

In the Matter of COLLINS PINE COMPANY, ALMANOR RAILROAD COMPANY and LUMBER AND SAWMILL WORKERS, LOCAL NO. 3074, A. F. OF L.

Case No. 20-R-863.—Decided January 18, 1944

Messrs. P. W. Foote and J. R. McDonald, of Chester, Calif., and Mr. C. L. Irving, of Klamath Falls, Oreg., for the Company.

Messrs. H. H. Williams, Charles Langdon, and L. A. Seahorn, all of Sacramento, Calif., for the Sawmill Workers.

Mr. James F. Galliano, of Oakland, Calif., and Mr. Mathew O. Tobriner, of San Francisco, Calif., for the Teamsters.

Messrs. Joe F. Clark and Owen S. Ellinger, of Chester, Calif., and Mr. F. L. Ames, of Susanville, Calif., for the Woodworkers.

Mr. John D. LaGrange, of Reno, Nev., for the Operating Engineers.

Mr. A. Sumner Lawrence, of counsel to the Board.

DECISION
DIRECTION OF ELECTION
AND
ORDER

STATEMENT OF THE CASE

Upon an amended petition duly filed by Lumber and Sawmill Workers, Local No. 3074, A. F. of L., herein called the Sawmill Workers, alleging that a question affecting commerce had arisen concerning the representation of employees of Collins Pine Company, and Almanor Railroad Company, Chester, California, herein called the Company and Railroad, respectively, the National Labor Relations Board provided for an appropriate hearing upon due notice before John Paul Jennings, Trial Examiner. Said hearing was held at Chester, California, on November 1 and 2, 1943. The Company, the Sawmill Workers, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL, herein called the Teamsters, International Woodworkers of America, C. I. O., herein called the Woodworkers, and Operating Engineers Local No. 3, of the International Union of Operating Engineers, AFL, herein called the Operating Engineers, 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 the 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 AND THE RAILROAD

Collins Pine Company, an Oregon corporation, is engaged in the logging of timber and the operation of two sawmills for the manufacture of lumber and lumber products. Of the two sawmills operated by the Company, one is located at Pondosa, Oregon, while the other—the only one involved in the present proceeding—is located at Chester, California. In addition to the business of logging and lumber manufacturing, the Company also owns and operates a railroad, hereinabove referred to as the Almanor Railroad Company. The railroad has no employees other than the employees of the Company, which operates the railroad in question as auxiliary to and in furtherance of its general sawmill business. In the course of this business and during a 7-month period beginning in April 1943, when the Company first commenced operations at its Chester, California, mill, and continuing to the date of the hearing, the Company produced at this particular mill 16 million board feet of lumber, of which 65 percent was shipped to points outside the State of California. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

Inasmuch as it appears that the Railroad has no employees apart from those of the Company, we find that the Railroad is not an employer within the meaning of the Act, of the employees herein involved, and we shall dismiss the petition as to it.¹

We find that the Collins Pine Company is the employer of the employees herein involved within the meaning of Section 2 (2) of the Act.

II. THE ORGANIZATIONS INVOLVED

Lumber and Sawmill Workers Local No. 3074, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, is a labor organization affiliated with

¹ See *Matter of A. P. Steiner, Mrs Ruth Steiner Griggs, Joseph Steiner, Mrs. Katherine Steiner Stevenson, Peter Steiner, Henry Steiner, Mrs. Alice R. Bushong, John Steiner, Mrs. Naomi B Steiner, individually, and as co-partners d/b/a Steiner Brothers and/or The Lenox Furnace Company*, 43 N. L. R. B. 1384.

the American Federation of Labor, admitting to membership employees of the Company.

International Woodworkers of America, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Operating Engineers Local No. 3, of the International Union of Operating Engineers, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

Shortly before May 20, 1943, the Sawmill Workers requested that the Company recognize it as exclusive bargaining representative of all employees of the Company, other than clerical and supervisory employees, at its Chester, California, operations. The Company declined to recognize the Sawmill Workers until certified by the Board.

A statement of the Field Examiner, together with other evidence introduced at the hearing, indicates that the Sawmill Workers, and the Woodworkers each represents a substantial number of employees in the unit hereinafter found appropriate.²

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 Act.

IV. THE APPROPRIATE UNIT

The Sawmill Workers, the Company, and the Woodworkers all contend that the appropriate unit should be defined on an industrial basis and include employees in both woods and mill operations, without reference to craft distinctions. On the other hand, the Teamsters

²From the report of the Field Examiner and that of the Trial Examiner concerning claims of authorization submitted by the several unions involved, it appears that the Sawmill Workers has presented a total of 150 application-for-membership cards dated between September 1942 and October 1943, of which 68 bear the apparently genuine signatures of persons whose names are on the Company pay roll for November 1, 1943, containing 167 names within the unit claimed appropriate by the Sawmill Workers; that the Woodworkers has presented a total of 101 application-for-membership cards dated between May and October 1943, of which 44 bear the apparently genuine signatures of persons whose names are on the pay roll of November 1, 1943, containing approximately 155 names within the unit claimed appropriate by the Woodworkers; that with respect to the Operating Engineers and the Teamsters, who claim units separate from the industrial unit sought by both the Sawmill Workers and Woodworkers, the Operating Engineers has submitted 11 application-for-membership cards dated May 20, 1943, while the Teamsters has submitted 8 applications for membership dated June 24, 1943; that of the cards submitted by the Operating Engineers, 10 bear the apparently genuine signatures of persons whose names are on the pay roll of November 1, 1943, containing 24 names within the unit claimed appropriate by the Operating Engineers; that of the cards submitted by the Teamsters, 5 bear the apparently genuine signatures of persons whose names are on the pay roll of November 1, 1943, containing 13 names within the unit claimed appropriate by the Teamsters.

and the Operating Engineers urge the recognition of separate units for the members of their respective crafts. In the one case, the Teamsters seeks an appropriate unit for the drivers of automotive equipment and related employees, both in the woods and at the mill yard.³ In the other, the Operating Engineers seeks an appropriate unit for the operators of miscellaneous mechanical equipment both in the woods and in and about the mill.⁴

The Company's operations include not only the cutting of timber and the conversion thereof into lumber, but also a number of incidental operations such as the building of roads in the woods, the trucking of logs from the woods to the sawmill and the operation of a private railroad in connection with the delivery of finished lumber from the mill siding to the main line of the nearest public carrier. In all these operations the Company maintains a highly integrated organization in which the various groups of employees concerned carry on the Company's primary function of the production and distribution of lumber. In similar cases the Board generally has held that an industrial unit is the more appropriate unit for collective bargaining.⁵ The Teamsters and the Operating Engineers, however, maintain that the present facts with regard to the employees whom they claim to represent are such that separate units should be established, or at least that such employees should be permitted to determine for themselves whether they should be represented in a separate unit or as part of the larger industrial group.

With respect to the craft unit claimed by the Teamsters, it appears that while the truck drivers and carrier operators for whom the Teamsters seeks separate representation include to a large extent general sawmill and woods employees who have been trained by the Company to drive automotive equipment,⁶ the operators of such equipment generally perform their own type of work and are transferred to other sawmill operations only in the event of a breakdown

³ The Teamsters claims a unit consisting of the logging truck drivers, the carrier operators in the sawmill, the dump truck drivers, the lift truck driver, carried on the pay roll as a carrier driver, and the truck service man in the machine shop.

⁴ The Operating Engineers claims a unit consisting of the bulldozer operators, shovel operator, motor patrol operator, cat drivers, the log loader operators and the cat greaser and service man, all in the woods operation, together with the unloader winch operator at the mill, the powerhouse operators and firemen, the railroad conductor, engineer, and fireman, two welders, a truck mechanic foreman, a truck mechanic, a cat mechanic, and a utility man in the mill carried on the pay roll as "cat driver, yard maintenance"

⁵ See *Matter of Weyerhaeuser Timber Company, Longview Branch*, 29 N. L. R. B. 571; *Matter of Long Bell Lumber Company*, 29 N. L. R. B. 586; *Matter of Polson Logging Company*, 31 N. L. R. B. 328.

⁶ The evidence discloses that of the six log truck drivers presently employed by the Company, five were formerly employed in some other lower paid woods classification. As a general rule, the majority of the employees driving motor equipment have been broken in on other jobs prior to becoming truck or carrier operators, largely as the result of the necessity of acquiring some knowledge of lumber in addition to truck driving ability

in their equipment⁷ or a closing of the logging operations due to weather conditions.⁸ On the other hand, both truck and carrier drivers work in close association with the logging and sawmill workers, have no separate department or supervision, and are divided between the woods and plant operations.⁹

Similarly, with respect to the employees claimed as the basis of a craft unit by the Operating Engineers, the record discloses that while certain employees, particularly those in the powerhouse, are to a certain extent segregated from the other production employees,¹⁰ the several groups for whom the Operating Engineers seeks a separate unit are as a general rule scattered throughout the plant and woods operations under varied supervision,¹¹ and are not easily distinguishable either from the ordinary lumber production employees or the drivers of the automotive equipment claimed by the Teamsters as a separate craft unit.¹² Moreover, it appears that in common with employees claimed by the Teamsters, the employees in the unit proposed by the Operating Engineers have not been organized exclusively by a craft organization but are in many instances members of either the

⁷ The lift truck or carrier operators have been asked to do other work on about a dozen occasions in the past 6 months as the result of breakdowns in their equipment. Of such breakdowns, the majority have been of a minor nature necessitating only a few hours to make the required repairs.

⁸ The transfer of logging truck drivers to other lower paid work during seasonal shut-downs has in the past been accepted by about half of the truck drivers employed by the Company. The remainder have chosen to remain in the occupation of truck driving and have sought transfer to other operations.

⁹ Of the employees claimed by the Teamsters, the dump truck drivers in the woods are under the supervision of the road foreman and logging superintendent, while the dump truck driver at the mill works under the yard foreman and mill superintendent. The log truck drivers work directly under the logging superintendent, while the truck service men work under the truck mechanic foreman (claimed by the Operating Engineers) and the logging superintendent. The carrier operators at the mill are supervised by different foremen.

¹⁰ Although the powerhouse employees as such are generally confined to the powerhouse, they have opportunity to associate with employees from other departments who come into the powerhouse for the purpose of making repairs.

¹¹ Of the employees claimed by the Operating Engineers, the railroad crew is subject to the supervision of the shipping superintendent; the powerhouse operators and foremen are supervised by the chief engineer, and over him by the mill superintendent; the combination blacksmith and welder is supervised by the machine shop foreman, and over him, by the mill superintendent; the cat driver in yard maintenance at the mill is under the supervision of the cat repair foreman, and through him, under the logging superintendent; the truck mechanic foreman and the truck mechanic whom he supervises, come under the general supervision of the logging superintendent; the shovel operator, motor patrol operator, and bulldozer operators come under the supervision of the road foreman, and over him, under the logging superintendent; the bulldozer operators when driving skidding cats come under the supervision of the woods boss, and over him, the logging superintendent who also has supervision over the loader operator at the landing in the woods, and over the unloading winch operator who works at the pond near the mill.

¹² In addition to the similarity existing in many instances between the work of the various employees claimed by the Teamsters and the Operating Engineers, it appears that a number of employees claimed by the latter organization, particularly those engaged in railroad operations, regularly spend a considerable portion of their time doing ordinary lumber work, during which period they are indistinguishable from the regular lumber production employees.

Sawmill Workers or the Woodworkers.¹³ Finally, the record discloses that the history of collective bargaining in the industry generally on the part of both the Teamsters and the Operating Engineers, does not support the type of unit sought by either craft organization.¹⁴

Under the circumstances, we are of the opinion and find that the units sought to be established by the Teamsters and the Operating Engineers in the present instance are not appropriate for the purposes of collective bargaining,¹⁵ and that an industrial unit, as sought by the Woodworkers and the Sawmill Workers, is the appropriate bargaining unit.

There remains for consideration the question of including or excluding from the industrial unit certain groups of employees or individuals as to whom the parties are in disagreement. The disputed categories consist of log scalers and graders, and an individual referred to as a truck mechanic foreman. The several groups and persons will be discussed in the order mentioned.

Log scalers and graders

The Company would exclude as confidential employees two log scalers and graders who work on the log deck in the sawmill. The record discloses that in addition to bringing the logs into the mill and bucking them to proper length these men scale the logs in order to determine their board feet and grade them according to standards of logging grades. The log scaling operation is largely mechanical but the grading operation requires skill and judgment. The individual log scaler and grader is paid jointly by the Company and another

¹³ The record discloses that with respect to the 13 employees in the unit claimed by the Teamsters, the Sawmill Workers presented evidence of authorizations from 8 employees; the Woodworkers authorizations from 2 employees, and the Teamsters authorizations from 5 employees, respectively. Of this group, it appears that 3 employees classified as truck drivers signed authorizations for both the Teamsters and the Sawmill Workers. Similarly, in the unit of 24 employees claimed by the Operating Engineers, the Sawmill Workers presented authorizations for 10 employees, the Woodworkers for 1 employee, and the Engineers for 10 employees, respectively. Of this latter group, 1 employee signed cards for both the Sawmill Workers and the Engineers, while 1 other employee signed cards for both the Woodworkers and the Engineers.

¹⁴ While the Teamsters has been engaged for several years in the organization of truck drivers in the lumber industry, its organizational activities to date have been mainly with respect to log truck drivers in woods operations as distinguished from carrier operators engaged in transporting lumber during the process of manufacture in and about the mill premises. So far as the Operating Engineers is concerned, it appears that while it has some members among the woods crews of several concerns, it has few, if any, contracts on behalf of such members. Moreover, the only witness who appeared on behalf of the Operating Engineers admitted that he knew of no places within the lumber industry where the Operating Engineers represented powerhouse employees or employees working at sawmills or railroads connected therewith.

¹⁵ See *Matter of Long Bell Lumber Co.*, 31 N. L. R. B. 322; *Matter of Polson Logging Company*, 31 N. L. R. B. 328; *Matter of Columbia River Packers Association*, 52 N. L. R. B. 68.

concern from which the Company purchases its logs. He is also supervised jointly by the chief forester of the other concern and the Company's plant superintendent, and is paid jointly by the two companies. However, he is carried only on the pay roll of the Company, which is reimbursed by the other concern for half of his salary. The log deck scaler and grader makes a record of the grade and the board foot content of the logs, and on the basis of his grading and scaling is determined the amount of the purchase price which the Company pays for the logs. While the Company claims that this grading information obtained by the log deck scaler and grader is confidential, it makes no effect to keep such information secret. There is, moreover, no claim that the log scaler and grader, whose wage is considerably less than that of the highest paid mill employee, has anything to do with grievances or labor relations so far as the Company is concerned. We find, accordingly, that the several log deck scalers and graders are not confidential employees and shall include them within the appropriate unit.¹⁶

The truck mechanic foreman

This individual whom the Woodworkers would exclude and the Sawmill Workers include within the appropriate unit, is carried on the pay roll as "truck mechanic foreman," but is in reality the senior truck mechanic and leadman, responsible for the work of two employees, a mechanic and a greaser. While the employee in question may not hire or discharge employees, he may recommend hiring or discharging and his recommendation has been given considerable weight. On the other hand, he earns the same amount as a truck driver and considerably less than many other non-supervisory employees of the Company. Moreover, his power to recommend appears limited to the greaser only. We are of the opinion and find, in view of his limited authority, his comparatively moderate hourly wage, and the fact that he spends all of his time working and not supervising, that the truck mechanic foreman has no substantial supervisory duties but is merely a journeyman machinist who at times directs and is assisted by helpers according to a custom long prevailing in the machinist craft.¹⁷ We shall, accordingly, include the truck mechanic foreman within the unit hereinafter found appropriate for the purposes of collective bargaining.

We find that all employees of the Company at its Chester, California, operations, including log deck scalers and graders, the truck mechanic foreman, watchmen,¹⁸ and cook house employees, but excluding officials, office and clerical employees, the chateau housekeeper

¹⁶ See *Matter of Potlatch Forests Inc.*, 52 N. L. R. B 1377.

¹⁷ See *Matter of The Arundel Corporation*, 53 N. L. R. B 466

¹⁸ The watchmen concerned perform the duties of ordinary watchmen and are neither armed nor militarized in any respect.

and helper,¹⁹ and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action,²⁰ 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 find that the question concerning representation which has arisen, can best 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.

The Sawmill Workers urges that certain carpenters employed by the Company in construction work now nearing completion should be found eligible to vote in the election. The Woodworkers objects to the extension of eligibility to such employees as are about to be laid off by the Company, though it would agree to such extension with respect to any carpenters who are to remain as permanent employees of the Company. While the Company does not yet know which carpenters will remain and which will leave, the plant superintendent stated at the hearing that he had interviewed some of the carpenters and that it was his intention to interview the balance of them in order to ascertain whether or not they would accept other employment which he intended to offer them. Since it appears that all the carpenters remaining on the Company's pay roll at the time of the election will have indicated their intention of accepting other employment or leaving the Company's employ, we find eligible to vote all carpenters who, by the date of the election, have accepted or indicated their intention to accept other employment with the Company.

The Sawmill Workers and the Woodworkers request that they be designated on the ballot as "Lumber and Sawmill Workers Local Union No. 3074, A. F. of L." and "International Woodworkers of America, C. I. O.", respectively. These requests are hereby granted.

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

¹⁹ All parties agreed at the hearing that the chateau housekeeper and helper who are employed in the "chateau," the private residence of the owner of the Company, should be excluded from the appropriate unit.

²⁰ The parties stipulated, and we find that the following persons should be excluded as supervisory employees: the general manager, the plant logging and shipping superintendent, two sawmill foremen, the chief engineer, the buyer (classified on the pay roll as a warehouseman), the yard foreman, the woods boss, the bull buck, the road foreman, the cat repair foreman, and the stewardess in charge of the cook house.

Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Collins Pine Company, Chester, California, 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 Twentieth 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 those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by Lumber and Sawmill Workers Local Union No. 3074, A. F. of L., or by International Woodworkers of America, C. I. O., for the purposes of collective bargaining, or by neither.

ORDER

IT IS HEREBY ORDERED that the petition be, and it hereby is, dismissed, insofar as it alleges that a question affecting commerce has arisen concerning the representation of employees of Almanor Railroad Company.