

In the Matter of BIG LAKE OIL COMPANY and INTERNATIONAL UNION  
OF OPERATING ENGINEERS, LOCAL No. 709, A. F. OF L.

*Case No. 16-R-692.—Decided October 5, 1943*

*Mr. Robert T. Neill*, of San Angelo, Tex., for the Company.

*Mr. Arvil Inge*, of Ft. Worth, Tex., for the Union.

*Mr. Louis Cokin*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by International Union of Operating Engineers, Local No. 709, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Big Lake Oil Company, Texon, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert F. Proctor, Trial Examiner. Said hearing was held at Big Lake, Texas, on September 7, 1943. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Big Lake Oil Company is a Delaware corporation with its principal place of business at Texon, Texas, where it is engaged in the production of crude petroleum and the manufacture of casing-head gasoline obtained from oil and gas leases upon land owned by the University of Texas. During 1942 the Company purchased raw materials valued at about \$440,000, over 50 percent of which was

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shipped to it from points outside the State of Texas. During the same period the Company produced approximately 1,515,000 barrels of petroleum. All petroleum is delivered to a pipe line near the Company's premises and in turn transported to Humble Oil and Refining Company. In addition, the Company produces about 200,000 gallons of casing-head gasoline monthly, all of which is delivered to Republic Oil Refining Company at Texas City, Texas.

## II. THE ORGANIZATION INVOLVED

International Union of Operating Engineers, Local No. 709, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

During July 1943 the Union requested the Company to recognize it as exclusive collective bargaining representative of the Company's employees at Texon. The Company refused this request until such time as the Union is certified by the Board.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.<sup>1</sup>

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

## IV. THE APPROPRIATE UNIT

The Union urges that all employees in the gasoline plant, power plant, and production departments of the Company at Texon, excluding supervisory, administrative, clerical, and technical employees, chief engineer, chief gauger, farm boss, head machinist, and rig building foreman, constitute an appropriate unit. The parties are in dispute with respect to several classes of employees, discussed below.

Texon, Texas, is a company-owned town and the Company operates a theatre, hospital, and camp therein. The Company urges that all theatre, hospital, and camp employees be included in the unit, while the Union requests that they be excluded. Inasmuch as the employees in dispute do not perform any production duties and their duties and working conditions are dissimilar to those of the employees

<sup>1</sup> The Field Examiner reported that the Union presented 73 authorization cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of August 15, 1943. There are approximately 133 employees in the appropriate unit.

admittedly in the unit, we shall exclude the theatre, hospital, and camp employees from the unit.

The Union would exclude the employees in the clerical departments from the unit, while the Company would include them. Since no affirmative showing has been made nor any compelling arguments advanced as to why we should depart from our usual practice of excluding office and clerical employees from a unit largely composed of production and maintenance employees, we shall exclude the employees in the clerical departments from the unit.

The Company employs persons classified by it as gang pushers. The Company would exclude them from the unit while the Union would include them. Each of the gang pushers has three employees under him and has the authority to recommend the hire or discharge of his subordinates. We find that gang pushers are supervisory employees and, as such, we shall exclude them from the unit.

The Company employs one person classified as a warehouse foreman. The warehouse foreman keeps the warehouse in order and receives and disburses materials. The Union would exclude him from the unit while the Company would include him. The warehouse foreman is the only employee working in the warehouse and does not have any employees working under or with him at any time. Under the circumstances, we shall include him in the unit.

The Company maintains a garage for the repair and maintenance of its transportation facilities. The garage foreman is in charge of the garage and the mechanics working therein. The Union would include him while the Company would exclude him. Inasmuch as the garage foreman is the highest supervisory employee in the garage, we shall exclude him from the unit.

The Company has an employee classified as a material yardman who is charged with the duty and responsibility of keeping the materials in the Company's yard in an orderly manner. The Union would exclude him from the unit while the Company would include him. The material yardman performs manual work and keeps some clerical records. He has no employees under his direction. Accordingly, we shall include him in the unit.

The Company employs one watchman and one camp officer. The Union would exclude them from the unit while the Company would include them. The watchman and camp officer are armed, and the watchman is a constable elected by voters of the precinct while the camp officer is a Texas Ranger. In accordance with our usual practice of excluding armed guards from the unit, we shall exclude the watchman and camp officer.

The Company would include the timekeeper in the unit while the Union would exclude him. The timekeeper keeps the time of the employees working in the field and turns in records to the office. Inasmuch as the duties of the timekeeper are clerical in nature, we shall exclude him from the unit.

We find that all employees in the gasoline plant, power plant, and production departments of the Company at Texon, Texas, including the warehouse foreman and material yardman, but excluding administrative and technical employees, employees in the theatre, hospital, and camp departments, employees in the clerical departments, watchman, camp officer, timekeeper, gang pushers, garage foreman, chief engineer, chief gauger, farm boss, head machinist, rig building foreman, and any other supervisory employees with authority to hire, promote, discipline, discharge, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

#### V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

#### DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 2, as amended, it is hereby

**DIRECTED** that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Big Lake Oil Company, Texon, Texas, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Sixteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV,

above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause, to determine whether or not they desire to be represented by International Union of Operating Engineers, Local No. 709, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.