

In the Matter of RICHFIELD OIL CORPORATION and INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL B-11

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

Cases Nos. 21-R-2467 and 21-R-2485 respectively.—Decided January 15, 1945

*Mr. David Guntert*, of Los Angeles, Calif., for the Company.

*Mr. J. Elro Brown*, of Long Beach, Calif., and *Mr. W. W. Allen*, of Bakersfield, Calif., for the Oil Workers.

*Mr. Al Stater*, of Los Angeles, Calif., for the IBEW.

*Mr. D. N. Casagrand*, of Southgate, Calif., for the Pipefitters.

*Miss Frances Lopinsky*, of counsel to the Board.

## DECISION

AND

## DIRECTION OF ELECTIONS

### STATEMENT OF THE CASE

Upon petitions duly filed by International Brotherhood of Electrical Workers, Local B-11, herein called the IBEW, and by Oil Workers International Union, CIO, herein called the Oil Workers, alleging that questions affecting commerce had arisen concerning the representation of employees of Richfield Oil Corporation,<sup>1</sup> Los Angeles, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George H. O'Brien, Trial Examiner. Said hearing was held at Los Angeles, California, on November 15, 1944. The Company, the IBEW, the CIO, and United Association of Pipefitters, Local 250, A. F. of L., herein called the Pipefitters, 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.

<sup>1</sup> Upon motion of the Company, all parties stipulated the substitution of "Corporation" for "Company" wherever it may appear in the formal documents herein.

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

## FINDINGS OF FACT

### I. THE BUSINESS OF THE COMPANY

Richfield Oil Corporation is a Delaware corporation with its principal place of business at Los Angeles, California. It is engaged in the production, refining, transportation, sale, and distribution of petroleum and petroleum products. It owns and operates a refinery at Watson, California, and in addition, it owns and operates marine terminals at Seattle, Washington, Portland, Oregon, Richmond, California, and Long Beach, California. During the year 1944, to the date of the hearing, the Company produced and refined large quantities of petroleum and petroleum products which it distributed in interstate and foreign commerce.

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

### II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Electrical Workers, Local B-11, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

United Association of Pipefitters, Local 250, affiliated with United Association of Plumbers and Steamfitters of the United States and Canada, which is affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

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

### III. THE QUESTIONS CONCERNING REPRESENTATION

The Company has refused to grant recognition to any labor organization as the exclusive bargaining representative of its employees until one or more labor organizations have been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the IBEW and the Oil Workers each represents a substantial number of employees in the unit each alleges to be appropriate, and that certain employees of the Company desire representation by the Pipefitters.<sup>2</sup>

<sup>2</sup> The Field Examiner reported: that the IBEW submitted 23 authorization cards, 14 of which bore signatures of persons listed on the Company's pay roll of September 3, 1944, which contained the names of 29 persons in the unit requested by the IBEW; that the Pipefitters submitted 22 authorization cards, 8 of which bore signatures of persons listed

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; THE DETERMINATION OF REPRESENTATIVES

The IBEW requests a unit of all electricians employed by the Company, including electrical maintenance repair, and electrical maintenance construction employees, but excluding supervisory employees. The Pipefitters requests a unit composed of all pipefitters, pipefitter welder helpers, pipefitter helpers, pipefitting maintenance repair and maintenance construction employees, excluding supervisory employees. The Oil Workers and the Company agree that craft units are inappropriate and that an appropriate unit for the Company's employees would consist of all production, construction, and maintenance employees of the Company in the State of California, including employees at the Company's Long Beach Terminal and working foremen, but excluding all confidential employees, office and clerical employees located at the main office of the Company in Los Angeles, California, tank truck salesmen,<sup>3</sup> employees in the Marketing and Exploitation Divisions of the Company, and supervisory employees. The Company would also exclude, and all parties tacitly agreed to the exclusion of, all administrative, professional, technical, casual, temporary, and marine employees. The Oil Workers would include in the appropriate unit, in addition to the categories of employees above-mentioned, field and refinery clerks, dispatchers and pipe line gaugers. The Company contends that field and refinery clerks cannot properly be represented in a unit of production and maintenance employees but that they should be represented in a unit of their own, and that pipe line gaugers and dispatchers have interests in common with neither group and so should be excluded from any unit which the Board may herein find to be appropriate.

The Company is organized into five divisions: marketing, transportation (or pipe line), manufacturing (or refining), exploitation (or production), and exploration. Neither the exploration nor the marketing division is involved in this proceeding. The operations of

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on the said pay roll which contained the names of 83 persons in the unit requested by the Pipefitters; that the Oil Workers submitted a certified membership list containing 716 names, 596 of which appeared on the said pay roll which contained the names of 1,325 employees in the unit requested by the Oil Workers; 1,200 names on the pay roll were those of production and maintenance employees, including electricians and pipefitters, and 100 were those of clerical employees. Of the 596 names submitted by the Oil Workers, 4 were those of electricians, 32 pipefitters, 24 clerical employees, and 550 production and maintenance employees including electricians and pipefitters.

<sup>3</sup> The tank truck salesmen are presently represented by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America.

the manufacturing division are located at the Company's refinery at Watson, California, where the greater part of the electricians and the pipefitters are employed. The production division is divided geographically with the three major oil fields of the State of California centered in (a) the San Joaquin Valley, (b) the coastal region near Ventura, California, and (c) the Los Angeles basin. A current collective bargaining contract which the Company signed in May 1942, covers all members of the Oil Workers "engaged in the development and/or production of crude oil and/or natural gasoline, refining, pipe line, and Long Beach Terminals' operations" of the Company.<sup>4</sup> The Company has been bargaining with the Oil Workers on this members-only, State-wide, comprehensive basis since 1937. The Company and the Oil Workers contend that this history of bargaining precludes the establishment of craft units among the Company's employees. The contention is without merit. Although a history of bargaining based upon members-only contracts is sometimes accepted by the Board as indicative of the feasibility of the scope of the unit covered thereby,<sup>5</sup> such history may be balanced or outweighed by other factors, particularly the inherent appropriateness of some other proposed unit.<sup>6</sup> In the instant case, it is admitted by the Company that the electricians and pipefitters in its employ are skilled employees who constitute identifiable groups within the construction and maintenance departments of its various divisions. They work under craft foremen who are responsible to the heads of the construction and maintenance departments. Seniority in the construction and maintenance departments is primarily craft-wide, and only secondarily department-wide. From these facts it appears that the craft units requested are inherently appropriate. On the other hand, it is clear from the record and from the history of bargaining above-described that the operations of the Company are sufficiently integrated to make feasible the State-wide all-inclusive production, construction, and maintenance unit requested by the Oil Workers. Since the factors supporting the appropriateness of craft units and of a more comprehensive unit including all crafts, are evenly balanced, we are of the opinion that our determination of the unit issue with respect to the electricians and pipefitters should depend, in part, upon the desire of such employees to be expressed in the elections hereinafter directed among the voting groups set forth below. Consequently, we shall make no final determination of the unit at this time, but shall defer the determination pending the results of said elections.

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<sup>4</sup> The contract was not urged as a bar to this proceeding.

<sup>5</sup> See *Matter of Tennessee Coal, Iron & Railroad Company*, 39 N. L. R. B. 617; *Matter of Southwestern Public Service Company*, 58 N. L. R. B. 926.

<sup>6</sup> See *Matter of Elgin Watch Company*, 53 N. L. R. B. 855.

As above-mentioned, the Oil Workers would include in the appropriate unit, field clerical employees, pipe gaugers, and dispatchers, all of whom the Company would exclude.

*Field clerical employees:* There are 131 clerical employees whom the Oil Workers would represent. Most of these are employed at the refinery and are housed in a building adjacent thereto. They record the results of the operations, make statements for the general office accounting, prepare shipping papers, and perform general clerical and typing work. The record does not disclose the relationship of these employees to clerical employees in the general office as to the number employed, interchangeability, or rate of pay. However, we are of the opinion that the field clerical employees have more interests in common with general office clerical employees than with production, construction, and maintenance employees and may be more properly represented in a unit together with those employees than as requested by the Oil Workers.<sup>7</sup> Accordingly, we shall exclude field clerical employees from the residual voting group. Since the Oil Workers has apparently not organized employees in the general office, and since the present record affords no proper basis for a determination of an appropriate unit for clerical employees of the Company, we shall disregard the Company's suggestion that a separate unit be established at this time for field clerical employees.

*Dispatchers:* Dispatchers control the movement of oil through the pipe lines by directing what quantity and what type of oil is to be pumped through the lines. Most of their work is done by telephone. They have no control over the mechanical operation of the line. Since in our opinion dispatchers are office employees, we shall exclude them from the voting group.

*Pipe line gaugers:* A pipe line gauger determines by measurement the quantity and quality of oil the Company ships and receives from other producing companies. He is the company representative who arranges for the acquisition of oil from the producing company and sees to it that it is shipped through the lines. He physically takes and analyzes cuts of the oil and makes up the document which serves as a basis for computing the sale price of the oil and also the royalty to be paid by the Company to the landowner. The Company contends that since pipe line gaugers are under supervision separate from that of production and maintenance employees, and since they represent the Company to the public, their interests are in no wise consonant with those of production and maintenance employees. However, it appears that the work of the gaugers is performed under conditions similar to those in which some of the production and maintenance employees work. Their interests are, therefore, sufficiently

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<sup>7</sup> See *Matter of Standard Oil Company*, 58 N. L. R. B. 560.

similar to those of production and maintenance employees to warrant their joint representation for the purposes of collective bargaining. We shall, therefore, include pipe line gaugers within the general voting group composed of production, construction, and maintenance employees.<sup>8</sup>

We shall direct that the questions concerning representation which have arisen be resolved by separate elections by secret ballot to be held among the employees of the Company in the State of California, within each of the voting groups listed below 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. Our determination of an appropriate unit, or units, if any, will depend in part upon the results of said elections. There shall be excluded from each of said voting groups, in addition to the employees specifically mentioned therein, all clerical, administrative, professional, technical, casual, temporary and marine department 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. The respective voting groups shall be:

1. All electricians employed by the Company, including electrical maintenance repair, and electrical maintenance construction employees.

2. All pipefitters, pipefitter welders, pipefitter welder helpers, pipefitter helpers, pipefitting maintenance repair and maintenance construction employees.

3. All production, construction, and maintenance employees of the Company, including working foremen, pipe line gaugers and employees at the Long Beach Harbor Terminal, but excluding dispatchers, tank truck salesmen, and employees in voting groups 1 and 2.

### 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 Richfield Oil Corporation, Los Angeles, California, 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

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<sup>8</sup> See *Matter of Texas Pipe Line Company*, 55 N. L. R. B. 239. See *Matter of Gulf Refining Company, Houston Pipe Line Division*, 59 N. L. R. B. 1483, in which the case of *Empire Pipeline Company*, 46 N. L. R. B. 1341, is overruled.

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 who were employed by the Company in the State of California, 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 those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the elections, and excluding also, all clerical, administrative, professional, technical, casual, temporary and marine department 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:

1. All electricians employed by the Company, including electrical maintenance repair and electrical maintenance construction employees to determine whether they desire to be represented by International Brotherhood of Electrical Workers, Local B-11, affiliated with the American Federation of Labor, or by Oil Workers International Union, CIO, for the purposes of collective bargaining, or by neither.

2. All pipefitters, pipefitter welders, pipefitter welder helpers, pipefitter helpers, pipefitting maintenance repair and maintenance construction employees to determine whether they desire to be represented by United Association of Pipefitters, Local 250, affiliated with the American Federation of Labor, or by Oil Workers International Union, CIO, for the purposes of collective bargaining, or by neither.

3. All production, construction, and maintenance employees of the Company, including working foremen, pipe line gaugers and employees at the Long Beach Harbor Terminal, but excluding dispatchers, tank truck salesmen and employees in voting groups 1 and 2 to determine whether or not they desire to be represented by Oil Workers International Union, CIO, for the purposes of collective bargaining.