counsel
International Union of Operating Engineers, Local 793

cc. *Jeremy Schwartz and Natalie Caballero, Stringer LLP*
Diane Laranja and Carl Peterson, Fillion Wakely LLP
Richard Charney and Brian Wood, Norton Rose Fulbright LLP
Jim McKeown, Mathews, Dinsdale & Clark LLP
Matthew Craig, Mathews, Dinsdale & Clark LLP
Kristag Lala, Ben Katz, and Hong Hua (Emily Li), Goldblatt Partners LLP
Melissa Atkins-Mahaney, IUOE Local 793, Labour Relations Manager
Caitlin Hanak, IUOE Local 793, Legal Counsel

TAB 1

Requisition saved

Requisition #	28647	Look up	Contractor	Pumpcrete Corporation
Date/time	2025-04-10 12:51:56		Office phone	
Contact	Craig		Cell phone	416 678 4903
Requested by			Area	1 Toronto
When required	2025-04-11 00:00:00		Location	Concord Yard
Call recvd by	bruno		Agreement	PCA A

Additional information:

Schwing experience
 Call B has not heard back or been put to work BOL so call A cancelled.

Req. #	List	Machine	Controls	Rate	Clear.#	Area
28647	-	<<<< NEW JOB >>>>				
28647	A	49 Concrete Pumps (42mm)		54.11	Cancelled	1
28647	B	49 Concrete Pumps (42mm)		54.11	10086458	1

Requisition #	29168	Look up	Contractor	Pumpcrete Corporation
Date/time	2025-06-18 12:33:42		Office phone	
Contact	Craig		Cell phone	416 678 6903
Requested by			Area	1 Toronto
When required	2025-06-19 00:00:00		Location	Yard
Call recvd by	bruno		Agreement	PCA A

Additional information:

high Pressure concrete forming pump (bottom OE)
Vaughan yard at 161 Calderi Rd

Req. #	List	Machine	Controls	Rate	Clear.#	Area
29168	-	<<<< NEW JOB >>>>				
29168	A	49 High Pressure Pump	\$2 premium	53.90	10088211	1