

In the Matter of **GLACIER PRODUCTION COMPANY** and **OIL WORKERS
INTERNATIONAL UNION, C. I. O.**

Case No. 19-R-1216.—Decided March 23, 1944

Mr. John D. Stephenson, of Great Falls, Mont., and *Mr. Richard D. Smith*, of Butte, Mont., for the Company.

Mr. B. J. Rickey, of Casper, Wyo., for the C. I. O.

Mr. Dudley E. Taylor and *Mr. Eugene Boyle*, of Cut Bank, Mont., for the Association.

Mr. William Strong, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Oil Workers International Union, C. I. O., herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Glacier Production Company, Cut Bank, Montana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Ogden W. Fields, Trial Examiner. Said hearing was held at Cut Bank, Montana, on February 16, 1944. The Company, the C. I. O., and Glacier Employees' Association, herein called the Association, appeared and participated. All parties 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 an 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

The Company, a New Jersey corporation, maintains its main administrative office in Butte, Montana, and is engaged at Cut Bank, Montana, in the drilling and production of oil and gas, and the refining of

petroleum products. The value of the Company's refined products during the first 9 months of 1943, exceeded \$1,000,000, about 50 percent of which was shipped to points outside the State of Montana.¹

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Oil Workers International Union, affiliated with the Congress of Industrial Organizations, and Glacier Employees' Association are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the C. I. O. as the exclusive bargaining representative of certain of the Company's employees until the C. I. O. has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the C. I. O. 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 C. I. O. seeks a unit composed of all operating and maintenance employees of the Company in its refining department, gasoline plant, and machine shop, including the laboratory tester, at Cut Bank, but excluding office, clerical, field and supervisory employees and the drilling department. The Company assumes no position as to an appropriate unit, but would exclude machine shop employees and the laboratory tester from the unit sought by the C. I. O. The Association asserts that an appropriate unit should include all field employees and all office and clerical employees both in the Cut Bank and Butte offices of the Company, excluding the refining department, the gasoline plant, the machine shop, and all supervisory employees. The Association, however, would include the machine shop in its proposed

¹ The Company has entered into a contract providing for the sale of its properties to the Union Oil Company. The sale is awaiting approval of the Securities and Exchange Commission and other agencies

² The Field Examiner reported that the C. I. O. submitted 30 authorization cards and that there are 38 employees in the alleged appropriate unit. Additional cards were submitted by the C. I. O. at the hearing.

The Association claims to represent 56 employees in the unit it claims to be appropriate, but apparently does not claim to represent any employees in the unit sought by the C. I. O.

unit in the event the Board excludes it from the unit sought by the C. I. O.

The unit contentions of the C. I. O. and the Association appear to be mutually exclusive. There is no petition before us seeking a unit composed wholly or in part of the operations which the Association claims constitute an appropriate unit. We therefore are not called upon at present to make any determination in that respect, and shall not do so.

An issue arose as to the desired inclusion of the machine shop in the unit proposed by the C. I. O. The Company's operations are divided into two operational units consisting of a plant department and a field department, each under the supervision of its own superintendent. The shop employees are under the supervision of the field department. However, the shop is located in close physical proximity to the other plant department operations, and is "part of the general camp." The field starts at the plant properties and extends for 15 to 20 miles. The function of the machine shop is the maintenance and manufacture of field and plant equipment. About three-fourths of the time spent on operations in the shop is on field work, and the balance is on plant work. The time spent by the shop personnel in the field as compared to that spent by them in the shop varies, some almost never leaving the shop and others spending most of their time in the field. The greater bulk of the shop work, however, is performed in the shop. Most employees in both the plant and in the field departments are paid on a monthly basis, with certain categories in each being paid on an hourly basis. Overtime pay rates and vacation privileges appear to be uniform for all employees.

It appears from the foregoing that the machine shop can logically constitute a part of a unit principally composed of the plant department operations or the field department operations. For that reason, and in view of the fact that the C. I. O. has organized the employees in the machine shop³ as well as in the plant department, we shall include the machine shop employees in the unit.

The C. I. O. and the Company are in disagreement as to the laboratory tester. The laboratory tester makes routine tests of various products. He has no technical background or education although both would be of assistance in the performance of the work. There appears to be no valid reason for excluding the tester from the unit. We shall include him.

We find that all operating and maintenance employees of the Company in its refining department, gasoline plant, and machine shop, including the laboratory tester at Cut Bank, but excluding office,

³ The C. I. O. claims to represent all of the machine-shop employees.

clerical, and field employees, the drilling department, 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, 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 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.⁴

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 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Glacier Production Company, Cut Bank, Montana, 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 Nineteenth 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 or not they desire to be represented by Oil Workers International Union, C. I. O., affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

⁴ Since the Association does not seek to represent any employees in the unit herein found to be appropriate, we shall not include it on the ballot