In the Matter of AMERADA PETROLEUM CORPORATION, CALOWELL CONSTRUCTION CO., AND ANTHONY J. VALLIER D/B/A A. V. CONSTRUCTION COMPANY *and* OIL WORKERS INTERNATIONAL UNION, C. I. O.

Case No. 21–R–2463.—Decided March 24, 1945

Latham & Watkins, by *Mr. Paul R. Watkins*, of Los Angeles, Calif., for Amerada Petroleum Corporation.

Dechter, Hoyt, Pines & Walsh, by *Miss Adele Walsh*, of Los Angeles, Calif., for Calowell Construction Company.

Messrs. Frank J. Neuman and *William J. Neville*, of El Segundo, Calif., for the C. I. O.

Mr. E. D. Boyd, of Los Angeles, Calif., for the A. F. L.

Mr. A. Sumner Lawrence, of counsel to the Board.

DECISION
DIRECTION OF ELECTIONS
AND
ORDER

STATEMENT OF THE CASE

Upon an amended petition duly filed by Oil Workers International Union, C. I. O., herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Amerada Petroleum Corporation, Los Angeles, California, Calowell Construction Co., Long Beach, California, and Anthony J. Vallier, doing business as A. V. Construction Company, Riverdale, California, herein sometimes collectively called the Companies, 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 December 18, 19, and 20, 1944. The Companies, the C. I. O., and Los Angeles Building Trades Council, A. F. L., herein called the A. F. L., 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. Sub-

sequent to the hearing, the Board directed that the record be reopened and a further hearing held for the purpose of adducing additional evidence as to the business operations of Amerada Petroleum Corporation. Thereafter, the Regional Director forwarded to the Board a stipulation of the parties covering the business operations of Amerada Petroleum Corporation, submitted in lieu of testimony that might be adduced at a further hearing with respect thereto. The stipulation is hereby approved and made a part of the record. The motion to segregate filed by Amerada Petroleum Corporation is hereby granted for reasons hereinafter stated. 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 COMPANIES

Amerada Petroleum Corporation, a Delaware corporation, has its principal place of business in New York City, and is engaged in the exploration of oil fields and the production of crude oil and natural gas. Amerada Petroleum Corporation operates in nine States, including the State of California, in which latter State are the only operations involved in the present proceeding. It has full or partial interest in more than 1,000,000 acres of leaseholds, royalties, and mineral rights located in the nine States covered by its operations. During the year 1943, Amerada Petroleum Corporation acquired 375,000 acres and liquidated 96,000 acres. During the calendar year 1943, it purchased for use in its California operations, supplies, material, and equipment valued at slightly less than $1,000,000, of which amount approximately 38 percent represents the value of items originating from points outside the State of California. The record also discloses that, during the same period, Amerada Petroleum Corporation from its California operations sold to various oil companies for delivery within the State of California, considerable quantities of crude oil which were commingled with oil purchased by such companies from other sources and thereafter refined into various products, a substantial portion of which was sold to customers residing outside the State of California.

Calowell Construction Co., a California corporation, has its principal place of business at Long Beach, California, and is engaged in the construction and maintenance of oil wells and equipment, which operations have, since the year 1942, been confined to the State of California.

Anthony J. Vallier, doing business as A. V. Construction Company, is similarly engaged in maintenance work related to the operation of

wells and pipe lines. Both Calowell Construction Company and A. V. Construction Company buy all or substantially all of the equipment which they need locally within the State of California. Neither is engaged in the manufacture of products or the sale of raw materials to manufacturers for the purposes of resale. Both are concerned only with a localized maintenance function known in the oil industry as "lease work operations."

Upon the basis of the foregoing facts we find, contrary to the contention of Amerada Petroleum Corporation, that it is engaged in commerce within the meaning of the National Labor Relations Act.[1] On the other hand, we find that Calowell Construction Company and A. V. Construction Company are not engaged in activities which affect commerce within the meaning of the Act.[2] Accordingly, we shall, therefore, dismiss the proceeding insofar as it relates to the A. V. Construction Company and the Calowell Construction Company.

II. THE ORGANIZATIONS INVOLVED

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

Los Angeles Building Trades Council is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of Calowell Construction Company.[3]

III. THE QUESTIONS CONCERNING REPRESENTATION

On or about July 19, 1944, the C. I. O. addressed a letter to Amerada Petroleum Corporation, herein called the Company, claiming a majority representation among the latter's employees and requesting a conference for the purposes of collective bargaining. Subsequently thereto, the Company replied, stating that it declined the request for a conference upon the ground that it was without proof of the C. I. O.'s claim to representation.

A statement of a Field Examiner for the Board, introduced into evidence at the hearing, indicates that the C. I. O. represents a sub-

[1] See *Matter of Long Beach Oil Development Co.*, 58 N. L. R. B. 794.

[2] While the C. I. O. contends that the Calowell Construction Company and the A. V. Construction Company are controlled by Amerada Petroleum Corporation, and therefore subject to the present proceedings, the record discloses that they are independent contractors not subject to control with respect to personnel, wages, or price policies, by Amerada Petroleum Corporation.

[3] The A. F. L.'s only concern with the present proceeding is with respect to the employees of Calowell Construction Company, as to whom it claims an interest by virtue of an existing bargaining agreement. Since, as hereinabove stated, we shall dismiss the proceeding insofar as it relates to Calowell Construction Company, we have no further occasion to consider the A. F. L. as a party to this proceeding and shall, therefore, omit its name from the ballot in the elections hereinafter directed.

stantial number of employees of the Company in the units hereinafter found appropriate.[4]

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 C. I. O. contends that all non-supervisory field employees of the Company employed in its operations at Riverdale and Rio Vista, California,[5] including particularly roustabouts, laborers, pumpers, drillers, derrickmen, pushers, rotary-helpers, gaugers, repairmen, truck drivers, warehouse employees, clean-up men, operators, head operators, chart changers, and employees classified as miscellaneous, but excluding district superintendents, assistant district superintendents, production foremen, petroleum engineers, farm bosses, 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 an appropriate unit.[6] The Company does not oppose the classifications requested for inclusion or exclusion, but maintains that the employees at the Riverdale and Rio Vista operations constitute separate appropriate units. The record reveals that the Riverdale and Rio Vista operations are approximately 200 miles apart and separated by many thickly settled communities. Moreover, it appears that these operations are under the supervision of separate district superintendents who report independently of each other to the Company's divisional office at Los Angeles, California. It is undisputed that there is no regular interchange of employees between the two districts, the operations of which are somewhat different due to the fact that at Rio Vista only gas is produced, necessitating the use of different surface equipment. Under the circumstances, we are of the opinion that the employees at Riverdale and Rio Vista have insufficient interests in common to constitute a single appropriate unit. Accordingly, we shall separate the employees at

[4] The Field Examiner reported that the C. I. O. had submitted 44 cards dated between June and November 1944, which bore the names of employees on the Company's pay roll of October 18, 1944, containing the names of approximately 60 employees at Riverdale and Rio Vista. While the report of the Field Examiner contains no breakdown of representation between Riverdale and Rio Vista employees, it would appear, in view of the simultaneous organization of employees at Riverdale and Rio Vista, that the C. I. O. has substantial representation at both locations, the employees of which are divided between Riverdale and Rio Vista, in the proportion of approximately 42 and 18 employees, respectively.

[5] In addition to the operations at Riverdale and Rio Vista, the Company has branches in certain other localities within the State of California.

[6] The C. I. O. stated at the hearing that in the event that the Board found as urged by the Company, separate units for Riverdale and Rio Vista employees to be appropriate, it nevertheless desired to participate in elections held with respect thereto.

each of the aforesaid operations into distinct units for the purposes of collective bargaining.

We find that all non-supervisory field employees of the Company, employed at its Riverdale, California, operation, including roustabouts, laborers, pumpers, drillers, derrickmen, pushers, rotary-helpers, gaugers, repairmen, truck drivers, warehouse employees, and clean-up men, but excluding the district superintendent, the assistant district superintendent, the production foreman, the petroleum engineer, the farm boss, 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 an appropriate unit, within the meaning of Section 9 (b) of the Act.

We further find that all non-supervisory field employees of the Company employed at its Rio Vista, California, operation, including head operators, operators, chart changers, truck drivers, and employees classified as miscellaneous, but excluding the district superintendent, the assistant district superintendent, the petroleum engineer, 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 shall direct that the questions concerning representation which have arisen be resolved by elections by secret ballot among the employees in the appropriate units who were employed during the payroll 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 Amerada Petroleum Corporation, Riverdale, and Rio Vista, California, elections by secret ballot shall be conducted as early as possible, but not later than sixty (60) 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 Regu-

lations, among the employees in the units 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 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, to determine whether or not they desire to be represented by Oil Workers International Union, C. I. O., for the purposes of collective bargaining.

ORDER

IT IS FURTHER ORDERED that the present proceeding be, and it hereby is, dismissed, insofar as it alleges that questions affecting commerce have arisen concerning the representation of employees of Calowell Construction Co., and Anthony J. Vallier, doing business as A. V. Construction Company.

CHAIRMAN MILLIS took no part in the consideration of the above Decision, Direction of Elections and Order.