In the Matter of LONG BEACH OIL DEVELOPMENT CO. *and* OIL WORKERS INTERNATIONAL UNION, LOCAL 128, CIO

Case No. 21–R–2419.—Decided October 6, 1944

Mr. Gordon Lawson, of Los Angeles, Calif., for the Company.
Mr. J. Elro Brown, of Long Beach, Calif., for the Union.
Mr. Philip Licari, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Oil Workers International Union, Local 128, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Long Beach Oil Development Co., Long Beach, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William B. Esterman, Trial Examiner. Said hearing was held at Los Angeles, California, on September 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

Long Beach Oil Development Co., a Nevada corporation, is engaged at Long Beach, California, in the drilling and operation of oil wells. The Company is engaged solely as a contractor in developing oil lands and operating oil wells wholly owned by the city of Long Beach. In its operations the Company uses equipment owned by the city which also owns the oil and gas produced by the Company. It is clear that,

among others, all persons engaged in the operation of the oil wells are employees of the Company.

During the year ending May 31, 1944, the Company, at the direction of the city, delivered crude oil valued at $2,117,584.27 to the Hancock Oil Company of California, which after processing it into unfinished gasoline, kerosene distillate, diesel oil and fuel oil, delivered a substantial portion of the diesel oil and fuel oil to the Richfield Oil Corporation, a corporation doing business in California and apparently engaged in the transportation and distribution of oil products to points outside that State. During the same period, the Hancock Oil Company sold to consumers outside the State of California, diesel oil and kerosene distillate valued at $118,000, all of which was processed from crude oil produced by the Company. Also during the same period, the Company delivered, at the direction of the city, to Signal Oil and Gas Company, Los Angeles, California, crude oil valued at $3,526,978.75, all of which was sold to Standard Oil Company of California, a corporation apparently engaged in the transportation and distribution of oil products to points outside the State of California. In the same period, the Company bought, for the account of the city, equipment and raw materials valued at $2,000,000, most of which originated from points outside the State of California.

The Company is managed by an operating committee composed of Will J. Reid, president of the Company, John W. Hancock, assistant to the president of Hancock Oil Company of California, R. H. Green, vice president of Signal Oil and Gas Company of California, and Warren C. Johnson, a manager for Standard Oil Company of California. Each of the last three mentioned corporations owns 28½ percent of the corporate stock of the Company. All checks issued by the Company must be signed by any two of the above-mentioned officials.

Upon all the facts above set forth, contrary to the Company's contention, we find that its activities at Long Beach, California, affect commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Oil Workers International Union, Local 128, 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 certain of its employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Field Examiner for the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.[1]

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 Company and the Union agree upon the composition of the appropriate unit, except that the Company would include tool pushers, whereas the Union would exclude them on the asserted ground that they are representatives of management.

The Company employs four tool pushers whose function is to assist the drilling foremen in connection with the well-drilling operations performed by subcontractor of the Company. They are engaged in and about the well-drilling operations for the purpose of checking and making reports on depths, gravities, and condition of tools. Their work requires no particular technical or engineering skill. There is no evidence indicating that they are supervisory employees within the meaning of our customary definition of that term despite the fact that they are salaried employees, while all the employees whom the parties agree to include in the unit are hourly paid. Nor is there any evidence to indicate that they are in any other manner closely identified with management. We shall therefore include them.

We find, in accordance with the agreement of the parties and our foregoing determination relating to tool pushers, that all non-supervisory maintenance, production, repair, and construction workers employed by the Company, including tool pushers, carpenters, gang pushers, gas engine mechanics, head well pullers, well pullers, inspectors, janitors, pumpers, roustabouts, warehouse floormen, mechanics, repairmen, but excluding office and administrative employees, engineers, storekeepers, assistant foremen, foremen, and all 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.

[1] The Field Examiner reported that the Union submitted 41 authorization cards, all of which bore the names of persons listed on the Company's pay roll of June 15, 1944, which contained the names of 62 employees in the appropriate unit, and that the cards were dated between November 1943 and June 1944.

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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Long Beach Oil Development Co., Long Beach, 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 Twenty-first 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 the 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, Local 128, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.