

In the Matter of GULF OIL CORPORATION and OIL WORKERS INTERNATIONAL UNION, CIO

Case No. 16-R-898.—Decided June 8, 1944

Messrs. Russell G. Lowe and R. S. Harrison, of Tulsa, Okla., for the Company.

Mr. L. H. Kunkel, of Seminole, Okla., for the Union.

Mrs. Margaret L. Fassig, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by the Oil Workers International Union, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Gulf Oil Corporation, at its Gypsy Division, Seminole District No. 5, Seminole, Oklahoma, 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 Tulsa, Oklahoma, on May 4, 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

Gulf Oil Corporation is a Pennsylvania corporation, engaged in the production, sale, and distribution of petroleum and petroleum products.¹ The present proceeding involves only that part of the Com-

¹ See *Matter of Gulf Oil Corporation*, 4 N. L. R. B. 133; *Matter of Gulf Oil Corporation*, 19 N. L. R. B. 334; *Matter of Gulf Oil Corporation, Marine Department*, 36 N. L. R. B. 1003. 56 N. L. R. B., No. 231.

pany's system designated as the Gypsy Division, Seminole District No. 5, which is engaged in the producing phase of the Company's operations. The Company's average daily production of petroleum products within the State of Oklahoma is about 21,487 barrels, of which District No. 5 produces about 8,471 barrels. At least 70 percent of the production within the State of Oklahoma, including that of the Seminole District No. 5, is transported by the Gulf Refining Company, a subsidiary company, by means of pipe lines to the following points: Fort Worth, Texas, Toledo and Cincinnati, Ohio, and Pittsburgh and Philadelphia, Pennsylvania.

The Company admits 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

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of its employees in its Gypsy Division, Seminole District No. 5, near Seminole, Oklahoma, until the Union 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 Union 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 Union alleges that all production and gasoline department employees, exclusive of supervisory, clerical, and laboratory employees, PBX operators, and technicians at the Company's Seminole District No. 5 near Seminole, Oklahoma, constitute an appropriate unit for the purposes of collective bargaining. The Company agrees with the Union as to the categories of employees to be excluded from the unit. There are approximately 158 employees in the alleged appropriate unit.

The Company has five hourly paid employees in its Seminole District No. 5 classified as head repairmen. The head repairman is a

² The Field Examiner reported that the Union submitted 76 authorization cards; that the Company's pay roll contained the names of 158 employees in the appropriate unit; and that the cards were dated: 1 in 1942, 61 in 1943, and 14 in 1944

working foreman who is in charge of a small gang of employees ranging from two to six. He works along with the other men and performs manual labor. He is responsible to the assistant field foreman or to the field foreman, and has the right to recommend hiring and discharging of employees, and such recommendations are given considerable weight by the Company. The Union requested the exclusion of the head repairmen from the bargaining unit, and the Company took no position in the matter. We are of the opinion, and find, that the head repairmen are supervisory employees within the meaning of our usual definition, and accordingly, we shall exclude them from the unit.

We find that all production and gasoline department employees at the Company's Seminole District No. 5 near Seminole, Oklahoma, but excluding clerical and laboratory employees, PBX operators, technicians, head repairmen 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 payroll 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 Gulf Oil Corporation 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 employees in the unit found appropriate in Section IV, who were employed during the payroll period immediately preceding the date of this Direction, includ-

ing 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 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, CIO, for the purposes of collective bargaining.