

In the Matter of WAYNE HALE and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS, LOCAL 57, A. F. L.

In the Matter of WAYNE HALE and INTERNATIONAL WOODWORKERS OF AMERICA, C. I. O., LOCAL 5-246

*Cases Nos. 19-R-1516 and 19-R-1517, respectively.—Decided
May 19, 1945*

Mr. Wayne Hale, of McKenzie Bridge, Oreg., for the Company.
Messrs. Harry George and George Brown, of Portland, Oreg., and
Mr. Max Gardner, of Eugene, Oreg., for the I. W. A.
Mr. D. B. McFadyen, of Eugene, Oreg., and *Mr. Lawrence Kramer*,
of Portland, Oreg., for the Teamsters.
Mr. Angelo J. Fiumara, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers, Local 57, A. F. L., herein called the Teamsters, and by International Woodworkers of America, C. I. O., Local 5-246, herein called the I. W. A., each alleging that a question affecting commerce had arisen concerning the representation of employees of Wayne Hale,¹ McKenzie Bridge, Oregon, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before John E. Hedrick, Trial Examiner. Said hearing was held at Eugene, Oregon, on March 21, 1945. The Company, the Teamsters, and the I. W. A. 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.

¹The parties stipulated that all formal papers in Cases Nos 19-R-1516 and 19-R-1517 be amended to show the name of the Company as indicated in the caption and in the body of the Decision.

The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. At the conclusion of the hearing, the I. W. A. moved that the petition of the Teamsters be dismissed on the ground that the latter's *prima facie* showing of representation was insufficient. The Trial Examiner referred the motion to the Board. For reasons set forth in Section III, *infra*, said motion is hereby denied. 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

The Company, which is individually owned and operated by Wayne Hale, conducts a logging operation near McKenzie Bridge, Oregon, where it cuts approximately 16,000,000 board feet of logs per year. All logs are hauled away by the Company's own trucks and sold to plywood mills and sawmills at or near Eugene, Oregon; the mills, in turn, ship substantially all their products outside the State of Oregon.

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

II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers, Local 57, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

International Woodworkers of America, Local 5-246, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On or about February 1, 1945, the I. W. A. addressed a letter to the Company requesting recognition as the exclusive collective bargaining representative of all its employees. The Company refused such request suggesting that the matter be placed before the Board. At about the same time, the Company received a letter from the Teamsters requesting recognition as the exclusive bargaining representative of its truck drivers. A conference between the Company and Teamsters followed but produced no results, whereupon the Teamsters filed the petition herein.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the I. W. A. and the Teamsters each represents a substantial number of employees in the respective units alleged by each to be appropriate.²

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 DETERMINATION OF REPRESENTATIVES

The I. W. A. seeks a unit composed of all production, transportation, and maintenance employees at the Company's McKenzie Bridge operation, excluding the woods foreman, truck foreman, and other supervisory and clerical employees. The Teamsters desires a unit composed of all truck drivers employed in connection with this operation, excluding gravel truck drivers and the truck foreman.³ The Company took no definite position on the unit issue other than to express preference for a single unit and to agree to the exclusion of the woods foreman and truck foreman from any unit or units found appropriate by the Board.

There has been no previous history of collective bargaining at the logging operation. The Company's personnel includes two or three fallers, four buckers, two men who yard the logs, a loading engineer, a loader, seven logging truck drivers, two gravel truck drivers, and one individual who does odd jobs.⁴ All these employees, except the logging truck drivers, work exclusively in and about the woods connected with the logging camp at or near McKenzie Bridge, Oregon, where they perform tasks ordinarily associated with their job classifications; the two gravel truck drivers, however, not only drive the Company's two gravel trucks which are used to keep the logging roads

² The Field Examiner reported that the Teamsters submitted 5 application cards; that the names of all persons appearing on the cards were listed on the Company's pay roll of February 10, 1945, which contained the names of 6 employees in the unit claimed by the Teamsters to be appropriate; and that the cards were dated during February 1945. The Field Examiner reported further that the I. W. A. submitted 14 application cards; that the names of 12 persons appearing on the cards were listed on the aforesaid pay roll containing the names of 22 employees in the unit alleged by the I. W. A. to be appropriate; that of these signatures, 3 were of employees designated on the pay roll as logging truck drivers, and that the cards were dated during February 1945. At the hearing, the I. W. A. submitted 13 application cards dated during the months of February and March 1945; there is no indication, however, as to whether or not some of the cards submitted at the hearing were duplicates of those reported upon by the Field Examiner.

³ The Teamsters' petition alleges as appropriate a unit consisting of all the Company's truck drivers but, at the hearing, its representative revised the unit contention as set forth above.

⁴ The Field Examiner's report indicates that the Company's total personnel as of February 27, 1945, consisted of 22 employees, 6 of whom were logging truck drivers. The evidence adduced at the hearing indicates a total of 23 employees, of whom 7 are logging truck drivers.

in repair but also, from time to time, work as choker setters, buckers, or fallers. At the logging camp, the Company maintains a cook house and a camp house for the benefit of its employees, and many employees avail themselves of its facilities.⁵ The logging truck drivers have their headquarters at Springfield, Oregon, a considerable distance from the logging camp, and live in the vicinity of Springfield. These employees are in frequent contact with the Company's other employees since they drive their trucks regularly to the logging camp where the trucks are loaded with logs for hauling and transportation to the mills of the Company's customers in the State. The record shows that these drivers spend all their time driving the logging trucks except that they may, on occasion, volunteer to assist the loader in loading the truck.

Wayne Hale, the proprietor, exercises general supervision over the activities at and about the logging camp and at the headquarters of the logging truck drivers. The seven logging truck drivers are under the immediate charge of the truck foreman and the remaining employees are subordinated to the woods foreman. Although both foremen have the right to hire and discharge employees under their supervision, neither has, as a matter of practice, exercised that right, all hiring and discharging having been done heretofore by Wayne Hale. Each foreman, however, assigns work to the men under him, directs the work of these men, and apparently has made recommendations concerning hire and discharge that have been followed; in addition, the truck foreman buys supplies for the trucks and takes care of all O. D. T. regulations. All employees appear to be listed on the same pay roll and are compensated on an hourly basis with the exception of the fallers and buckers who are paid on a piece-work basis. Only for accounting purposes, are separate records kept for the logging and trucking phases of the operation.

On all the facts, we are of the opinion that the Company conducts its logging operations as an integrated enterprise and that an industrial unit would be feasible for collective bargaining. The evidence also indicates, however, that the logging truck drivers could function separately for the purposes of collective bargaining, as this group of employees is skilled, homogeneous, and functionally distinct.⁶ Although we note that this group does not include the gravel truck drivers, we do not find the omission objectionable under the facts of

⁵ At present, 12 employees live at the logging camp, while the others live off the premises

⁶ We are not persuaded that the record supports the contention of the I. W. A. as to a prevailing custom in the logging industry of including logging truck drivers in the same bargaining unit with logging camp employees where the employer owns the logging trucks; nor are we persuaded by the opposing contention of the Teamsters that there is a custom supporting the establishment of logging truck drivers in such a situation as a separate unit.

this case. It is clear that the gravel truck drivers function, in part, as choker setters, buckers, or fallers; that they work under different immediate supervision; and that there is no interchange between them and the logging truck drivers. It thus appears that their exclusion from the unit sought by the Teamsters will not impede the orderly processes of collective bargaining. Accordingly, our determination of the appropriate unit or units will depend, in part, upon the desires of the employees as expressed in the elections which we shall hereinafter direct.

We shall direct that separate elections by secret ballot be held among the employees in each of the voting groups described 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:

Group 1. All logging truck drivers of the Company, excluding gravel truck drivers, the truck foreman, 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, to determine whether they desire to be represented by the Teamsters, by the I. W. A., or by neither.

Group 2. All production and maintenance employees of the Company, including gravel truck drivers, but excluding logging truck drivers, office and clerical employees, the woods foreman, truck foreman, 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, to determine whether or not they desire to be represented by the I. W. A.

As stated above, there will be no final determination of the appropriate unit or units pending the results of the elections. If a majority of the logging truck drivers select the Teamsters as their representative, they will constitute a separate unit. If a majority in each voting group select the I. W. A., both groups will together constitute a single unit.

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 Wayne Hale, McKenzie Bridge, Oregon, 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 Nineteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 9 and 10, 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 the 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 described in Group 1 of Section IV, *supra*, desire to be represented by International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers, Local 57, A. F. L., or by International Woodworkers of America, Local 5-246, C. I. O., for the purposes of collective bargaining, or by neither; and (2) to determine whether or not the employees described in Group 2, of Section IV, *supra*, desire to be represented by International Woodworkers of America, Local 5-246, C. I. O., for the purposes of collective bargaining.

Mr. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Elections.