

In the Matter of STAUFFER CHEMICAL COMPANY *and* INTERNATIONAL
CHEMICAL WORKERS UNION, A. F. OF L.

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INTERNATIONAL UNION, LOCAL 128, C. I. O.

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*Cases Nos. 21-R-2503, 21-R-2506 and 21-R-2507, respectively.—
Decided November 13, 1944*

Mr. Robert W. Fox, of Los Angeles, Calif., for the Company.

Mr. Drew Taylor, of Los Angeles, Calif., for the A. F. of L.

Mr. J. E. McGee, of Long Beach, Calif., for the C. I. O.

Mr. Louis Boldrini, of Los Angeles, Calif., for District 50.

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon separate petitions duly filed by International Chemical Workers Union, A. F. of L.; herein called the A. F. of L., and Oil Workers International Union, Local 128, C. I. O., herein called the C. I. O., alleging that questions affecting commerce had arisen concerning the representation of employees of Stauffer Chemical Company, Los Angeles, California, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Charles M. Ryan, Trial Examiner. Said hearing was held at Los Angeles, California, on October 25, 1944. At the commencement of the hearing the Trial Examiner granted a motion of United Mine Workers of America, District 50, herein called District 50, to intervene. The Company, the A. F. of L., the C. I. O., and District 50 appeared, participated, and 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 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

Stauffer Chemical Company is a California corporation operating plants throughout the United States. We are here concerned with its Vernon and Torrance, California, plants and its Nico-Dust Division at Vernon, California. The Company manufactures sulphuric acid, superphosphate, and processed sulphur at its Vernon plant, insecticides and fungicides at its Nico-Dust Division, and heavy chemicals at its Torrance plant. During 1943 the Company purchased raw materials valued at about \$300,000 for its Vernon plant, about \$50,000 for its Torrance plant, and about \$200,000 for its Nico-Dust Division, over 50 percent of which was shipped to the plants from points outside the State of California. During the same period the Company sold products from its Vernon plant valued at about \$1,000,000, from its Torrance plant valued at about \$3,000,000, and from its Nico-Dust Division valued at about \$4,000,000. Approximately 10 percent of the products from the Vernon plant and 35 percent of the products from the Nico-Dust Division were shipped to points outside the State of California. None of the products of the Torrance plant was shipped to points outside the State of California.

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

II. THE ORGANIZATIONS INVOLVED

International Chemical Workers Union is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Oil Workers International Union, Local 128, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

United Mine Workers of America, District 50, is a labor organization admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

The Company refuses to recognize the A. F. of L. as the exclusive bargaining representative of its employees at the Torrance plant or the C. I. O. as the exclusive representative of its employees at the Vernon plant and Nico-Dust Division until such time as they are certified by the Board.

On October 21, 1941, the Company and District 50 entered into exclusive collective bargaining contracts covering employees at the Vernon and Torrance plants and the Nico-Dust Division. Said contracts provide that they shall remain in effect until October 20, 1944, and from year to year thereafter unless notice of desire to terminate is given not less than thirty days prior to any annual expiration date. On September 18, 1944, District 50 notified the Company that it desired to negotiate new agreements. Thus, the contracts expired by their terms on October 20, 1944.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the A. F. of L. and the C. I. O. each represents a substantial number of employees in the units alleged by each to be appropriate.¹

We find that questions affecting commerce have 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 UNITS

We find, in accord with a stipulation of the Company, the A. F. of L. and District 50, that all production and maintenance employees at the Torrance plant of the Company, 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.

We find, in accord with a stipulation of the C. I. O., the Company and District 50, that all hourly paid production and maintenance employees at the Vernon plant of the Company, 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.

We further find, in accord with a stipulation of the Company, the C. I. O., and District 50, that all hourly paid production and maintenance

¹ The Field Examiner reported that the A. F. of L. presented 12 authorization cards bearing the names of persons who appear on the Torrance plant pay roll of October 14, 1944. There are 17 persons in the appropriate unit at the Torrance plant. The C. I. O. does not claim to represent any employees at the Torrance plant. The Field Examiner further reported that the C. I. O. presented 49 authorization cards bearing the names of persons who appear on the Vernon plant pay roll of October 14, 1944, and 5 authorization cards bearing the names of persons appearing on the Nico-Dust Division pay roll of October 14, 1944. There are 59 and 8 employees, respectively, in the appropriate units at the Vernon plant and Nico-Dust Division. The A. F. of L. does not claim to represent any employees in the latter 2 named plants. District 50 did not present any evidence of representation, but relies upon its contracts, as set forth above, as evidence of its interest among the employees at the Torrance and Vernon plants and the Nico-Dust Division.

nance employees at the Nico-Dust Division of the Company, 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.

V. THE DETERMINATION OF REPRESENTATIVES

We find that the questions concerning representation which have arisen can best be resolved by means of elections by secret ballot.

The C. I. O. and the A. F. of L. request that the pay roll of October 15 and the pay roll immediately preceding the date of the hearing, respectively, be used to determine eligibility to vote. Inasmuch as no persuasive reasons appear as to why we should depart from our usual practice, we shall direct that those eligible to vote shall be the employees in the appropriate units who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTIONS

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 Stauffer Chemical Company, Los Angeles, California, separate elections 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 following groups of employees of the Company 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 any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the elections:

(1) To determine whether the employees in the Torrance plant unit described in Section IV, above, desire to be represented by International Chemical Workers Union, affiliated with the American Federation of Labor, or by District 50, United Mine Workers of America, for the purposes of collective bargaining, or by neither;

(2) To determine whether the employees in the Vernon plant unit described in Section IV, above, desire to be represented by Oil Workers International Union, Local 128, C. I. O., or by District 50, United Mine Workers of America, for the purposes of collective bargaining, or by neither;

(3) To determine whether the employees in the Nico-Dust Division unit described in Section IV, above, desire to be represented by Oil Workers International Union, Local 128, C. I. O., or by District 50, United Mine Workers of America, for the purposes of collective bargaining, or by neither.