

In the Matter of THE TEXAS COMPANY and OIL WORKERS INTERNATIONAL UNION (CIO)

*Case No. 19-R-1219.—Decided April 12, 1944*

*Mr. Harold K. Morton*, of Chicago, Ill., and *Mr. H. B. Gernert*, of Cut Bank, Mont., for the Company.

*Mr. B. J. Rickey*, of Casper, Wyo., for the Union.

*Mr. Thomas B. Sweeney*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Oil Workers International Union, affiliated with the C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Texas Company, production department, 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 Sunburst, Montana, on March 1, 1944. The Company and the Union 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 Texas Company is a Delaware corporation having its principal office in New York City. It is engaged in the production, refining, transportation, and sale of petroleum and the products derived therefrom, throughout the United States. It operates wells and refin-

eries in California, Oklahoma, Texas, Illinois, and Montana. The instant case involves two of its Montana production operations known as the Kevin-Sunburst and Cut Bank fields located within the Montana District General of the Rocky Mountain Division of the Company. The total production for the two fields exceeded 1,000,000 barrels during the year 1943. The value of the products of its refinery at Sunburst, Montana, during the illustrative period exceeding \$1,000,000, 33 $\frac{1}{3}$  percent of which was shipped to points outside the State of Montana.

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

## II. THE ORGANIZATION INVOLVED

Oil Workers International Union, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On August 10, 1943, the Union requested the Company to recognize it as the exclusive bargaining representative of the Company's employees in an alleged appropriate unit. The Company refuses to accord the Union such recognition unless and until the Board determines the appropriate unit and certifies that the Union is the exclusive bargaining agency for such unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of the employees in the unit hereinafter found 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 Act.

## IV. THE APPROPRIATE UNIT

The Union contends that the appropriate unit should consist of all employees employed by the Company at its Kevin-Sunburst oil field within the following classifications, roustabout, pumper, lease truck driver, welder, and carpenter, excluding, however, clerical employees, head roustabouts, and production foremen.

The Company agrees with the classifications enumerated by the Union, but seeks the inclusion within the appropriate unit of the employees of both the Kevin-Sunburst and the Cut Bank fields, located

<sup>1</sup> The Field Examiner reported that the Union submitted 13 authorization cards; that 6 of these cards were dated August 1943 and 7 October 1943; and that there are 18 employees in the appropriate unit

within the Montana District General of the Rocky Mountain Division of the Company.

The record reveals that the working conditions, wages, and classifications of employees are uniform with respect to both fields; that certain of the employees working at the Cut Bank field have been assigned to work for brief periods at the Kevin-Sunburst field; and that a considerable degree of functional coherence exists with respect to both fields. The geographical center of the Kevin-Sunburst field is located 20 miles northeast from the geographical center of the Cut Bank field, and the west boundary of the Kevin-Sunburst field is virtually contiguous to the east boundary of the Cut Bank field. However, the foremen of the respective fields have authority to employ field employees without the approval of the district superintendent in charge of both operations, and each field maintains an office and a separate timekeeping procedure, and prepares its own pay rolls.

The Company has had no past bargaining history with relation to the employees involved in the instant proceeding,<sup>2</sup> and thus far only the employees engaged at the Company's Kevin-Sunburst field have expressed their desire for representation for the purposes of collective bargaining. Although it appears that both of the afore-mentioned fields are operated by the Company substantially as an integrated unit and that such a unit might therefore be deemed appropriate, we have heretofore held that whether an integrated enterprise or a part thereof constitutes an appropriate unit will depend in part upon the extent of labor organization, labor bargaining efforts, and the particular circumstances involved in each individual case.<sup>3</sup> In the instant case, the record indicates that the employees in the unit requested by the Union constitute a fairly stable and homogeneous group. The Union, desiring a unit coterminous with the scope of its organizational activities, is the only labor organization which is now seeking and is prepared to bargain with the Company for its employees in the Kevin-Sunburst field, and which has offered to prove its designation by a majority of the employees in the unit claimed to be appropriate. To hold that these employees are not an appropriate unit would deny to them the benefits of the National Labor Relations Act until they and other employees of the Company in some larger unit have been organized. In view of the particular circumstances presented herein, and in order to render collective bargaining for these employees an immediate possibility, we are of the opinion that the unit sought by the Union is ap-

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<sup>2</sup> The employees of the Company's refinery located at Sunburst have, however, been under a contract between the Company and the petitioning Union in the instant case since 1941 as a result of a certification by the Board in *Matter of The Texas Company*, 33 N. L. R. B. 722

<sup>3</sup> See *Matter of Cities Service Gas Company*, 41 N. L. R. B. 648, and cases cited therein, together with *Matter of Gulf Oil Corporation*, 52 N. L. R. B. 880

propriate. We do not imply thereby, however, that we would find appropriate in all circumstances a unit confined to single producing fields or other portions of administrative divisions of the Company, but shall consider each case on its merits. Nor do we thereby preclude consideration of the appropriateness of a larger unit should organization of the Company's employees be extended to include employees of the Cut Bank field.

We find that all employees employed by the Company at its Kevin-Sunburst field in the following classifications, namely, roustabouts, pumper, lease truck driver, welder, and carpenter, but excluding clerical employees, head roustabouts and all or any other 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.

#### 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 The Texas Company, production department, 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 the 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 dis-

charged 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, Local 452, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

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