

In the Matter of KLAMATH PINE Co.<sup>1</sup> and KLAMATH BASIN DISTRICT  
COUNCIL, LUMBER & SAWMILL WORKERS, A. F. OF L.

*Case No. 19-R-1310.—Decided May 17, 1944*

*Mr. C. L. Irving* and *Mr. L. L. Shaw*, of Klamath Falls, Oreg.,  
for the Company.

*Mr. H. R. Haddock* and *Mr. Donald Gilman*, of Klamath Falls,  
Oreg., for the AFL.

*Mr. George Brown* and *Mr. V. N. Chase*, of Klamath Falls, Oreg.,  
for the CIO.

*Mr. William Strong*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Klamath Basin District Council Lumber & Sawmill Workers, A. F. of L., herein called the AFL, alleging that a question affecting commerce had arisen concerning the representation of employees of Klamath Pine Co., Klamath Falls, Oregon, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Maurice M. Miller, Trial Examiner. Said hearing was held at Klamath Falls, Oregon, on April 20, 1944. The Company, the AFL, and International Woodworkers of America, Local 6-12, CIO, herein called the CIO, 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. The Trial Examiner reserved for the Board ruling upon certain motions and objections directed toward denying to the CIO intervention in this proceeding. The motions are denied and the objections are overruled. All parties were afforded an opportunity to file briefs with the Board.

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<sup>1</sup> The Company's and the AFL's names are shown as corrected by stipulation at the hearing.

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

The Klamath Pine Co., a partnership consisting of Lawrence L. Shaw, Bertha L. Shaw, Cecilia B. Shaw, and J. R. Shaw, is engaged in the manufacture of pine lumber. It operates a sawmill, with incidental facilities, located north of Pelican City on the shores of Klamath Lake in the State of Oregon. The Company purchases its entire supply of timber from the Shaw Lumber Company, of Tionesta, California. At present, the entire output of the Company is sold to two local manufacturers, and is ultimately shipped outside the State of Oregon.

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

#### II. THE ORGANIZATIONS INVOLVED

Klamath Basin District Council, Lumber & Sawmill Workers, affiliated with the American Federation of Labor, and International Woodworkers of America, Local 6-12, affiliated with the Congress of Industrial Organizations, are labor organizations admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

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

The CIO asserts that it is now the duly selected collective bargaining representative of the Company's employees in the appropriate unit, and that no present investigation of representatives should be held. Upon a petition filed by the CIO in May 1943 a consent election was held on June 14, 1943, among employees of the Wheeler Pine Company, the owner and then operator of the properties now operated by the Company. The CIO and the AFL appeared on the ballot, and the CIO received a majority of the votes cast. Thereafter, the CIO unsuccessfully sought to negotiate with the employer. Finally, on December 14, 1943, the CIO wrote the Wheeler Pine Company, asking it to bargain. That company replied that it would not comply with the request, since its operations had been discontinued and it did not intend to resume them the following year. In March 1944, the CIO again requested Wheeler Pine Company for a bargaining conference,

and was informed that the latter was not operating its plant and had no employees. On March 15, 1944, the CIO wrote to the instant Company, stating that it had been certified by the Board and requesting negotiation on behalf of all employees.<sup>2</sup> The Company replied that it had no connection with the Wheeler Pine Company and almost none of its employees, and declined to recognize the "certification."

The Company has been operating the Wheeler Pine Company's properties and facilities on a footage basis, until at least January 1, 1945. The Company appears to have employed a number of the former employees of its predecessor. There does not appear to be any relation between the two companies, except that the Wheeler Pine Company is the owner and lessor of the properties now operated by the Company.

In view of the fact that the previous election was held in May 1943, that the present employer does not appear to have any connections with the Wheeler Pine Company, and that there appears to be a substantial change in personnel, we are of the opinion that the purpose of the Act would be best effectuated by a new election to determine the employees' representation desires.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Klamath Basin District Council, Lumber & Sawmill Workers, A. F. of L., represents a substantial number of employees in the unit hereinafter found appropriate.<sup>3</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

We find, in substantial agreement with the request of the AFL, concurred in by the Company and the CIO, that all production and maintenance employees of the Company's sawmill and yard, excluding clerical employees 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.<sup>4</sup>

<sup>2</sup> The CIO was not formally certified by the Board, but was furnished with a "Report on Consent Election" issued by the Regional Director

<sup>3</sup> The Field Examiner reported that the AFL submitted 16 authorization cards, 10 of which bore the names of persons appearing on the Company's pay roll of March 31, 1944, which contained the names of 31 employees in the appropriate unit, and that at the hearing the AFL submitted 6 additional cards bearing the names of persons appearing on the pay roll

The CIO submitted eight designation cards, seven of which bore apparently genuine original signatures; the names of seven persons appearing on the cards were contained in the aforesaid pay roll

<sup>4</sup> A sublessee of the Company has certain employees on its properties. The unit here is limited to employees of the Company.

## 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 Klamath Pine Co., Klamath Falls, Oregon, 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 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 Klamath Basin District Council, Lumber & Sawmill Workers, A. F. of L., or by International Woodworkers of America, Local 6-12, CIO, for the purposes of collective bargaining, or by neither.