

In the Matter of WENATCHEE-WENOKA GROWERS ASSOCIATION, EMPLOYER and CANNERY WAREHOUSEMEN, FOOD PROCESSORS, DRIVERS & HELPERS, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS, AFL, PETITIONER

*Case No. 19-R-2127.—Decided November 7, 1947*

*Crollard & O'Connor*, by *Mr. A. J. O'Connor*, of Wenatchee, Wash., for the Employer.

*Mr. Charles C. Hughes*, of Wenatchee, Wash., for the Petitioner.

## DECISION

AND

## DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at Wenatchee, Washington, on August 5, 1947, before Daniel R. Dimick, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the National Labor Relations Board makes the following:

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE EMPLOYER

Wenatchee-Wenoka Growers Association, a corporation organized under the cooperative laws of the State of Washington and having its main plant at Wenatchee, Washington, is engaged in the business of packing, warehousing, storing, and selling fruits. During the year 1946 the Employer at its Wenatchee plant handled fruit in the value of over one million dollars of which approximately 95 percent was shipped outside the State of Washington.

In addition to its fruit business the Employer supplies its members, and occasionally non-members, with orchard supplies consisting primarily of spray materials and fertilizers. During the year 1946 the value of the orchard supplies amounted to approximately \$65,000.

The Employer admits and we find that it is engaged in commerce within the meaning of the National Labor Relations Act.

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## II. THE STATUS OF THE EMPLOYEES INVOLVED

At the hearing the Employer contended that its employees are employed as agricultural laborers and consequently are not covered by the Act under the definition of "employee" in Section 2 (3) and the limitation attached to the Board's current Appropriations Act. The Employer is an entity separate from its members, and its operations do not take place on farms. The Board and the courts have previously held that employees such as those involved in this proceeding are not engaged in agricultural labor but do come within the coverage of the Act.<sup>1</sup> Existing law regarding this subject was not changed by the enactment of the Labor Management Relations Act of 1947.<sup>2</sup> Accordingly, we find no merit to the Employer's contention that its employees are "agricultural laborers" exempt from the Act.

## III. THE ORGANIZATION INVOLVED

The Petitioner is a labor organization affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, which is in turn affiliated with the American Federation of Labor, claiming to represent employees of the Employer.

## IV. THE QUESTION CONCERNING REPRESENTATION

The Employer refuses to recognize the Petitioner as the exclusive bargaining representative of employees of the Employer until the Petitioner has been certified by the Board in an appropriate unit.

We find that a question affecting commerce has arisen concerning the representation of employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

## V. THE APPROPRIATE UNIT

The parties stipulated and we find that all employees of the Employer at its Wenatchee, Washington, plant or in sheds or lots connected therewith or adjacent thereto, where commodities or materials are processed, packed, warehoused or stored, excluding office and clerical employees, laboratory employees, field men, fruit inspectors and all supervisors, constitute a unit appropriate for the purposes

<sup>1</sup> See *Matter of San Fernando Heights Lemon Association*, 72 N. L. R. B. 372, and cases cited therein, in which the definition of agricultural laborer is more fully discussed.

<sup>2</sup> See Rep. No 510, House of Representatives, 80th Cong, 1st Sess, p. 33 wherein the committee of conference reported.

Since the matter of the "agricultural" exemption has for the past 2 years been dealt with in the Appropriation Act for the National Labor Relations Board, the conference agreement does not disturb existing law in this respect.

of collective bargaining within the meaning of Section 9 (b) of the Act.

### DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Wenatchee-Wenoka Growers Association, 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 Nineteenth Region, and subject to Sections 203.61 and 203.62, of National Labor Relations Board Rules and Regulations—Series 5, among the employees in the unit found appropriate in Section V, 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, 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 Cannery Warehousemen, Food Processors, Drivers & Helpers, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, AFL, for the purposes of collective bargaining.