

In the Matter of UNION OIL COMPANY OF CALIFORNIA and UNION EMPLOYEES ASSOCIATION

Case No. 21-R-1479.—Decided July 4, 1945

Messrs. L. A. Gibbons and Douglas C. Gregg, of Los Angeles, Calif., for the Company.

Mr. Russell E. Parsons, of Los Angeles, Calif., for the Association.

Mr. Lindsay P. Walden, of Fort Worth, Tex., and *Mr. Frank J. Neuman*, of Los Angeles, Calif., for the C. I. O.

Mr. Rufus Bailey, of Los Angeles, Calif., and *Mr. H. M. McNeel*, of Alhambra, Calif., for the Independent.

Mr. Jack Rafn, of Los Angeles, Calif., for the A. F. L.

Miss Katherine Loomis, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon a petition duly filed by Union Employees Association, herein called the Association, alleging that a question affecting commerce had arisen concerning the representation of employees of Union Oil Company of California, 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 April 16 and 17, 1945. The Company, the Association, Oil Workers International Union, C. I. O., herein called the C. I. O., Independent Union of Petroleum Workers, herein called the Independent, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, A. F. L., herein called the A. F. L., appeared and participated.¹ All parties were afforded full opportunity to

¹ The A. F. L.'s representative entered an appearance on the second day of the hearing and withdrew from the proceeding upon ascertaining that all parties desired the exclusion of marketing department employees

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

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Union Oil Company of California, a California corporation, is engaged in substantially all branches of the oil business. The aggregate value of equipment and supplies purchased annually by the Company is in excess of \$18,000,000. A great part of such equipment and supplies originates in places outside California. Its annual sales are valued at more than \$73,000,000, of which approximately 50 percent is shipped to points outside California.

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

II. THE ORGANIZATIONS INVOLVED

Union Employees Association, unaffiliated, 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.

Independent Union of Petroleum Workers, unaffiliated, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On September 24, 1934, the Company, in response to a request by the Association for official recognition, replied that, "In all matters affecting the interest and welfare of your membership, the management will deal with and act through [your] governing board. This decision, however, must not be construed as a determination to deal with your organization exclusively, but the right is also reserved to deal with other employee groups organized or not and through representatives of their own choosing." Since that time the Company has refused to accord the Association or any other labor organization exclusive recognition unless and until certified by the Board.

A statement of a Board agent, introduced into evidence at the hearing,

indicates that the Association represents a substantial number of employees in the unit it claims 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 Association and the Independent contend, and the Company agrees, that all employees engaged in field operations within the State of California, working in the Company's field, pipe line, purchasing, and automotive departments, including field clericals, constitute a single appropriate unit. The C. I. O., however, seeking representation of only certain of such employees, contends that five units are appropriate; three, divided according to geographical areas,³ to be comprised of certain employees in the field department; and two, also divided according to geographical areas,⁴ to be comprised of certain employees in the pipe-line department. The C. I. O. would exclude from such units employees in the drilling subdepartment⁵ of the field department, those in the communications subdepartment of the pipe-line department, employees of the purchasing and automotive departments, and all field clericals. The parties are in agreement on the exclusion of confidential, technical, and professional employees, including those listed on Appendix A, annexed hereto. They are also in agreement on the exclusion of employees of the marketing department, and employees of the rank of assistant foremen and above.

The Company's field operations in California are directed by the managers of four of its major departments, namely, the field, pipe-line, purchasing, and automotive. The field department is divided into the following subdivisions:⁶ (a) drilling subdepartment, (b) production subdepartment, and (c) service and maintenance subdepartment. The pipe-line department

² The Trial Examiner reported that the Association submitted 735 membership cards, that the names of 496 persons appearing on the cards were listed on the Company's pay roll of November 30, 1944, which contained the names of 1,367 employees in the alleged appropriate unit; that 494 cards were dated between November 1943 and October 1944, and 2 were undated.

The C. I. O. submitted 216 authorization cards. The names of 174 persons appearing on the cards were contained in the aforesaid pay roll; 173 cards were dated between 1941 and October 1944 and 1 was undated.

The Independent submitted 311 authorization and membership cards. The names of 279 persons appearing on the cards were contained on the Company's pay roll of April 4, 1945; 225 cards were dated between November 1944 and April 1945, and 54 were undated.

³ These three units correspond to the three geographical areas in California where the Company's oil fields are located and where its field operations are carried on. These areas are: (1) the Los Angeles Basin, (2) the Coastal area, and (3) the San Joaquin area.

⁴ These two units correspond to the two geographical areas into which this department is divided, namely, the Northern division, comprising both the Coastal and San Joaquin areas, and the Southern division, comprising the Los Angeles Basin area.

⁵ See footnote 6, *infra*.

⁶ All subdivisions of departments are mentioned in the record as "departments." Since they are clearly parts of larger departments, they are referred to herein as "subdepartments."

is also subdivided; it has a communications subdepartment. The offices of the four managers are located in Los Angeles.

Operations in the field department are closely coordinated. Workers in the drilling subdepartment drill for oil, those in the production subdepartment maintain its flow, and those in the service and maintenance subdepartment keep the equipment used in these operations in repair. Workers in the pipe-line department are engaged in transporting the oil. Its communications subdepartment maintains telegraph and telephone systems which are available to all departments, but are used principally in pipe-line operations. The purchasing department takes care of the Company's buying. The automotive department procures and maintains the rolling equipment of the Company. There are, within each department, frequent interchanges of employees from one area to another. Job classifications, wages, and working conditions for employees are similar in all areas. Thus, throughout all areas field operations within each department are highly integrated and are carried on under common supervision. In addition, the interests of the employees working in field operations in each department are similar throughout all areas.

In each area there are clerical employees who keep records relating to oil production and the amount of oil on hand. Generally, these field clericals obtain the information on which these records are based directly from the production workers.

During the past 11 years the Company has bargained with the Association in regard to rates of pay, hours of work, and vacations for the employees concerned. The Association and the Independent contend that this history of collective bargaining demonstrates that only a company-wide unit is appropriate. However, since these negotiations never culminated in a single, comprehensive, written agreement in which the Association was recognized as the sole bargaining agent for the Company's employees, this bargaining history is not such as to compel a finding that only a company-wide unit is appropriate.⁷

Nevertheless, in view of the integration of field operations within each department, the common supervision of each department at the level of managers, and the similarity of interests of employees within each department, we find no merit in the C. I. O.'s contention that employees of the communications subdepartment and of the drilling subdepartment be excluded from units comprised of other employees of the pipe-line and field departments. Nor do we find merit in the C. I. O.'s contention for units according to geographical areas, since integration of operations, common supervision, and similarity of interests prevail within each department

⁷ See *Matter of General Petroleum Corporation of California*, 56 N. L. R. B. 1366. Cf. *Matter of Elgin National Watch Company*, 53 N. L. R. B. 855.

throughout all areas.⁸

We are of the opinion that, in conformity with the main divisions of the Company's organization, employees in the field, pipe-line, purchasing, and automotive departments, respectively, constitute separate units for the purposes of collective bargaining.⁹ We are also of the opinion that field clericals have interests similar to those of other employees in their respective departments, and shall, therefore, include them in units with such other employees.

Upon the basis of the entire record we find that the following units are appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act :

1. All employees engaged in field operations within the State of California working in the Company's field department, including those in the drilling, production, and service and maintenance subdepartments, and field clericals, but excluding all confidential, technical, and professional employees (including employees engaged in classifications listed on Appendix A, annexed hereto), employees of the marketing department, employees of the rank of assistant foreman or above, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action ;

2. All employees engaged in field operations within the State of California working in the Company's pipe-line department, including those in the communications subdepartment, and field clericals, but excluding all confidential, technical, and professional employees (including employees engaged in classifications listed on Appendix A, annexed hereto), employees of the marketing department, employees of the rank of assistant foreman or above, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action ,

3. All employees engaged in field operations within the State of California working in the Company's purchasing department, including field clericals, but excluding all confidential, technical, and professional employees (including employees engaged in classifications listed on Appendix A, annexed hereto), employees of the marketing department, employees of the rank of assistant foreman or above, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action ;

4. All employees engaged in field operations within the State of California working in the Company's automotive department, including field clericals, but excluding all confidential, technical, and professional employ-

⁸ See *Matter of General Petroleum Corporation of California*, *supra*.

⁹ See *Matter of General Petroleum Corporation of California*, *supra*.

ees (including employees engaged in classifications listed on Appendix A, annexed hereto), employees of the marketing department, employees of the rank of assistant foreman or above, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by elections by secret ballot among 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 Union Oil Company of California, 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 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 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:

1. With respect to the employees described in unit 1 of Section IV, *supra*, whether they desire to be represented by Union Employees Association, or by Oil Workers International Union, C. I. O., or by Independent Union of Petroleum Workers, for the purposes of collective bargaining, or by none of these organizations,

2. With respect to the employees described in unit 2 of Section IV, *supra*, whether they desire to be represented by Union Employees Association, or by Oil Workers International Union, C. I. O., or by Independent

Union of Petroleum Workers, for the purposes of collective bargaining, or by none of these organizations;

3. With respect to the employees described in unit 3 of Section IV, *supra*, whether they desire to be represented by Union Employees Association, or by Independent Union of Petroleum Workers, for the purposes of collective bargaining, or by neither; and

4. With respect to the employees described in unit 4 of Section IV, *supra*, whether they desire to be represented by Union Employees Association, or by Independent Union of Petroleum Workers, for the purposes of collective bargaining, or by neither.

APPENDIX A

Assistant personnel supervisor	Junior mechanical engineers
Chief dispatcher	Secretaries
Superintendent of telephones	Special clerks
Chief clerk	Head clerk
Chief gauger	Safety coordinator
Petroleum engineers	Training coordinator
Associate petroleum engineers	Assistant training coordinator
Assistant petroleum engineers	Safety and training coordinator
Junior petroleum engineers	Senior clerks
Production engineers	Senior dispatchers, pipe line
Associate production engineers	Superintendent of salvage sales
Assistant production engineers	Storekeepers
Junior production engineers	Truck dispatcher
Process engineers	Dispatchers
Associate process engineers	Senior buyer
Assistant process engineers	Chief tester
Junior process engineers	Chief draftsman
Mechanical engineers	Technical trainees
Associate mechanical engineers	Pressure vessel inspector
Assistant mechanical engineers	