

**Westvaco Corporation d/b/a Westvaco Gauley Wood-
yard and United Paperworkers International
Union, AFL-CIO-CLC, Case 9-CA-12808**

April 28, 1980

DECISION AND ORDER

**BY CHAIRMAN FANNING AND MEMBERS
JENKINS AND TRUESDALE**

On October 29, 1979, Administrative Law Judge Julius Cohn issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief, and the General Counsel filed limited cross-exceptions and a supporting brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings, and conclusions of the Administrative Law Judge and to adopt his recommended Order.¹

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent, Westvaco Corporation d/b/a Westvaco Gauley Woodyard, Rupert, West Virginia, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order, except that the attached notice is substituted for that of the Administrative Law Judge.

¹ In view of the finding that Respondent has not engaged in good-faith bargaining following the Union's certification, the initial certification year shall be considered to begin when Respondent starts to bargain in good faith pursuant to the recommended bargaining order. See *Rhodes St. Clair Buick, Inc.*, 242 NLRB No. 181 (1979).

APPENDIX

**NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government**

After a hearing at which all sides had an opportunity to present evidence and state their positions, the National Labor Relations Board found that we have violated the National Labor Relations Act, as amended, and has ordered us to post this notice.

WE WILL NOT refuse to bargain collectively in good faith with United Paperworkers International Union, AFL-CIO-CLC, as the exclusive representative of our employees in the appropriate unit concerning rates of pay, wages, hours of employment, and other conditions of employment.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL, upon request, meet and bargain collectively in good faith with a duly authorized representative of the Union concerning rates of pay, wages, hours of employment, and other conditions of employment and, if an understanding is reached, embody such an understanding in a signed agreement. The unit is:

All heavy equipment operators, woodsmen and local truckdrivers involved in the Company's logging department of the Bleach Board Division in the vicinity of Rupert, West Virginia, excluding all employees of the Rupert, West Virginia, woodyard and the Company's Rupert, West Virginia, mechanical maintenance shop, office clerical employees, professional employees, guards, and supervisors as defined in the Act.

**WESTVACO CORPORATION D/B/A
WESTVACO GAULEY WOODYARD**

DECISION

STATEMENT OF THE CASE

JULIUS COHN, Administrative Law Judge: This proceeding was heard in Lewisburg, West Virginia, on March 21, 1979. Upon a charge filed by United Paperworkers International Union, AFL-CIO-CLC, herein called the Union, on July 28, 1978, the Regional Director for Region 9 issued a complaint on September 19, 1978, alleging that Westvaco Corporation d/b/a Westvaco Gauley Woodyard, herein called Respondent or the Company, violated Section 8(a)(1) and (5) of the Act by refusing to bargain in good faith with the Union. Respondent filed an answer denying the commission of unfair labor practices.

All parties were given full opportunity to participate, to introduce relevant evidence, to examine and cross-examine witnesses, to argue orally, and to file briefs. The General Counsel and Respondent submitted briefs, which have been carefully considered. On the entire record in this case, and from my observation of the witnesses and their demeanor, I make the following:

FINDINGS OF FACT

I. THE BUSINESS OF RESPONDENT

Respondent is a Delaware corporation engaged in logging, woodcutting, and wood processing at its Rupert, West Virginia, facilities. During the 12 months preceding the issuance of the complaint, Respondent purchased and received goods and materials valued in excess of \$50,000, which were shipped to its Rupert, West Virginia, facilities directly from points outside the State of West Virginia. The complaint alleges, the answer admits, and I find that Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. THE LABOR ORGANIZATION

The Union is a labor organization within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

A. *Background*

After an election conducted on September 10, 1975, the Union, on March 2, 1976, was certified by the Board as the exclusive bargaining representative of the employees in the following unit: All heavy equipment operators, woodsmen and local truckdrivers involved in the Company's logging department of the Bleach Board Division in the vicinity of Rupert, West Virginia, excluding all employees of the Rupert, West Virginia, woodyard and its Rupert, West Virginia, mechanical maintenance shop, office clerical employees, professional employees, guards and supervisors as defined in the Act.

The Union has represented employees of Respondent at various facilities for many years, including those at a papermill in nearby Covington, Virginia. The bargaining sessions involved herein were conducted by Robert Smith, on behalf of the Union, and James Dill, industrial relations manager of Respondent, no strangers to one another as they performed similar functions at Covington and other installations of Respondent.

The election leading to the Union's certification was a close one, eventually being decided by the resolution of one challenged ballot. Respondent contested this determination by the unfair labor practice route, but the Board issued its order granting summary judgment and directing Respondent to bargain with the Union as the representative of the employees in the unit.¹

B. *The Negotiations*

Smith, service representative of the Union, the sole witness at the hearing, described in some detail what occurred during the bargaining sessions. The parties had 17 negotiating sessions between August 29, 1977, and May 11, 1978. During the first meeting on August 29, they agreed principally on ground rules: noneconomic matters to be discussed before economic, agreement on any single issue would be predicated on subsequent agreement to a total contract, and the Union to prepare a con-

tract proposal for the next meeting. On October 20, the Union submitted its written proposal. Respondent took a caucus, returned for some explanations, and then adjourned the meeting, stating that it would study the Union's proposal.

The parties met on November 10 when the Company made a counterproposal in writing. After looking at the Company's proposal, Smith said he was concerned because it was not using any of the Union's proposals. Dill replied that the Company was not interested in the Union's proposals, that they were too restrictive and hampered the Company's operations.

At the next meeting, December 8, the Union agreed to the use of the Company's proposal of November 10 as a foundation from which to begin work.

The next meeting was on January 31, 1978, and the principal subject discussed was seniority. The Union had proposed initially that the Company's actions with respect to promotion, demotion, transfers, layoffs, and recall be made in accordance with strict seniority. The Company's proposal was that seniority should be considered for layoff or promotions only when in its sole discretion all other factors, including skill, qualification, and attitude, were equal. The Union now said it would revamp its seniority clause so as to include considerations of qualifications and abilities along with seniority. Although the Company had maintained that it was concerned about being able to move the employees on a day-to-day or hour-to-hour basis, the Union replied that its position with regard to seniority was limited to a permanent vacancy. The Company made no response to the Union's seniority proposal at this meeting. However, during the January 31 session, the parties did arrive at an agreement on a grievance procedure providing for arbitration, and also on a general harmony clause.

The Union repeated its position on seniority at the next meeting, February 13, further limiting its original proposal to situations of permanent transfers of employees. The Company's response at this time was that it would agree to change from 1 month to 3 months the amount of time within which an employee could be recalled without loss of seniority. Actually this type of response throughout this and subsequent meetings was the Company's proposal on seniority. It never really changed its original proposal except to gradually increase the recall time until it reached 6 months.

As an additional inducement to the Union on the issue of seniority, Respondent agreed on February 14 to extend a funeral leave provision to include additional members of the employee's family, and to provide the Union with a copy of the seniority list twice a year. Also, subject to final agreement on all issues, the parties had agreed on February 13 to clauses providing for union recognition, management rights, employer-union relations, nondiscrimination, grievance procedure, and term of agreement.

The parties again met on February 21 during which the Union submitted a new proposal on seniority designed to give Respondent more flexibility. However, Dill, for the Company, said that this was still too restrictive and would hamper its efficiency. The Company then offered to extend the layoff provision as to loss of senior-

¹ 226 NLRB 560 (1976), enf'd. 562 F.2d 50 (4th Cir. 1977).

ity from 3 to 4 months, and an additional proposal to the effect that state or Federal law would prevail in the event of any conflict with the contract; this last being a matter never requested by the Union, nor had it ever expressed any interest. The Union also proposed at this meeting that it would agree to the Company's proposal giving it the right to have work done by individuals not in the bargaining unit, if the Company eliminated a clause to the effect that the work may be done by individuals who are not employees of the Company. This was the Company's proposal with the last clause deleted, and was offered by the Union if the Company would agree to the Union's last proposal on seniority. Respondent made no direct response to this at the time but did continue its discussion about needing flexibility.

The next meeting was on February 28 during which the Company proposed a new article which would provide for leave of absence to employees for illness or other reasons at the sole discretion of the Company. This was tied in to the Union's agreement to the Company's proposal on seniority and funeral leave. The Union responded that it could not agree to the Company's seniority proposal without incorporating some language which would include seniority as a consideration along with qualifications and abilities. It also required some changes of language with the funeral leave proposal. With regard to the Company's proposal concerning leave of absence, the Union indicated its acceptance if there was provision for a time period within which an employee could present a doctor's supporting certificate for illness. The Company caucused and returned saying that it could not agree with the Union's proposal, and at this point the Company offered to increase the layoff period from 4 to 6 months within which there would be no loss of seniority. The Company also proposed a new article on union visitations which would permit a union representative to come on company property at the manager's discretion, and would be permitted to look into the matters involved in his visit so long as he did not interfere with the work. The Company coupled this visitation proposal with total agreement on its offers as to seniority and funeral leave. The Union did not respond to this last proposal.

At the next meeting, March 9, the Company made some new proposals. It offered to schedule 40 hours for each employee as much as possible, and to give an employee 4 hours of pay if he was not notified otherwise and showed up for work, and also changed its position with regard to eligibility for holiday pay. Respondent connected these proposals with the Union's acceptance of its definition of the bargaining unit, and the Company's right to have other individuals not in the bargaining unit performing bargaining unit work. The Union caucused and reported it could not agree with these proposals, but counterproposed that work be scheduled for 5 consecutive days with a workday from 8 a.m. until 4:30 p.m. Finally the Union offered to agree to some of the Company's language and proposals, provided that the Company would agree to the union offers on holiday and seniority. The Company would not agree to this. The meeting ended with the Company's announcement

that it would be prepared at the next session to talk about wages and benefits.

At the next meeting, March 15, the Company presented a written proposal which included items agreed upon on February 14, and contained other unsettled proposals such as leave of absence, union visitations, and hours of work. In addition, the Company included a wage and benefit proposal. The group insurance and pension portions of this proposal were the same as the employees had been receiving at the time. The Union responded to this latter proposal by stating that the group insurance on basic Blue Cross and Blue Shield was acceptable, as was the life insurance. However, the Union wanted to increase sickness and accident insurance and also the pension. The present pension rate of unit employees was \$6.50 per month for each year of service, and the Union wanted to increase this to \$11 per month per year effective April 1, 1978, which was the level being given by the Company to the papermill unit. The Company responded to this demand by proposing that the pension be raised to \$7 per month, and that the starting wage rate for employees be \$3.85 an hour. Smith testified that company documents reflect that no one in the bargaining unit was making less than \$3.85 an hour at the time.

The Company's wage proposal was simply to incorporate its established procedures to the effect that wage increases shall be made on the basis of merit at the discretion of management. It provided that in determining merit, the following factors should be considered: "Quality of work, quantity of work, attendance, initiative, responsibility, and overall job performance." The starting rate of \$3.85 an hour would be guaranteed. The Union initially counterproposed for a wage increase for each classification and an additional increase 6 months thereafter, which the Company rejected as being unacceptable and unreasonable. After a lengthy caucus, the Union finally told the Company that it would agree with their wage administration program if it were jointly administered. When that was rejected, the Union urged that if a wage agreement could not jointly be reached, a disinterested third party should make the determination. The Company took this under advisement.

The next meeting was on March 30, at which time the Company said that it could not agree to the Union's wage administration proposal, because too many problems would be raised by an arbitrator setting a wage pattern at this division of the Company. The Union then submitted its own written proposal on wages and fringe benefits, in which it agreed to the sickness and accident benefits proposed by the Company, and then cut in half its own proposal of March 15 for wage increases. The Company made no further proposal about wages at this meeting, and the discussion ended with the Company stating, at the Union's request, that it would look again at the seniority proposals.

On April 6, the next meeting, Smith handed Dill a revised written proposal. After a caucus, the Company said that they had looked at the last proposal, did not feel that they were any further along, and therefore had nothing more to offer, and that "the Union had the Company's best offer." Smith replied if that was the Company's best offer, it was unacceptable, and if the Company

was going to leave it as it was, then no complete agreement had been reached. Smith asked Dill if he would consider using Federal Mediation and Dill responded whatever was the Union's pleasure. As the meeting broke up, Smith again asked Dill about Federal Mediation and the reply was that they had the Company's best offer.

By letter dated April 7, the Company informed the Union that it considered negotiations as having reached an impasse. It advised that, effective April 10, the Company would implement the benefits as contained in its wage and benefit proposal of April 6. The Union responded on April 14 indicating it had no objection to the implementation of the Company's wage proposal insofar as it was in fulfillment of law, and so long as previously existing benefits were not taken away, but the Union still expected to negotiate a wage and fringe benefit package.

In the interim the Union had arranged for meetings with a Federal Mediator which occurred on April 26 and May 11. The Union through the Mediator made a proposal on the four or five outstanding items including its offer of a modified union shop clause with checkoff, a demand that the Company pay time and a half after 8 hours, permit vacations to be taken by seniority with certain exceptions, and to apply seniority to permanent transfers. The Union also would agree to the Company's proposal as to the performance of bargaining unit work by nonbargaining unit employees, provided that the Company would agree to eliminate the clause that such individuals may not necessarily be employees of the Employer. After a caucus the Company returned and stated that they could not go along with the Union's proposal. There were no more meetings with the Mediator.

Although there were some contacts between Smith and Dill, no direct meetings took place thereafter. Smith asked Dill about getting a contract during the course of a nonrelated meeting and the latter indicated that the Company's offer was still there if the Union wanted to take it. In July, Smith received the same response. On October 26 during negotiations at the Company's two nearby papermills, the Union requested including the unit herein, in multiple bargaining, with the other units, and the Company stated it was not interested. By letter dated February 16, 1979, the Union wrote Respondent to the effect that as the strike and negotiations at the papermill were completed, it would like to proceed with negotiations and requested dates. The Company responded on February 23 suggesting availability on either of two dates in March. However, the hearing in this case intervened and no negotiations occurred.

C. Analysis and Conclusions

The General Counsel contends that despite the number of bargaining sessions, Respondent made no concessions in critical areas such as wages, benefits, seniority, union security, and the right of the employer to subcontract. It is urged that Respondent engaged in a premeditated plan not to enter into an agreement with the Union, and engaged merely in surface bargaining. Respondent on the other hand relies on the statute which does not require agreement or concessions to the proposals of other parties, and that the obligation of an employer to bargain in

good faith does not require the yielding of positions "fairly maintained."

The Board has put the bargaining obligation in the following perspective: "It is a fundamental precept of labor relations that 'the obligation to bargain collectively does not compel either party to agree to a proposal or require the making of a concession.' However . . . the Board can and does consider the totality of the employer's actions to assess its motivation in determining whether it was really engaging in surface bargaining with no genuine intention to reach agreement."²

I find in the total context of the circumstances herein, as detailed in the testimony of Union Representative Smith, the sole witness at this hearing, that Respondent did indeed engage in surface bargaining as a predetermined plan to avoid reaching a collective-bargaining agreement with the Union.³

The strategy of Respondent was to parry a substantive proposal by the Union with an offer to give something to the employees in an unrelated and rather insignificant area far removed from that in which the Union was making its proposal. Thus in connection with union proposals made at various times relating to seniority or wages, the Company would suddenly offer to increase the breadth of a proposal having to do with funeral leave, or offer some language to the effect that conflicts between the collective-bargaining agreement and existing state or Federal law should be resolved in favor of adherence to the law.

The Union was seeking a broad seniority provision, which it finally reduced to a mere request that the Company just consider length of service as one of the factors utilized in making permanent transfers or promotions. Respondent kept rejecting any of the Union's offers on the basis of required "flexibility" in handling its operations. The uncontradicted testimony of Smith is to the effect that the Company was referring to its need to maneuver people in the day-to-day operations. The Union acceded to this and, as noted, agreed to confine its seniority proposal to permanent transfers and promotions, giving the Company free range in its manipulation of personnel during the day. At that point Respondent no longer addressed itself to the issue of flexibility, but countered by offering to increase the length of time within which an employee could be recalled without loss of seniority. Thus, at one meeting it had agreed to extend that period for 3 or 4 months and finally to 4 to 6 months.

Having announced at the prior meeting that it would proceed to submit and discuss a wage proposal, Respondent, on March 15, presented the Union with a so-called wage and benefit proposal. The wage proposal provided for Respondent to administer wage increases to be made on the basis of merit at its sole discretion, setting forth six factors it would use in determining merit.

² *Tomco Communications, Inc.*, 220 NLRB 636, 637 (1975).

³ The fact that Respondent has a longstanding collective-bargaining relationship with this Union covering other units and facilities is of no avail to Respondent herein, as I am obliged to consider the facts on this record, from which it appears to me that, for reasons best known to itself, Respondent was determined not to reach an agreement with the Union in this unit despite its relatively small size.

The Union made a counterproposal to adjust all the classifications with a percentage increase for each and an additional amount 6 months later, which was rejected by the Company. After a caucus, the Union met the Company's proposal on wage administration by offering to accept it if it were jointly administered. This again was rejected by Respondent, and the Union then countered with a proposal for joint administration, but with a disinterested third party to be the decisive factor. At the next meeting, on March 30, Respondent replied that it could not agree with the Union's wage administration proposal because it would not have an arbitrator in effect setting the wage pattern. The Union then submitted a new written wage proposal which in effect substantially reduced its proposal of March 15. Again Respondent rejected the Union's proposal, not moving from its original wage administration proposal. As to the benefit proposal considered together with the wage program, the Union had in effect accepted most of the benefit program proposed by the Company which actually involved no change in current conditions. However, the Union wanted an increase in pension to be equal to that of the mill employees. The Company then agreed to increase its pension proposal by 50 cents per month, per year, per employment, still totaling \$7 as against \$11 received by mill employees.

Respondent relies on *Atlantic Research Corporation, Desamatic Products Division*, 144 NLRB 285 (1963), where the Board adopted a finding by Administrative Law Judge Paul Bisgyer that Respondent's insistence on reserving to itself as a management prerogative the right to grant individual merit increases was not in derogation of its bargaining obligation. However, in that case Administrative Law Judge Bisgyer went on to note that "there is no question that there was full negotiation and a complete change of views regarding this subject." He also found that Respondent had modified its original proposal and had offered to discuss in advance with the Union any contemplated increase, its reasons and amount, and to furnish it with necessary information, proposals rejected by the Union in that case. None of these factors are present in the instant case. There was no "full negotiation" on this proposal. Respondent out of hand rejected any union proposal or modified proposal for a percentage increase, and rejected any attempt by the Union to discuss or modify the Company's proposal for the awarding of merit increases. Curiously, at the final meeting before the Mediator, the Union actually accepted Respondent's proposal on wages but was met by Respondent's often repeated statement that the Union had its final offer.

Respondent rejected the Union's proposal for a union-security provision in the agreement. In its brief, Respondent explains that it held out against a union shop because the election vote had been split and that, accordingly, it was unreasonable to require new employees to join the Union when its support was split at the jobsite. Board cases such as *S & L Co., of Billings, and Associated Industries of Billings, Montana*, 159 NLRB 903 (1966), and *Furr's Cafeteria, Inc., Cafeteria No. 16*, 179 NLRB 240 (1969), would seem to support the proposition that a union-security clause would not be fair to all employees because of the Union's close margin of victory. Howev-

er, I do not believe that Respondent can avail itself of such a finding in the circumstances in the case herein. In *Billings*, it was found that there had been a turnover in personnel since the date of the election, and in *Furr's*, the Board found that respondent therein had expressed a good-faith doubt of the majority status, a contention it found "not so frivolous as to compel the conclusion that it was engaging in a pattern of surface bargaining" Moreover, in both cases the respondents had offered a maintenance of membership clause which the unions had rejected. None of those elements are present in this case. Moreover, this record is devoid of any meaningful bargaining on the part of Respondent to the Union's proposal of a union-security provision. Finally, before the Mediator, the Union modified its original proposal and requested merely maintenance-of-membership. At this point the Company did not respond but merely reiterated that the Union had its best offer.

The remaining subject of bargaining upon which the parties were apart is with regard to the Company's proposal as to subcontracting of work. The Union would agree to Respondent's proposed article I, section III, entitled "Nonbargaining unit personnel" which read "nothing in this agreement shall, in anyway, limit the rights of individuals who are not in the bargaining unit from doing work done by bargaining unit employees, whether or not such individuals are employees of the employer," if the Company dropped the last clause "whether or not such individuals are employees of the employer." Again Respondent rejected the Union's offer. Looking at Respondent's proposal without the last clause, it would appear that the Company in any case would have, with union approval, the right to unlimited subcontracting of bargaining unit work particularly as the word used in the provision is "individuals" and not "employees."

In sum, I find that Respondent did not engage in meaningful bargaining with respect to very substantial subjects of bargaining. While it is true that Respondent did rather early agree to a grievance procedure including arbitration, a very important subject, I find, in my own attempt to assess Respondent's motivation, that this concession was only a pawn in its plan to engage in surface bargaining with no genuine intention to reach agreement. As the Board indicated in *Tomco, supra*, Respondent's insistence on its last and best offer was nothing more than a demand on its part that the Union abdicate the most substantial rights it would normally possess to represent the employees involved. I find, therefore, that in the circumstances of this case Respondent engaged in bad-faith bargaining and thereby violated Section 8(a)(5) and (1) of the Act.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of Respondent set forth above, occurring in connection with its operations described above, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY

Having found that Respondent has engaged in unfair labor practices in violation of Section 8(a)(5) and (1) of the Act, I shall recommend that it be ordered to cease and desist therefrom, and to take appropriate affirmative action designed to effectuate the policies of the Act.

Having found that Respondent had engaged in bad-faith bargaining over a lengthy period of time without intention of reaching an agreement with the Union, I shall recommend a general bargaining order, with the understanding that, inasmuch as unit employees have been deprived of the benefits of the certification year, said year shall be deemed to begin on the date that Respondent commenced to bargain in good faith.

As to the unilateral changes in wages as a result of Respondent's implementation of its wage offer, the Union had to some extent acquiesced in this action as it appeared to be no more than the carrying out by Respondent of its usual policy of granting merit increases. However, the Union did reserve its rights with respect to bargaining concerning wages. Accordingly, I shall not recommend that Respondent roll back any increases in wages or other benefits received by employees since its implementation on April 10, 1978, of its so called wage offer to the Union. However, in connection with the general bargaining order to be issued, the Union shall of course have the right to bargain concerning wages, among other things.

CONCLUSIONS OF LAW

1. Respondent is, and at all times material herein has been, engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. All heavy equipment operators, woodsmen, and local truckdrivers involved in the Company's logging department of the Bleach Board Division, in the vicinity of Rupert, West Virginia, excluding all employees of the Rupert, West Virginia, woodyard and its Rupert, West Virginia, mechanical shop, office clerical employees, professional employees, guards, and supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

4. Since on or about January 31, 1978, and continuing thereafter to date, Respondent has, by its overall course of conduct in the contract negotiations, refused to bargain collectively in good faith concerning wages, hours of employment, and other terms and conditions of employment in violation of Section 8(a)(5) and (1) of the Act.

5. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

Upon the foregoing findings of fact, and conclusions of law, and the entire record in this case, and pursuant to

Section 10(c) of the Act, I hereby issue the following recommended:

ORDER⁴

The Respondent, Westvaco Corporation d/b/a Westvaco Gauley Woodyard, Rupert, West Virginia, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively in good faith with United Paperworkers International Union, AFL-CIO-CLC, as the exclusive representative of the employees in the unit described below, concerning rates of pay, wages, hours of employment, and other conditions of employment: All heavy equipment operators, woodsmen, and local truckdrivers involved in Respondent's logging department of the Bleach Board Division, in the vicinity of Rupert, West Virginia, excluding all employees of the Rupert, West Virginia, woodyard, mechanical maintenance shop, office clerical employees, professional employees, guards, and supervisors as defined in the Act.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights protected under Section 7 of the Act.

2. Take the following affirmative action which is deemed necessary to effectuate the policies of the Act:

(a) Upon request, bargain collectively in good faith with the above-named Union as the exclusive representative of all employees in the unit described above, concerning rates of pay, wages, hours of employment, and other conditions of employment, and, if an understanding is reached, embody such understanding in a signed agreement.

(b) Post at its place of business in Rupert, West Virginia, copies of the attached notice marked "Appendix."⁵ Copies of said notice, on forms provided by the Regional Director for Region 9, after being duly signed by an authorized representative, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director for Region 9, in writing, within 20 days from the date of this Order, what steps the Respondent has taken to comply herewith.

⁴ In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

⁵ In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."